

THE
STATUTES OF CALIFORNIA,

PASSED AT

The Sixty Session of the Legislature,

BEGUN ON

THE FIRST DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED
AND FIFTY-FIVE, AND ENDED ON THE SEVENTH DAY OF
MAY, ONE THOUSAND EIGHT HUNDRED AND FIF-
TY-FIVE, AT THE CITY OF SACRAMENTO.

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STATUTES

OF THE

STATE OF CALIFORNIA,

PASSED AT THE

SIXTH SESSION OF THE LEGISLATURE, BEGUN ON THE FIRST DAY
OF JANUARY, 1855, AND ENDED ON THE SEVENTH DAY OF MAY,
1855, AT THE CITY OF SACRAMENTO.

CHAPTER I.

AN ACT

To change the name of the "South Yuba Mining and Sacramento Canal Company," to Nevada County and Sacramento Canal Company.

[Approved January 20, 1855.]

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

SECTION 1. It shall be lawful for the members of the company heretofore bearing the name of the "South Yuba Mining and Sacramento Canal Company," to change the same to the Nevada County and Sacramento Canal Company. Name changed.

CHAPTER II.

A BILL

For An Act making appropriations to meet deficiencies in appropriations heretofore made to defray the Legislative expenses of the State, accruing from the first day of February, eighteen hundred and fifty-four, to the first day of February, eighteen hundred and fifty-five.

[Approved January 27, 1855.]

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

Appropriations. SEC. 1. That the following sums be and are hereby appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, and to meet deficiencies in appropriations heretofore for the same purposes made, for the year commencing February 1st, A. D., 1854, and ending February 1st, A. D., 1855, namely: For compensation and mileage of Lieutenant Governor and Senators, seventeen thousand dollars. For compensation and mileage of Members of Assembly, thirty-five thousand dollars. For compensation of Clerks, Officers, Porters and Pages of the Senate twenty thousand dollars. For compensation of Officers, Clerks, Porters and Pages of Assembly, twenty-six thousand dollars. For contingent expenses of Senate, two thousand dollars. For contingent expenses of Assembly, twenty-five hundred dollars.

Mileage Lt. Gov. and Senators.
Members of Assembly. Clerks, &c. of Senate and Assembly
Contingent expenses.

CHAPTER III.

AN ACT

To repeal an Act concerning County Judges, passed April 4, 1854, so far as the same extends to San Luis Obispo County.

[Approved January 31, 1855.]

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

Repealed. SECTION 1. An Act entitled an Act concerning County Judges, passed April 4, 1854, so far as the provisions of the same extends to the county of San Luis Obispo, is hereby repealed.

CHAPTER IV.

AN ACT

To change the name of Frances Sophia Bowen to that of Frances Sophia Burgess, and that of her infant Son, Charles French Bowen, to Charles French Burgess.

[Approved January 31, 1855.]

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

SECTION 1. It shall be lawful for the person heretofore known as Frances Sophia Bowen, to change her name to that of Frances Sophia Burgess, and that of her infant son, Charles French Bowen, to that of Charles French Burgess. Name changed.

CHAPTER V.

AN ACT

Requiring the Controller to audit certain bills of the Members and Officers of the present Legislature.

Passed the Assembly notwithstanding the veto of the Governor, by the requisite Constitutional majority, January 31, 1855. WM W. STOW, Speaker of the Assembly

Passed the Senate, notwithstanding the veto of the Governor, by the requisite Constitutional majority February, 1st, 1855. SAMUEL PURDY, President of the Senate.

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

SECTION 1. The Controller of State is hereby required to audit, and the Treasurer to pay out of the general fund which now may be on hand or which may hereafter be received, the per diem or mileage allowance of members of the present Legislature, to the amount of one thousand dollars each. Also, to audit and pay the per diem of the officers of said Legislature for sixty days, so soon as their service is rendered and accounts are certified to by the proper officers of their respective bodies; *provided*, if there should not be much in the Treasury at any one time, then each member shall receive a pro rata proportion from time to time until he has received the full sum to which he is entitled under this Act. Treasurer to pay.
To members \$1,000.
Of officers 60 days.
So Proviso.
Pro rata.

SEC. 2. The Treasurer is hereby required to set apart and retain the necessary sum, of such funds as are not otherwise specially appropriated for the purposes expressed in the foregoing section. To set apart.

CHAPTER VI.

AN ACT

Amendatory of an Act to provide for the permanent location of the Seats of Justice of the several counties of this State, passed April 11, 1850, passed May 13, 1854.

[Approved February 1, 1855.]

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

SECTION 1. The second section of an Act amendatory of an Act to provide for the permanent location of the Seats of Justice of the several counties of this State, passed April 11, 1850, passed May 13, 1854, is hereby amended so as to read as follows :

SEC. 2. If the petition be signed by qualified electors of the county equal in number to at least a majority of all the votes in the county at the last preceeding general election, the County Judge shall within five days after receiving such petition, order an election, naming the day on which it shall be held, (which shall not be more than sixty, nor less than twenty days from the time of calling it,) specifying its object, and the manner in which the votes are to be given.

Amended.

Petition.

Judge to order election.

Time.

Object.

CHAPTER VII.

AN ACT

Making appropriations to meet deficiencies in appropriations heretofore made to defray the expenses of State Printing which exist in the form of unpaid audited accounts, and of Printing accounts not yet audited.

[Approved February 2, 1855.]

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

That the sum of one hundred thousand dollars be and is hereby appropriated out of any money in the Treasury not otherwise appropriated to meet the deficiencies in appropriations heretofore made for the same purpose for the audited and unaudited accounts of the former and present State Printer, accruing from the first day of January, 1854, to the first day of February, 1855.

\$100,000 appropriated.

Jan. 1, '54 to Jan. 1, '55.

CHAPTER VIII.

AN ACT

To fix the time for holding the terms of the District Court of the Second Judicial District of this State.

[Approved February 7, 1855.]

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

SECTION 1. The several terms of the District Court of the Second Judicial District of this State during each year, shall commence as follows: First, In the county of Santa Barbara, on the first Mon-^{Santa Barbara.} day of January, April, July and October. Second, In the county of San Luis Obispo, on the first Monday of February, May, August ^{San Luis Obispo.} and November.

SEC. 2. So much of an Act to fix the times for holding the terms of the District Courts throughout the State, passed May 18, 1853, as relates to the counties of Santa Barbara and San Luis Obispo, is ^{Repeal.} hereby repealed.

SEC. 3. This Act shall take effect and be in force, from and after ^{When to} the first day of March, eighteen hundred and fifty five. ^{take effect.}

CHAPTER IX.

AN ACT

To authorize the Governor of this State to appoint Commissioners to the World's Industrial Exhibition, to be holden at Paris in the year 1855.

[Approved February 7, 1855.]

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

SECTION 1. That his Excellency, the Governor, be and he is here-^{Commission.} by authorized to appoint and commission such citizen or citizens of this State, as in his discretion he may deem proper, Commissioners to represent the State of California at the World's Industrial Exhi-^{Paris.} bition, to be holden at Paris, in the year 1855; *provided*, no com-^{Proviso.} pensation be allowed such Commissioners for services or expenses.

CHAPTER X.

AN ACT

To amend the forty-seventh section of An Act entitled an Act concerning Officers, passed April 28, 1851.

[Approved February 8, 1855.]

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

Amended.
Sec. 47.
Attorney. &c.

SECTION 1. That section forty-seven of an Act entitled an Act concerning officers, passed April 28, 1851, be and the same is hereby amended so as to read as follows : Section forty-seven. When any vacancy shall exist or occur in the office of District Attorney, County Clerk, or in any other county office except the office of County Judge, the Board of Supervisors for the county where such Board exists, and in counties where no such Board exists, the County Judge of the county, shall appoint some suitable person to fill the vacancy until the next general election.

CHAPTER XI.

BILL

For an Act to repeal an Act entitled An Act to amend an Act concerning the per diem of Officers of the Senate and Assembly, passed January twenty-first, eighteen hundred and fifty-four, (passed May 15, 1854,) and to re-instate and re-enact an Act entitled "An Act concerning the per diem of Officers of the Senate and Assembly," (passed February 4, 1854.)

[Approved February 8, 1855.]

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

Repeal.
Re-instated.

SECTION 1. That an Act entitled "An Act to amend an Act concerning the per diem of officers of the Senate and Assembly, passed January twenty-first, eighteen hundred and fifty-four, (passed May 15, 1854,)" be and the same is hereby repealed. And that an act entitled "an Act concerning the per diem of Officers of the Senate and Assembly, (passed February 4, 1854,)" (sought to be amended by said Act of May 15, 1854) be and the same is hereby re-instated and re-enacted.

CHAPTER XII.

AN ACT

To change the name of Caroline L. Ketcham to that of Caroline L. Pixley.

[Approved February 8, 1855.]

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

SECTION 1. It shall be lawful for the person heretofore known as Caroline L. Ketcham to change her name to that of Caroline L. Pixley. ^{Name changed.}

CHAPTER XIII.

AN ACT

To authorize the Board of Examiners of War Claims to settle and pay the Clerk employed by them to arrange the papers and vouchers connected with said claims.

[Approved February 14, 1855.]

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

SECTION 1. The Board of Examiners of War Claims of this State, are hereby authorized to settle with the Clerk employed by them, and certify to the same not to exceed three thousand dollars; and when so certified, the amount shall be audited by the Controller, and paid by the Treasurer out of any money in the general fund, and not otherwise appropriated. The sum of three thousand dollars is hereby appropriated and set apart out of any unappropriated moneys in the Treasury for the purpose herein specified. ^{\$3,000 appropriated.}

CHAPTER XIV.

AN ACT

Fixing the times of holding the terms of the County Courts, Courts of Sessions and Probate Courts in and for Butte County.

[Approved February 14, 1855.]

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

Terms.

SECTION 1. There shall be held in the county of Butte, in each year, four regular terms of the County Court, Court of Sessions, and Probate Court, each.

County Court,
when held.

SEC. 2. The regular terms of the County Court shall be held on the first Monday in February, May and August, and on the fourth Monday in November of each year, and shall continue from term to term, unless all the business of the term be sooner disposed of.

Court of Sessions
when held.

SEC. 3. The regular terms of the Court of Sessions, shall be held on the second Monday in February, May and August, and on the first Monday in December of each year, and shall continue from term to term unless all the business be sooner disposed of.

Probate Court,
when held.

SEC. 4. The regular terms of the Probate Court shall be held on the fourth Monday in February and May, on the third Monday in August, and on the second Monday in December of each year, and shall continue from term to term unless all the business be sooner disposed of.

Repeal.

SEC. 5. The provisions of "An Act of the Legislature passed May 19, A. D., 1853," entitled "An Act concerning the Courts of Justice of this State and Judicial Officers," and the provisions of an Act of the Legislature, passed March 20, A. D., 1854, entitled "An Act to amend an Act concerning the Courts of Justice of this State and Judicial Officers," so far as they conflict with the provisions of this Act only, are hereby repealed.

SEC. 6. This Act shall take effect March 1, 1855.

CHAPTER XV.

AN ACT

To change the time of holding Courts of Sessions and County Courts in the County of Napa.

[Approved February 14, 1855.]

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

SECTION 1. The Court of Sessions in and for Napa County, shall be held at the county seat of said county, on the first Monday of August, December and April of each year. Terms.

SEC. 2. The County Court of said county shall be held on the second Monday of August, December and April of each year, and the Probate Court of said county shall be held on the third Monday of August, December and April of each year. County Court, when held. Probate Court, when held.

SEC. 3. This Act shall take effect from and after its passage. Effect.

SEC. 4. Sections forty-six, fifty-nine and sixty-five of "an Act concerning the Courts of Justice of this State and Judicial Officers," passed May 19, 1853, so far as the same relate to the county of Napa, are hereby repealed. Repeal.

CHAPTER XVI.

AN ACT

To Fund the Debt of Contra Costa County, and to provide for the payment of the same.

[Approved February 14, 1855.]

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

SECTION 1. With a view to fund the debt of the County of Contra Costa, in this State, and to provide for the payment thereof, the Treasurer of said county shall cause to be prepared bonds for an amount equal to the present county indebtedness, together with all indebtedness that shall have accrued on or before the first day of April, one thousand eight hundred and fifty-five ; said bonds shall be of the denominations of one hundred and five hundred dollars each, and each and every bond shall purport in substance that the county To fund the debt of Contra Costa County. Treasurer to have bonds prepared. Denomination of bonds.

Purport of bonds.
Interest 10 per cent.
To be paid in New York.
When paid.
Bonds payable at San Francisco.
When payable.
By whom signed.
Seal of the county.

of Contra Costa owes to the holder thereof, a sum to be expressed therein, bearing an interest of ten per cent. per annum from the date of issue; the interest to be paid on presentation at the city of New York, on the first day of July, eighteen hundred and fifty-five, and on the first day of January and July of every year thereafter, until said bonds shall be paid and liquidated; said bonds shall be due and payable at the city of San Francisco, California, on or before the first day of April, one thousand eight hundred and seventy; said bonds shall be signed by the Funding Commissioners hereinafter named; countersigned by the County Auditor, and endorsed by the County Treasurer, and shall have the seal of the county annexed thereto.

Funding Commissioners.
Name and style of Commissioners.

SEC. 2. Robert N. Wood, B. S. Hines, and Daniel Small, are hereby appointed Commissioners for the funding of the indebtedness of Contra Costa county, by the name and style of Funding Commissioners of Contra Costa county.

Duty of.

SEC. 3. It shall be the duty of said Commissioners to keep an account of the number, denomination, and amount of all bonds signed by them, in accordance with the provisions of this Act. It shall be the duty of the County Auditor to furnish the Commissioners aforesaid a certified copy of the record of warrants issued from his office since the organization of the county, and this within twenty days after the passage of this Act. It shall be the duty of the said Commissioners to examine all warrants presented for funding, and ascertain if they are the true and correct ones issued, according to the County Treasurer's and Auditor's books, corresponding with the entries therein; and no other than those shall be considered true and lawful warrants to be funded, and it shall be the duty of the Commissioners aforesaid, and County Auditor each, to keep a separate record of all such bonds, together with the coupons, as may be issued, showing the number, date and amount of said bonds and coupons, and to whom the same were issued.

County Auditor.

Commissioners to examine warrants and ascertain if they are correct.

No others considered lawful to be funded.
Commissioners and Auditor each to keep a record of bonds and coupons.
To whom issued.

SEC. 4. Said bonds shall have coupons annexed thereto; said coupons shall express the amount of interest due at the respective periods herein named, when payable, and shall be signed by said Commissioners, Auditor, and Treasurer, as prescribed for the Bonds.

Coupons shall express amount of interest due.

When payable.
By whom signed.
County Treasurer to cancel coupons when paid.

SEC. 5. When any coupon shall be paid under the provisions of this Act, it shall be the duty of the County Treasurer to cancel the same in the presence of the County Judge and County Auditor, and said Auditor shall make a certificate thereof, and record the same, which shall be signed by said County Judge, Auditor, and Treasurer.

In presence of whom Auditor to make and record a certificate.

By whom signed.
County Treasurer to pay for having bonds prepared, not to exceed one thousand dollars.

SEC. 6. The County Treasurer shall pay out of the County Treasury, out of any money not otherwise appropriated, any and all expenses he may incur in having said bonds prepared, the sum so paid out not to exceed one thousand dollars.

Holders of indebtedness against county shall receive, in lieu, bonds of county.

SEC. 7. From and after the passage of this Act, all persons having any indebtedness of said county of Contra Costa, which accrued prior to the first day of April, A. D., 1855, shall, upon the presentation to said Commissioners, county warrants for the same, receive in exchange therefor, a bond or bonds of the county of Contra Costa, with coupons annexed thereto, as provided for in this Act; *provided, that for any fractional sum less than amount of bonds*

Provisions for fractional sums

authorized to be issued, said Commissioners shall issue to the holders of county warrants a certificate for such fractional sum, and upon the presentation of same to County Auditor, he shall draw a warrant on County Treasurer for the amount so certified.

SEC. 8. The County Treasurer shall endorse on the back of each bond redeemed by him, the date on which he redeemed the same, and from whom received, and also keep a record of the same, giving the number, date and amount of the bond, and shall cancel the same, in the same manner as herein before provided for the cancellation of coupons.

Duties of County Treasurer.

SEC. 9. In addition to the ordinary taxes for general county purposes, there shall this year and annually thereafter, until the principal and interest of said bonds to be issued shall be fully provided for, (by payment or otherwise as provided in this Act,) be collected in the same manner with ordinary revenues of said county, and by the same officers, a special tax, to be called the interest tax, of thirty cents on each one hundred dollars of taxable property, which tax shall be collected and paid into the County Treasury in legal currency; the fund derived from this tax shall be applied only to the payment of the interest to accrue upon the bonds herein provided for; *provided*, however, that should said fund furnish a surplus over and above what may be required for the payment of said interest, said surplus shall be paid into the sinking fund herein provided for.

Special Tax called the Interest Tax.

Applied to the Payment of the Interest. Surplus paid into Sinking Fund.

SEC. 10. It shall be the duty of the County Judge of said county of Contra Costa, to make certain arrangements for the payment of the interest on said bonds when the same shall fall due, at least sixty days before the time of payment, and in the event that the said interest fund is insufficient, the said County Judge shall draw a warrant on the County Treasurer of Contra Costa county on the general fund of said county for such purpose, and said County Treasurer shall forthwith pay such warrant, and in the event that those funds prove inadequate, the said County Judge is hereby authorized, empowered and required to make such contracts and arrangements in the name, behalf, and for said county as may be necessary for the payment of said interest, and the protection of the faith of the county of Contra Costa; *provided*, that said County Judge shall have first drawn from the County Treasurer such sums as may be in the County Treasury subject to and provided for the payment of said interest by the provisions of this Act.

Payment of interest on bonds.

If Interest Fund is insufficient.

If General Fund should prove inadequate.

Provide.

SEC. 11. It shall be the duty of said Treasurer to set apart a fund, to be called the "Sinking Fund" of the county of Contra Costa. Into this fund shall be paid: First, any and all surplus of the interest fund as aforesaid. Second, whatever surplus may remain in the treasury of the county of Contra Costa on the first day of March, A. D., 1855, and on the first day of March every year thereafter, after paying the ordinary yearly expense of the county; each of such payments to be continued until the sinking fund shall be sufficient for the payment of the principal and interest of the bonds as aforesaid, and when these shall be paid and liquidated, the payment shall cease, and all surplus remaining in said sinking fund shall be paid into the general fund of said county.

Sinking Fund.

What moneys to be paid into.

Surplus of Sinking Fund to be paid into General Fund.

SEC. 12. Whenever at any time there shall be in the sinking fund a sum of money amounting to one thousand dollars or upwards, the County Treasurer shall advertise in a public newspaper, published in

Whenever one thousand dollars shall be in the Sinking Fund.

Sealed proposals.
Proposals to be
opened.
Lowest proposal.
No bids above
par value.
When sufficient
in Sinking Fund
to pay debt of
County.
Treasurer to
advertise for re-
demption of
bonds.
When bonds
shall cease to
bear interest.
When to take
effect.

the city of San Francisco, for the space of two weeks, for sealed proposals for the redemption of said bonds. After the expiration of the publication, the Treasurer shall open sealed proposals in presence of the County Judge, and shall pay and liquidate bonds presented at the lowest value at which they may be proposed to be liquidated; *provided*, no bid shall be received exceeding the par value and interest on said bonds; *provided*, however, whenever there may be sufficient in the sinking fund for the extinguishment of the debt of said county, it shall be the duty of the Treasurer to advertise in some newspaper in San Francisco, for the space of sixty days for the redemption of the outstanding bonds of said county as hereinbefore provided; after which time the said bonds shall cease to bear any interest.

SEC. 13. This Act shall take effect from and after its passage, and it shall not be lawful for the County Treasurer to pay or liquidate any of the indebtedness of said county of Contra Costa, which accrued prior to the first day of February, 1855, in any other manner than herein provided.

Compensation.

SEC. 14. The Commissioners, Treasurer and Auditor, shall receive as a compensation for their services, eight dollars each, for every day actually engaged in the performance of the duties herein required.

CHAPTER XVII.

AN ACT

To authorize Married Women to Convey Real Estate held by them in their own right.

[Approved February 14, 1855.]

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

Married women
to convey real
estate.
Provided the
husband has
been absent
one year.

SECTION 1. That a married woman of legal age shall have power to convey and transfer lands or any estate or interest therein, vested in or held by her in her own right, as fully and perfectly as she might or could do if single or unmarried; *provided*, the husband of such married woman be not and for one year next preceeding the execution of the instrument of conveyance by the wife, has not been bona-fide residing in this State.

Execution of
conveyance to be
acknowledged.

SEC. 2. The execution of an instrument of conveyance by a married woman, independent of her husband, as provided in the preceeding section, shall be acknowledged before the District Judge of the county, in which the lands described in the conveyance are located, and the Judge taking such acknowledgment, shall, before he certify the same, be satisfied by the oaths of at least two credible disinterested citizens of this State, that the husband of such married

Oaths of two
witnesses.

woman does not, and for one year next preceeding the day of acknowledgment, has not resided in this State, which fact, and the names of the witnesses by whom the same was proved, shall be recited in the certificate of acknowledgment.

CHAPTER XVIII.

AN ACT

Concerning Appeals in Certain Cases.

[Approved February 16, 1855.]

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

SECTION 1. When judgment has been rendered in any case by a Justice of the Peace, against any organized county or incorporated city or town in this State, said city or town, or organized county, against which such judgment was rendered, may appeal therefrom to the County Court of the proper county, by filing a notice of appeal with said Justice, and serving a copy thereof on the opposite party or his Attorney, within the time and in the manner as provided for appeals in other cases ; and said appeal shall be effectual for all purposes, and shall operate as a supersedeas to any execution that has been, or may be issued on said judgment, without the filing of a bond or the payment of costs to the Justice, by the said city or town or organized county, so appealing.

SEC. 2. The Mayor, Attorney, or Chief Officer of any city, or District Attorney of any county, shall have power to give the notice herein required to be given, and to perfect such appeal on behalf of their respective corporations.

CHAPTER XIX.

AN ACT

To Compensate William Coates and Samuel R. Weed, for Reporting the evidence in the Contested Election Case, between E. R. Galvin and Samuel McCurdy.

[Approved February 17, 1855.]

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

Fifty dollars appropriated. For services rendered.

SECTION 1. That the Controller of State be authorized to draw his warrants upon the Treasurer of State, in favor of William Coates and Samuel R. Weed, for the sum of fifty (\$50) dollars each, payable out of any moneys in the Treasury not otherwise appropriated, for services rendered by them in the contested election case between E. R. Galvin and Samuel McCurdy.

CHAPTER XX.

AN ACT

To amend "An Act concerning the Courts of Justice of this State and Judicial Officers," passed May 19, 1853.

[Approved February 17, 1855.]

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

Section 17 amended Judge shall reside in his district. Except 4th and 12th.

Qualifications of District Judge.

SEC. 1. Section seventeen of the Act entitled "An Act concerning the Courts of Justice of this State, and Judicial Officers," passed May 19, 1853, is hereby amended so as to read as follows: Section seventeen. Each Judge shall reside in his District, except that the Judge of the Fourth and Twelfth Judicial Districts may reside in any part of the county of San Francisco, and no person shall be eligible to the office of District Judge who shall not have been a citizen of the United States and a resident of this State for two years, and of the District, six months previous to his election.

CHAPTER XXI.

AN ACT

Appropriating Money to Pay Postage.

[Approved February 21, 1855.]

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

SECTION 1. That the sum of twenty-five hundred dollars be, and the same is hereby appropriated out of the first moneys that shall come into the general fund of said State, for the payment of moneys due and to become due for postages on letters, papers and documents received at and transmitted from the Sacramento city post office. \$2,500 appropriated to pay postage.

SEC. 2. The funds above set apart shall be exclusively used for the payment of postage for the Senate and Assembly during the present session, and also for the Governor, and heads of department of said State residing at Sacramento city. For the Senate and Assembly. Governor, &c.

CHAPTER XXII.

AN ACT

To authorize David N Darlinton, Isaiah Hanscom and others, to build a Wharf in the County of Solano.

[Approved February 21, 1855.]

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

SECTION 1. The right to build and erect a wharf from the high land at the foot of Georgia street, Vallejo, out to ten feet water at low tide in Napa Straits, with the use and occupancy of a strip of overflowed land one hundred feet wide, from the high land to the end of the wharf, is hereby granted to said Darlinton, Hanscom, and such others as they may wish to associate with them, and their assigns, for the space of twenty years from the passage of this Act. The land [is] hereby granted, provided that it shall be used for none other than wharf purposes during that time. Right to build wharf at Vallejo. Lands granted. Use defined.

SEC. 2. The said Darlinton, Hanscom, and their associates or assigns, shall, within one year from the passage of this Act, construct and build a wharf of sufficient dimensions to accommodate the To build wharf within one year.

To enlarge and
keep in repair.

commerce and trade of the city of Vallejo and its neighborhood, and shall from time to time as the business may require, enlarge said wharf, and keep the same in good repair.

Wharfage
assessed by
Supervisors.

SEC. 3. The builders or owners of said wharf shall only be allowed to charge and collect such wharfage and tolls as the Board of Supervisors of the county of Solano shall direct.

CHAPTER XXIII.

AN ACT

For the Relief of the State Insane Asylum.

[Passed March 1, 1855.]

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

Warrant in favor
Trustees Insane
Asylum for
\$8,500.

SECTION 1. That the Controller of State be authorized to draw his warrant upon the Treasurer of State, in favor of the Trustees of the Insane Asylum, for the sum of eight thousand five hundred dollars, payable out of any moneys in the Treasury not otherwise appropriated, belonging to the Hospital Fund.

CHAPTER XXIV.

AN ACT

To provide for the Payment of the Salary of W. H. Harvey, for the term of time said Harvey may have served as County Judge of the County of Tulare.

[Approved March 1, 1855]

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

SECTION 1. The County Auditor of the county of Tulare is hereby authorized to draw his warrant on the Treasurer of said county, in favor of W. H. Harvey, for his services as County Judge of said county, at the rate of one thousand dollars per annum, for the time said Harvey may have served as such County Judge, which warrant shall be paid in the same manner as other warrants drawn on the County Treasurer.

CHAPTER XXV.

AN ACT

Fixing the time of holding the several Courts authorized to be held by the County Judge, in the County of Contra Costa.

[Approved March 1, 1855.]

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

SECTION 1. The Courts authorized to be held by the County Judge, in the county of Contra Costa, shall hereafter be held all at the same time, viz.: On the first Monday of February, May, August and November.

SEC. 2. At said terms, the business pertaining to the Court of Sessions shall first be disposed of, and after that the business of the County Court, and Probate Court, in such order as the Judge may determine.

SEC. 3. The records of each of said Courts shall be kept separately, as required by law.

SEC. 4. The County Judge of said county may call and hold

Special terms. special terms of the County and Probate Courts, and the Court of Sessions, whenever the public interest may require it.

Repeal. SEC. 5. An Act concerning the Courts of Justice of this State, and Judicial Officers, passed May 19th, 1853, so far as the same relates to the county of Contra Costa, and controverts the provisions of this Act, is hereby repealed.

CHAPTER XXVI.

AN ACT

To repeal the Sixth, and amend the Thirteenth Sections of an Act entitled "An Act to provide for Funding the Debt of San Joaquin County, for the payment of the Interest thereon, and for gradual liquidation of the Debt," Approved April 20th, 1852.

[Approved March 1, 1855.]

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

Repeal. SECTION 1. That the sixth section be, and the same is hereby repealed.

Section 13 amended. SEC. 2. Be it further enacted, that the thirteenth section of said Act, be amended as follows: Section 13. Of the amount of legal currency of the State, or gold dust, paid into the Treasury of the county, under this Act, the interest shall first be paid on the bonds; and the balance, if any, shall be appropriated under the direction of the Board of Supervisors, to the redemption, or buying in of said bonds; *provided*, they can be redeemed, or purchased in at par.

Interest on the bonds.

Proviso.

CHAPTER XXVII.

AN ACT

Concerning the Collection of Taxes now due in the County of Monterey.

[Approved March 1, 1855.]

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

SECTION 1. The Sheriff of the county of Monterey shall continue the collection of State and County taxes due therein, until the first Monday in June next, and for such purpose he shall have all the powers given to Sheriffs by "An Act to provide Revenue for the Support of the Government of this State," passed May 15th, 1854, and in said collections he shall be governed in all respects by said Act, except as provided in this Act.

SEC. 2. The said Sheriff of Monterey shall not be required to make a final settlement, or to return his delinquent list until the said first Monday in June next; *provided*, that before proceeding under this Act, he shall make oath (which oath shall be filed with the County Auditor and County Treasurer) that he has not under his control any moneys collected for taxes, except such as he believes he is entitled to as fees and costs.

SEC. 3. This Act shall expire on the fifth day of June next, and during its continuance all provisions of law, in conflict or inconsistent with this Act, are suspended.

CHAPTER XXVIII.

AN ACT

Concerning the Collection of Taxes now due in the County of San Francisco.

[Approved March 5, 1855.]

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

SECTION 1. That William R. Gorham, Sheriff of the County of San Francisco, shall continue the collection of State and county taxes therein, until the first Monday of May, one thousand eight

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| Powers of Sheriff. | hundred and fifty-five, and that for such purpose, he shall have the same powers that are given to Sheriffs by an Act passed May fifteenth, one thousand eight hundred and fifty-four, entitled "An Act to provide Revenue for the Support of the Government of this State," |
| To be governed by Act of May 15th, 1854. | and in said collections, he shall be governed in all respects by the said Act, of May fifteenth, one thousand eight hundred and fifty-four, except so far as the same may be altered by this Act; <i>provided</i> , |
| Proviso. | nothing in this Act shall be so construed as to affect in any manner the official bonds of the Sheriff of the County of San Francisco, and |
| Not to affect official bonds. | also that the said Sheriff shall return all moneys collected by him, and belonging to the State, to the State Treasury, on the third Monday in April next |
| Moneys collected. | SEC. 2. The Sheriff, before proceeding under this Act, shall make oath, (which oath shall be filed, with the County Auditor, and with the County Treasurer) that he has not under his control, or in his possession, any moneys collected for taxes, except such as he believes he is entitled to as fees and costs. |
| To make and file oath. | SEC. 3. All laws, and portion of laws, contrary to the provisions of this Act, are hereby repealed, so far as they extend to the county of San Francisco during the continuance of this Act, but they shall |
| Repeal. | revive again unless otherwise repealed, when this Act expires. This Act shall go into effect immediately, and shall expire on the fourteenth day of May, one thousand eight hundred and fifty-five. |
| When to revive. When this Act expires. | |

CHAPTER XXIX.

AN ACT

To authorize the County of Sacramento to Fund the outstanding Warrants drawn against the Court House and Jail Fund of the County.

[Approved March 5, 1855.]

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

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| Commissioners. | SECTION 1. The county of Sacramento is hereby authorized to fund all warrants drawn against the Court House and Jail Fund of said county which are outstanding and unredeemed, and John M. Rhodes, James L. English and Gilbert Griswold, are hereby appointed Commissioners for that purpose, who shall hold office until |
| Term of office. | the first day of July, in the year eighteen hundred and fifty-five, when their powers shall cease. |
| Vacancy. | SEC. 2. Should any vacancy occur in the Board of Commissioners hereby established, such vacancy shall be filled by the County Judge of Sacramento county |
| | SEC. 3. The said Commissioners, before entering upon the dis- |

charge of the duties of their office, shall execute a joint and several bond in favor of the county of Sacramento in the sum of twenty-five thousand dollars, conditioned for the faithful discharge of the duties prescribed by this Act, and shall deliver the same to the County Judge of Sacramento county. They shall organize by choosing a Secretary from their own body; and shall, immediately after entering upon the discharge of their duties, advertise in two of the newspapers in the county for the surrender and liquidation of all outstanding and unredeemed warrants drawn against the Court House and Jail Fund of the county within the time prescribed by this Act.

SEC. 4. Any person holding outstanding and unredeemed warrants drawn against the Court House and Jail Fund of the county, shall have the privilege of receiving in lieu thereof, bonds as provided for in this Act, if said warrants shall be presented for funding at the office of the Commissioners on or before the twentieth day of June, in the year eighteen hundred and fifty-five; and in funding said warrants, bonds shall be issued for the amount of principal and interest due thereon, on the first day of March, in the year eighteen hundred and fifty-five.

SEC. 5. The said Commissioners shall have power to issue on the part of said county, bonds bearing date on the first day of March, in the year eighteen hundred and fifty-five, which bonds shall be signed by each Commissioner, and countersigned by the County Treasurer, and shall be in substance as follows, to wit: That the county of Sacramento is indebted to the holder thereof, in a sum to be expressed therein, not less, however, than one hundred dollars, bearing an interest of ten per cent. per annum, payable semi-annually on the first days of September and March, upon the coupons annexed to such bonds; the interest payable in the city of New York, and the principal sum to be redeemable ten years from the date of the bonds, at the County Treasurer's office of said county. The coupons for the interest on said bonds shall be signed by the County Treasurer and annexed to and delivered with each bond; provided, that the aggregate amount of bonds issued as aforesaid shall in no case exceed the sum of two hundred and sixteen thousand dollars.

SEC. 6. The said Commissioners shall, within ten days after the first day of July, in the year eighteen hundred and fifty-five, deliver to the Board of Supervisors, of the county of Sacramento, the books and papers belonging to the said Commissioners, and all warrants cancelled by them by the issue of bonds, together with a register of the bonds issued by them, and shall also make out and deliver lists of all such bonds to the County Auditor and to the County Treasurer.

SEC. 7. Upon the completion of the duties imposed by this Act, the Secretary of the Commissioners shall be entitled to the sum of two hundred and fifty dollars, which sum shall include all expense of office rent and clerk hire, and the other two Commissioners shall receive the sum of one hundred dollars each; and the County Auditor is hereby authorized to draw his warrants for the respective sums. The incidental expenses of the Commission shall be audited and allowed by the Board of Supervisors of the County; provided, they do not exceed the sum of one thousand dollars.

SEC. 8. The interest upon the bonds issued under the provisions of this Act, which shall fall due on the first day of September, in the year

Bond for \$25,000.

Secretary to be chosen.

Outstanding warrants.

Bonds in lieu of warrants.

Time to present warrants.

Amount of bond to be issued.

Date of bonds.

By whom signed.

Purport of bonds.

Denomination.

Interest.

Where payable.

Principal.

Coupons, by whom signed. Amount to be issued.

Commissioners to deliver books, &c.

Lists of bonds.

Compensation of Secretary. Compensation of other two Commissioners.

Incidental expenses. Not to exceed \$1,000.

Interest, when due.

How to be paid. eighteen hundred and fifty-five, shall be paid out of the surplus interest money now the County Treasury of Sacramento county, belonging to the interest fund of the seven per cent. bonds, which surplus interest money is hereby appropriated and set apart for that purpose.

Per centage added to tax list.

SEC. 9. It shall be the duty of the officer required by law annually to make up a tax list for the Collector of said county, to add a sufficient per centage to the taxes authorized by law for State and county purposes, to pay the yearly interest on the bonds issued under the provisions of this Act which may be outstanding; and it shall be the duty of

Moneys set apart for interest on bonds.

the County Treasurer to set apart out of the moneys received by him from the taxes assessed for county purposes, a sum sufficient to pay the interest on said bonds.

Assessment for Sinking Fund

SEC. 10. It shall be the duty of the Board of Supervisors of Sacramento county to assess annually, in addition to the taxes now by law authorized to be assessed, a tax of fifteen cents on each one hundred dollars worth of all the taxable property of the county, as a sinking fund for the gradual redemption of the bonds issued by virtue of this Act.

Sinking Fund. for redemption of bonds.

SEC. 11. It shall be the duty of the County Treasurer on the first day of May, one thousand eight hundred and fifty-six, and yearly thereafter, to set apart all the moneys in his hands arising from the tax authorized by this Act as a sinking fund for the redemption of said bonds; he shall also, on the second Monday of June, one thousand eight hundred and fifty-six, and yearly thereafter, advertise in a public newspaper published in each of the cities of Sacramento and New York, for the space of ten days, for sealed proposals for the redemption of said bonds, the advertisement to set forth the amount in the County Treasury for that purpose, and the day, time and place when the proposals will be opened, and on the first Monday of September thereafter the County Treasurer shall open said bids in the presence of the Board of Supervisors of said county, and such bids shall be accepted as shall cancel the greatest amount of said bonds; *provided*, that no bids for more than par value shall be accepted.

To advertise for the redemption of bonds.

Proposals opened.

Proviso.

Interest to be remitted to New York.

SEC. 12. It shall be the duty of the Treasurer of Sacramento county to remit to the city of New York the amount necessary to pay the semi-annual interest, on the bonds authorized to be issued by this Act, three months prior to the first days of March and September in each year, or so long prior to the said days that the remittance thereof shall cost the county of Sacramento nothing for exchange.

When.

Exchange.

Repeal.

SEC. 13. An Act entitled "An Act to provide for the building and furnishing a Jail in Sacramento county," passed April fourth, eighteen hundred and fifty-four, is hereby repealed, but said repeal shall not affect the collection of any taxes heretofore levied, nor any contract made under it.

CHAPTER XXX.

AN ACT

To Incorporate the City of Marysville.

[Approved March 5, 1855.]

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

ARTICLE I.

OF BOUNDARIES, GENERAL POWERS, AND THE FORMATION OF WARDS.

SECTION 1. The district of country in the county of Yuba, which is Boundary. contained within the boundaries hereinafter described, shall be a city by the name of Marysville, and the inhabitants residing therein shall be a corporation, under the name and style of the "Mayor and Common Name and Council of the City of Marysville," and by that name they and their Succession. successors in office shall be known in law, have perpetual succession, sue and be sued, complain and defend in all courts and in all actions and proceedings, and may purchase, hold and receive property, real and May hold personal, within said city, may lease, sell and dispose of the same for the property. benefit of the city, may provide for the regulation and use of all commons belonging to the city, and may have a common seal and alter the Commons. same at pleasure ; *provided*, that they shall not purchase any real estate, Seal. other than such lands or lots within the same, as shall be necessary for Proviso. the erection thereon of public buildings, or for the laying out of streets Real estate. or public grounds, or as may be required for burial places.

SEC. 2. The said city shall be divided into four wards, as follows : Boundaries One, All that part of the city which lies west of Main (or E) street, of Wards. shall be the First Ward ; Two, All that part of the city which lies between E street and D street shall be the Second Ward ; Three, All that part of the city which lies between D street and C street shall be the Third Ward ; Four, All that part of the city which lies east of C street shall be the Fourth Ward.

SEC. 3. The Common Council shall have power to alter from time To alter to time by a vote of two-thirds of all the members, the boundaries of boundaries. the wards ; *provided*, such alteration be made at least three months pre- Proviso. vious to the annual election of city officers.

ARTICLE II.

OF THE OFFICERS OF THE CITY AND THEIR ELECTION.

SEC. 1. The officers of the city of Marysville, shall consist of one Officers. Mayor, one Recorder, twelve Aldermen, one Treasurer, one Clerk, one Marshal, one Attorney, and such other officers as are hereinafter authorized to be appointed.

Mayor—
how elected
and term.

SEC. 2. The Mayor shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor is elected and qualified.

Aldermen.

SEC. 3. Three Aldermen shall be elected by the qualified electors of each ward, and shall hold their offices for one year, and until their successors are elected and qualified.

Recorder.

SEC. 4. The Recorder shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Marshal.

SEC. 5. The Marshal shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Treasurer.

SEC. 6. The Treasurer shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Clerk.

SEC. 7. The Clerk shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Attorney.

SEC. 8. The Attorney shall be elected by the qualified electors of the city, and shall hold his office for one year, and until his successor is elected and qualified.

Qualifications
of Mayor,
Recorder, etc.

SEC. 9. No person shall be eligible to the office of Mayor, Recorder, or other office, who is not a citizen of the United States, and who has not been a resident of the State for one year, and of the city of Marysville six months next preceding his election.

Of Aldermen.

SEC. 10. No person shall be eligible to the office of Alderman, except while he is a resident of the ward for which he has been elected, and no person shall be elected to represent, in the Common Council, any other than the ward in which he resides, at the time of the election.

Of Voters.

SEC. 11. No person shall be entitled to vote at any city election or for any city officer who is not a white male citizen of the age of twenty-one years or over, and who has not been a resident of the State six months, of the city thirty days, and of the ward in which he offers his vote, at least ten days next preceding the election; *provided*, that those who may remove with their families from one ward to another, immediately prior to such election shall be entitled to vote in the ward to which they have removed. If any person not having the legal qualifications of an elector, shall fraudulently vote, or shall fraudulently attempt to vote, at any election, such person, on conviction thereof, shall be fined in any sum, not less than twenty, nor more than two hundred dollars. If any elector shall vote more than once at any election, or shall knowingly hand in two or more tickets folded together, or shall attempt to vote more than once at the same election, he shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars.

Proviso.

Fraudulent
voting.

Fine.

Election.

Notice of
time, place, etc.

SEC. 12. The election for Mayor, Recorder, Alderman, Treasurer, Clerk, Marshal and Attorney, shall take place on the third Monday of March in each year. It shall be the duty of the Mayor, at least twenty days before such election, to issue his proclamation, designating the day of the election, and the offices to be filled. A copy of such proclamation shall be set up in some public place in each ward of the city, and shall be inserted in one or more newspapers published within said city.

Publication.

Elections.

SEC. 13. All the provisions of the laws of this State regulating elections, and defining the powers and duties of the officers thereof shall apply to the electors under this Act, except that two inspectors and one clerk shall be the only officers of election in each ward in the city, who

Inspector's
Clerk.

shall be appointed by the Common Council of the city, and except that ^{How} the Common Council shall also designate the place of holding the polls ^{appointed.} in each ward.

SEC. 14. The Inspectors and Clerk of each ward shall deliver to the ^{Certificate} three persons receiving the highest number of votes in the ward, a ^{of election.} certificate, of election as Alderman, and shall also transmit to the Clerk of the city a statement showing the number of votes cast in the ward, and for whom the same were cast with the number for each person.

SEC. 15. The Inspectors of each ward shall make sealed returns to ^{Returns.} the Clerk of the city, of the votes given for persons to fill the office of Mayor, Recorder, Treasurer, Clerk, Marshal and Attorney; such returns shall be opened and counted in the presence of the Common Council, and a certificate of election issued under their direction to the ^{Certificate.} person receiving the highest number of votes for each of these offices.

SEC. 16. The Mayor, Aldermen, Recorder, Treasurer, Clerk, Marshal and Attorney shall enter upon their duties on the first Monday of ^{Enter upon} April next ensuing to their election. Before entering upon their ^{duties.} duties, they shall take the oath of office, which may be administered by ^{Oath of} any Judge or Justice of the Peace, or any other person authorized by ^{office.} law to administer oaths.

SEC. 17. The Common Council at their first meeting after the an- ^{President,} nual election, and at any other meeting, when from any cause it may ^{duties of.} become necessary, shall elect by ballot a President from their own body, who shall preside at all their meetings, when the Mayor is not present, and whenever there is a vacancy in the office of Mayor, or whenever the Mayor is absent from the city, or is unable from from sickness or from any other cause to discharge the duties of his office, the President shall act as Mayor, and possess all the powers, and perform all the duties of the Mayor during such vacancy or disability.

SEC. 18. Whenever a vacancy shall occur in the office of Marshal, ^{Vacancies.} Recorder, Alderman, Treasurer, Clerk or Attorney by death, resignation, removal or otherwise the Common Council shall forthwith order a ^{How filled.} special election to fill such vacancy, and shall give notice of the same by ^{Special} publication for not less than ten nor more than twenty days in one or ^{elections.} more newspapers published in said city, and it shall be the duty of the Mayor to issue his proclamation accordingly, the person so elected to fill ^{Term of} any vacancy shall hold his office for the residue only of the term of his ^{office.} predecessor; and, until a Treasurer, Clerk, Marshal or Attorney can be ^{Power to} elcted the Common Council shall have the power to appoint some one ^{appoint.} to act temporarily as Marshal.

SEC. 19. The Common Council shall have power to elect such in- ^{Inferior} ferior officers as they may deem necessary in the government of the city, ^{officers.} and in all elections they shall vote by ballot.

ARTICLE III.

OF THE COMMON COUNCIL AND THEIR POWERS AND DUTIES.

SECTION 1. The Mayor and Aldermen of the city shall constitute ^{Common} the Common Council, which shall meet on the first Monday in April ^{Council.} subsequent to the annual election, and the first Monday of each subsequent month in the year, and at such other times as they shall by resolution direct. The Mayor may call special meetings at any time by ^{Time of} written notice to each member, served personally, or left at his place of ^{meeting.}

residence or business. At all meetings of the Common Council the Mayor, when present, shall preside.

Quorum.

To compel attendance.

SEC. 2. A majority of the Aldermen of said city shall constitute a quorum for the transaction of business, but a smaller number may compel the attendance of absent members, and no tax or assessment shall be ordered except by a vote of a majority of all the members.

Who to vote.

SEC. 3. In the proceedings of the Common Council each member present shall have a vote, except the Mayor, who shall have only a casting vote when the votes of the other members are tied.

Rules.

SEC. 4. The Common Council shall determine the rules of their proceedings and the qualifications and elections of their members.

Sittings.

SEC. 5. The sittings of the Common Council shall be open to the public, except when the interest of the city shall require secrecy. A journal of their proceedings shall be kept by the Clerk under their direction, and the yeas and nays on any question shall be taken and entered on the journals, at the request of any two members.

Journal.

Duties, fees and salaries of officers.

SEC. 6. The Common Council shall define the duties of the officers elected by them, whose duties are not herein prescribed, and shall determine the fees and salaries of the officers elected by them under this Act.

By-laws.

Revenue.

Taxes.

Exception.

School tax.

Interest tax.

Street tax.

Assessment, How made.

Report to Common Council.

Proviso.

Improvement of streets, etc.

Banks of rivers.

SEC. 7. The Common Council shall have power within the city— First, To make by-laws and ordinances not repugnant to the Constitution and laws of this State; Second, To levy and collect for revenue purposes of the city, taxes on all property real and personal made taxable by law for state purposes, not exceeding two per centum per annum upon the assessed value of such property; *provided*, that all real estate within the city limits, used expressly for farming purposes and known as suburban lots, shall be exempt from paying city taxes; Third, To levy and collect in addition to the general tax, a special tax for school purposes of twenty-five cents on every hundred dollars' worth of real and personal property within the city, made taxable by this Act; Fourth, To levy and collect a special tax not exceeding fifty cents on the one hundred dollars in each year on all property real and personal in said city, made taxable by this Act, for the payment of all interest moneys on any or all sums of money borrowed by virtue and authority of, and in accordance with, the provisions of this Act; Fifth, To make special assessments of taxes for altering, widening, filling up, grading, graveling, or otherwise improving any street, alley or public ground of the city, amounting to the whole cost of such improvements, upon the real property situated upon either side of the street, alley or public ground to be improved, according to the benefit to accrue thereby, to such property; to be computed by three persons chosen by the Common Council for that purpose, and who, before entering upon their duties shall be sworn to make such computation faithfully and impartially, and shall make their report to the Common Council in writing, under their hands; and the concurrent report of any two of whom may be received as final in the premises; *provided*, that the owners of two-thirds of the real estate on either side of any street, alley or public ground, shall petition the Common Council for such improvement; Sixth, To provide for the draining, grading, paving, improvement, repairs and lighting of the streets, and the construction of sidewalks, drains and sewers, and keeping the same in repair, and the cleaning of the drains and sewers; and the prevention and removal of obstructions on the sidewalks, and on all streets and public grounds of the city; Seventh, To grade the banks of the Yuba and Feather rivers, so as to facilitate the discharge of mer-

chandise from steamers, vessels and boats; Eighth, To regulate the landing and stationing of steamers, vessels and boats, and to fix and collect a revenue tax for landing and moving the same within the city limits; Ninth, To provide for the removal of obstructions to navigation in the Yuba river from its mouth to the upper landing at the Public Plaza; to remove snags or beds of gravel, or other obstructions, and otherwise improve the navigation of the said river, from its mouth to the foot of A street, when the same does not exceed the sum of two thousand dollars; and when the estimated cost of any improvement of said river, within said boundaries exceeds said sum, then a proposition shall be submitted to the people, after twenty days' published notice of the same, in a public newspaper printed in the city, and if two-thirds of all the votes cast at such election be in favor of such proposition, the Common Council shall authorize the appropriation of the moneys, or the pledging of city securities, contemplated by the proposition upon which the vote is ordered; Tenth, To provide for the prevention and extinguishment of fires and to organize and establish fire companies; Eleventh, To regulate the storage of gun-powder, tar, pitch, resin, and other extremely combustible materials; Twelfth, To establish and regulate a city police; Thirteenth, To prevent and remove nuisances; Fourteenth, To prevent and restrain any riot or disorderly assemblage in any street or place of the city; Fifteenth, To impose and appropriate fines, forfeitures and penalties for the breach of any ordinance, and to provide for the punishment of breaches of the ordinances; but no fine shall be imposed of more than five hundred dollars; and no offender shall be imprisoned for a longer term than three months; Sixteenth, To remove from the immediate vicinity of the inhabited parts of the city, all slaughter-houses, hog-pens, hay-stacks, brick-kilns and yards, forges and blacksmith shops; Seventeenth, To license and regulate auctioneers and taverns, bar-rooms, billiard-tables, bowling-alleys, theatrical and other exhibitions, shows and amusements; *provided*, no license tax shall be assessed by the Common Council of said city for any hotel, tavern, public house, or bowling-alley, exceeding for each, twenty dollars a month; Eighteenth, To license, tax, regulate, prohibit and suppress tipping houses, dram shops, gaming and gambling houses, and hawkers and pedlars, and pawn-brokers, and to suppress disorderly houses and houses of ill-fame; Nineteenth, To provide for the erection of all public buildings for the use of the city; Twentieth, To establish a city hospital, and provide for the support of the indigent sick; Twenty-first, To construct a bridge across the Yuba river, at the eastern extremity of the Public Plaza, or east of the Public Plaza; to authorize its construction upon such terms as so a division of the proceeds from its tolls may be just, and to regulate the rates of tolls; Twenty-second, To borrow money upon the faith and credit of the city, but no loan shall be made for a sum exceeding five thousand dollars, including the amount of any previous indebtedness, without the consent to such loan, of the electors of the city previously obtained; Twenty third, If the Common Council desire to take stock in any public improvement or effect a loan for any purpose, for a sum exceeding five thousand dollars, they shall submit a proposition for taking such stock or effecting such loan, stating the amount of loan or stock to the electors of the City of Marysville at a special election to be held for the purpose, upon the Common Council giving twenty days' published notice of the same; and if two-thirds of the electors vote in favor of such proposition or propositions, the Common Council shall have power to effect such loan or take such stock, but not

Landing of steamboats.

Obstructions in Yuba River.

Cost.

Submitted to the people.

Two-third vote.

Fires and fire companies.

Combustibles.

Police.

Nuisances.

Riots.

Fines and penalties.

Slaughter-houses. Hog-pens. Auctioneers. Taverns, bar-rooms, etc. *Provido*.

License.

Public buildings.

Hospital.

Bridge.

To borrow money.

Stock or loan.

\$5,000. Submit to the people.

| | |
|---------------------------------------|--|
| Appropriate money. | otherwise, and pledge the faith of the city for the payment of such loan or stock ; Twenty-fourth, To appropriate money for any item of city expenditure, and to provide for the payment of any debts and expenses of the city ; |
| To compel attendance. | Twenty-fifth, To compel the attendance of absent members, to punish its members for disorderly conduct, and to expel members with the concurrence of two-thirds of the members elected. |
| Private property. | SEC. 8. Whenever it shall become necessary for the Common Council to take private property for the purposes of laying out, altering or widening any streets, alleys or public grounds in the city, they may direct proceedings to be taken to ascertain the value of such property, and the compensation to be made to the owner or owners thereof, and the assessments to be levied, for the payment of the same. |
| Value. | |
| Supervisors to appoint Commissioners. | SEC. 9. In order to determine such value and compensation, and such assessment as aforesaid, a petition in the corporate name of the city shall be presented to the Board of Supervisors in and for Yuba county, clearly designating the property to be taken, praying the appointment of Commissioners, to ascertain the compensation and assessment as aforesaid, so to be made thereon ; notice must be given to all persons interested of the intended application, and of the time and place at which it will be presented, by publication in one or more newspapers published in the said city of Marysville, at least three times a week, for four weeks prior to the hearing of said application ; the said notice shall be addressed generally, "To all whom it may concern," and shall contain an accurate specification of the property so sought to be taken and assessed, the purpose or purposes for which it is intended, and the time and place of the hearing of the said application for the appointment of Commissioners as aforesaid ; the service of the said notice shall be complete whenever and as soon as the same shall have been published in the manner above provided. |
| Persons interested. | |
| Publication. | |
| Style of address. Specification. | |
| Notice complete. | |
| Supervisors to appoint Commissioners. | SEC. 10. The Board of Supervisors, upon proof that the notice mentioned in the preceding section has been given, shall appoint three disinterested persons as Commissioners, the concurrent report of any two of whom shall be deemed final in the premises, to ascertain and report the value of the property to be taken, and the compensation, if any, to be made to the owner or owners thereof, and the assessments to be levied therefor ; the Commissioners shall be sworn to discharge their duties faithfully and impartially ; they shall view the premises, and ascertain, and certify under their hands the value of the property to be taken, and shall particularly describe such property ; in estimating such compensation or assessment, the said Commissioners shall take into consideration the benefits and advantages to accrue to the owner or owners of the said property by means of the proposed improvements, as well as the injury he or they may sustain by the taking of the said property, and after fairly weighing the said advantages and disadvantages, shall report the amount of money, if any, to be paid to or by such owner or owners as a compensation for the damages to be sustained by, or the benefits to be derived from the proposed improvements ; their report or the report of a majority of them shall be filed with the Board of Supervisors in and for the county of Yuba. The Commissioners upon filing such report, and upon tender and deposit in the Treasury of the City of the amount of compensation so found and reported by the said Commissioners to be due to the owner or owners of the said property which shall remain in the said Treasury subject to the order of any or all persons entitled thereto, shall direct the report to be entered on their minutes, and a certified copy thereof to |
| Compensation. | |
| Assessments. | |
| To view premises and certify value. | |
| Advantages, etc | |
| Damages or Benefits. | |
| Deposit of compensation. | |

be recorded in the Recorder's office of Yuba county, and thereupon the corporation shall be entitled to enter upon, use and occupy the property, as fully as if conveyed by the owner or owners thereof. Occupy property.

SEC. 11. In every proceeding prescribed by this Act for the taking of private property, for public purposes, all persons interested may be joined in the same petition to the Board of Supervisors, for the appointment of Commissioners as aforesaid, and may be joined and proceeded against jointly in every other stage of said proceedings until the full and final determination of the same. Parties in petition.

SEC. 12. It shall be the duty of the Common Council to provide for the accountability of all officers and other persons elected by them, or the qualified electors of the city to whom the receipt and expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the faithful performance of their duties or trusts, which security shall be given by them before entering upon the discharge of their respective duties; in case such security becomes insufficient, additional security may be required, and if not given, the Common Council, by a vote of two-thirds of the members, may declare the office vacant, and elect another person to supply the vacancy. Duty of Council concerning officers. Security Additional.

SEC. 13. It shall be the duty of the Common Council to publish in one or more newspapers, printed in the city, one month before the annual election of the city officers in each year, for the general information of the citizens of Marysville, a full and detailed statement of the receipts and expenditures of the city during the year ending on the last day of the month previous to that on which the publication is made; and in every such statement the different sources of the revenue, and the amount received from each, the several appropriations made by the Common Council, the objects for which the same were made, and the amount of money expended under each, the moneys borrowed on the faith and credit of the city, the authority under which each loan was made, and the terms on which it was obtained, shall be clearly and particularly specified. Statement of receipts. Sources of revenue. Appropriations. Expenditures. Moneys borrowed.

ARTICLE IV.

OF THE POWERS AND DUTIES OF THE CITY OFFICERS AND THEIR COMPENSATION.

SEC. 1. It shall be the duty of the Mayor—First, To communicate to the Common Council, quarterly, a general statement of the situation and condition of the city in relation to its government, finances and improvement; Second, To recommend to the Common Council the adoption of all such measures as he shall deem expedient, relative to the police, security, health, cleanliness and ornament of the city, and the improvement of its government; Third, To be vigilant and active in causing the by-laws and ordinances of the Common Council to be duly executed and enforced; Fourth, To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them for violation or neglect of duty; Fifth, To preside over the Common Council when present at their sittings; Sixth, To maintain the peace and good order of the city, and generally perform all such duties as may be Duty of Mayor.

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ury and all warrants issued in pursuance thereof; also, to keep an account in an appropriate book of all licenses issued, with the persons to whom issued, the date of the issue, the time for which the same was granted, and the sum paid therefor.

Same.

SEC. 11. It shall be the duty of the Clerk of the city to procure from the County Assessor a list of all the taxable property, real and personal within the city, and a list of all the names and occupations of all residents within the city, and furnish the Marshal with the same, which list, subject to the approbation of the Common Council, shall be the assessment roll and basis of taxation for municipal purposes; and such list of taxable property shall be furnished on or before the first Monday of August in each year.

Compensation.

SEC. 12. The clerk of the city shall receive for his services such compensation as may be allowed by the Common Council, not to exceed the sum of twenty-five hundred dollars per year.

Duty of
City Attorney.

SEC. 13. It shall be the duty of the City Attorney to attend to all actions and proceedings wherein the city is a party or interested; to give his advice and opinion in writing, whenever required by the Mayor or Common Council; to draw up all contracts and instruments to which the city is a party, and to perform such other services connected with his profession as an Attorney, as may be required by the Common Council. The City Attorney shall receive for his services such compensation as may be allowed by the Common Council, not to exceed two thousand dollars per annum.

ARTICLE V.

MISCELLANEOUS PROVISIONS.

Assessments
on property.

SECTION 1. Every assessment and every levy of taxes duly made for any purpose in conformity with the spirit and provisions of this Act, shall remain as a judgment and lien, and have the force and effect of an execution against the party and property liable for the same; and the Marshal is hereby empowered and required to seize and sell at any time, except as provided in the following section, whenever any assessment or taxes for any purpose are due and unpaid, any property on which the assessment or taxes shall not have been paid, by giving ten days' notice in one or more newspapers published within said city, designating the time and place of sale, and the name of the owner of such property when known, and when not known, stating such fact, as also a description of the property so seized and where situated, which said notice shall also be posted in three public places in the ward where the property is situated. If said property be real estate, it shall be sold at the City Hall, between the hours of ten A. M. and four o'clock P. M., and if personal property it shall be sold between the same hours, in the ward where it was so seized. The purchaser or purchasers of all or any property sold for the payment of any assessment or taxes levied under this Act shall acquire and enjoy all the rights and privileges which are given by the laws of this State to purchasers of real and personal property, under the Sheriff's sale, for the payment of delinquent taxes, except as otherwise provided in this Act; the City Marshal shall have the same power in collecting any assessments and taxes, and in selling real or personal property of delinquent taxpayers as are now possessed by the Sheriff in collecting State and

Marshal
to sell.

Where to sell
real estate.

Personal
property.

Rights of
purchasers.

Powers of
Marshal.

county taxes, and shall receive the same compensation as the Sheriff for similar services.

SEC. 2. Real estate shall not be sold for the payment of the general tax levied under the provisions of sub-divisions two of Section 1, of Article three of this Act, before the third Monday of October in each year. ^{Exempted.}

SEC. 3. Upon the passage of all resolutions and ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses, the ayes and nays shall be entered upon the Journal. ^{Appropriating money. Ayes and noes.}

SEC. 4. A majority of the members elected shall be necessary to pass a resolution or ordinance appropriating for any purpose the sum of five hundred dollars or upwards, or an ordinance in any wise increasing or diminishing the city revenue. ^{Majority necessary.}

SEC. 5. All resolutions or ordinances calling for the appropriation of any sum of money, exceeding one thousand dollars, shall lay over for the space of one week, and be published in one of the newspapers printed in the city. ^{Ordinance to lay over.}

SEC. 6. The style of the city ordinances shall be as follows: The Common Council of Marysville, do ordain as follows: All ordinances shall be published in one or more newspapers printed in the city. ^{Style of ordinance. To be published.}

SEC. 7. The Act entitled "An Act to Incorporate the City of Marysville," passed February 5th, 1851, and Act entitled an Act supplementary to the Act Incorporating the City of Marysville, passed April 10th, 1852, and the Act entitled an Act supplementary to the Act Incorporating the City of Marysville, passed May 7th, 1853, and the Act entitled an Act amendatory to the Act Incorporating the City of Marysville and to all Acts supplementary and amendatory to the same, passed May 6th, 1854, and the Act entitled "An Act amendatory to an Act Incorporating the City of Marysville," and Acts supplementary to said Act, passed February 3d, 1854, and the Act entitled an Act amendatory to an Act to Incorporate the City of Marysville, and to Acts supplementary and amendatory thereto, passed March 30th, 1854, are hereby repealed; *provided*, however, that all rights acquired under the said Acts are hereby saved and continued; *and provided, moreover*, that until a Recorder shall be elected and qualified under this Act, the Mayor shall exercise the same jurisdiction and judicial functions, as he possessed before the passage of this Act. ^{Repeal.}

CHAPTER XXXI.

AN ACT

Concerning the Collection of Taxes now due in the County of Marin.

[Approved March 8, 1855.]

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

- Clingan appointed.** SECTION 1. That David Clingan, recently appointed and commissioned as Sheriff of the county of Marin, in place of J. T. Stocker, who has absconded from the State, shall continue the collection of State and county taxes due therein, until the first Monday of May, one thousand eight hundred and fifty-five; and for that purpose he shall have the same powers that are given Sheriffs by an Act passed May fifteen, one thousand eight hundred and fifty-four, entitled "an Act to Provide Revenue for the Support of the Government of this State," and in said collections he shall be governed in all respects by the said Act, except so far as the same may be governed by this Act.
- Power to collect tax.**
- Same powers as sheriffs.**
- Final settlement.** SEC. 2. That the said David Clingan shall not be required to make a final settlement or return his delinquent list until the first Monday in May; *provided*, however, that prior to proceeding under this Act he shall take oath before the Treasurer, (which oath shall be filed with the Auditor and recorded in the Recorder's office) that he has not in his hands any moneys collected for taxes other than such as he verily believes he is entitled to as fees and costs.
- Oath.**
- Description of property.** SEC. 3. That said David Clingan shall post up on the Sheriff's office in said county for ten consecutive days, a description of all real estate and improvements, for the taxes of eighteen hundred and fifty-four, upon which any taxes may be due and unpaid; and at the expiration of the said ten days he may proceed to sell the same from day to day, without further notice, in like manner and with the same effect as sales made under the Act referred to in "section one" of this Act. He shall also make out an alphabetical list of all persons, firms and corporations from whom any tax may be due, which list shall also be posted up as before directed; and if any tax shall not be paid at the expiration of the ten days, he may proceed to take and keep possession of so much of any personal property of whatsoever kind or nature belonging to any party owing said tax, as he may deem necessary to pay the taxes and costs; and shall post a description of the same on the door of his office, and at the expiration of five days he shall sell the same in front of the Court House door of the county without further notice. If where personal property has been assessed, no personal property can be found, he shall levy upon the real estate of the party, and proceed to collect the tax out of such real estate in the manner provided in the aforesaid Act of May fifteenth, one thousand eight hundred and fifty-four.
- Sale.**
- Sale valid.**
- List of those owe tax.**
- Posted up.**
- Take possession of property.**
- Sell five days.**
- Levy on real estate.**
- Costs.** SEC. 4. All costs and fees arising in consequence of the proceedings authorized above, shall be added to the taxes due, and be collected therewith or be returned and allowed in the delinquent tax list as the case may be.

SEC. 5. All laws or parts of laws contrary to the provisions of this Repeal. Act are hereby repealed, so far as they extend to the county of Marin during the continuance of this Act, and no longer.

SEC. 6. This Act shall go into effect immediately, and shall expire on the first day after the first Monday of May, A. D. one thousand eight hundred and fifty-five.

CHAPTER XXXII.

AN ACT

To Re-incorporate the City of Sonora.

[Approved March 9, 1855.]

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

SECTION 1. The people of the city of Sonora shall continue to be a style. body politic and corporate under the style of the "Trustees of the City of Sonora," and by that name they shall have succession, may complain Powers. and defend in all courts and in all actions and proceedings; purchase, receive and hold property, and sell or otherwise dispose of the same, for their common benefit, but shall have no power to purchase real estate.

SEC. 2. The city of Sonora shall hereafter be bounded as follows, Boundaries. viz.: (According to Trask's survey) beginning at a point on the bridge about sixty feet from the northwest corner of the City Hotel, and running N. 65° E. one half mile, thence N. 25° W. one half mile, thence South 65° W. one half mile, thence S 25° E. one mile, thence N. 65° E. one mile, thence N. 25° W. one half mile to the middle of the eastern line or place of beginning.

SEC. 3. The Legislative power of the city shall be vested in the Trustees. following persons, who shall compose the Board of Trustees for the government of said city, viz.: Alonzo Green, Wm. G. Heslep, C. L. Street, L. C. Gunn and P. McD. Collins, whose term of office shall continue one year from the passage of this Act, and the Trustees shall Term of office. be elected annually thereafter.

SEC. 4. In case of vacancy by resignation or otherwise, the remain- Vacancy. ing Trustees shall have power and be required to fill such vacancy at How filled. their next regular meeting.

SEC. 5. The said Trustees shall, within ten days after they have taken the oath of office, organize as a Board, by choosing a President President. from among their own number. The duties of the President, besides those herein imposed, shall be such as may be prescribed by the Board, not inconsistent with this Act.

SEC. 6. The Trustees shall have power to appoint a Clerk and Clerk. Collector, and provide for their compensation. The Clerk shall keep

- Duties of Clerk.** distinct and proper minutes of the proceedings of the Board, and shall record the name of every Trustee present at each meeting, and the ayes and nays on such questions as the Board may desire. His minutes and records shall be open to public inspection during business hours, and he shall furnish a copy of the proceedings of said Board at each meeting to the city papers.
- Meetings public.** **SEC. 7.** The meeting of the Board shall be public, and shall be held on the first Monday of each month, and at such other times as the Board may appoint. The Board shall have power to rent an office at an expense of not more than twenty-five dollars per month.
- Office.** **SEC. 8.** The said Trustees, after they have taken the oath of office, shall, as speedily as possible, and they are hereby empowered to enter upon and take possession of all the property and interest of property of whatever description of the said city, and to dispose of the same if they see proper, to bring and maintain all suits and proceedings at law or equity in any Court of this State, or the United States, and to do any other acts or exercise any other power necessary to carry out the provisions of this Act, not inconsistent with this Act or the Constitution and laws of this State.
- Conveyances.** **SEC. 9.** Every act of the Board of Trustees for the disposition of the property or interest of property of the city shall require a vote of at least three of the Trustees, and every conveyance or agreement for a conveyance shall have the signature and seal of the President of the Board, attested by the Clerk thereof.
- Revenue.** **SEC. 10.** The Trustees shall have power and it shall be their duty semi-annually to raise by tax on the real and personal property in the city a revenue not to exceed one per cent. in any one year, agreeable to the County Assessor's books; or they may appoint an Assessor if they think proper, and provide for his compensation. They shall also have power within the city to pass all proper and necessary laws for the regulation, improvement and sale of city property, and for the levy and collection of city taxes on all taxable property not exceeding the amount per annum herein before prescribed.
- Laws.** **SEC. 11.** It shall be the duty of the Assessor to prepare within such time as the Trustees may direct, a correct list of all the taxable property within the city, with the true valuation thereof, and to present the same certified to the Board of Trustees. The mode of making out said list and of ascertaining the value of property, and of collecting all taxes, shall be the same as it is or may be prescribed by law for assessing and collecting the State revenue; should the owner of any property assessed as aforesaid not be satisfied with the valuation thereof, he may apply to the Board of Trustees for the reduction of the assessment, and their decision shall be final.
- Property over-assessed.** **SEC. 12.** The Trustees shall have power to organize a volunteer police, and shall continue the organization of the fire department. The Trustees also shall have power to provide for the supply of the city with water for the prevention and extinguishment of fires, by regulating the storage of gunpowder, hay, tar or other extremely combustible materials; and to pass all necessary ordinances for the protection of the "Gold Mount Water Works," and to regulate the sale and distribution of water in the city; and to affix penalties to the violation of any ordinance.
- Police.** **SEC. 13.** The Justices of Peace and Constables within said city, shall be conservators of the peace therein, and shall have jurisdiction in all civil and criminal cases not inconsistent with their jurisdiction as conferred by law.
- Fire department Water.**
- Combustible matter. Water Works.**
- Officers and their powers**

SEC. 14. The ordinance clause of city ordinances shall be—^{Ordaining clause.} "The People of the City of Sonora do ordain as follows"—a majority of the Trustees shall constitute a quorum for the transaction of business,^{Quorum.} but a smaller number may compel the attendance of absent members, and no tax or assessment shall be voted except by a majority of all the Trustees.^{By-laws.} The Trustees shall have power to make by-laws and ordinances not repugnant to the Constitution and laws of the State.

SEC. 15. Tax payers shall have the privilege of paying their taxes in cash or in city scrip.

SEC. 16. In case the public debt is not liquidated at the expiration of three years, the Trustees shall have power to levy a sufficient tax in addition to the one per cent. authorized in section 10, to pay the outstanding debt.^{Public debt.}

SEC. 17. The Trustees shall report and publish every three months a statement showing how their trust has been executed.

SEC. 18. The Trustees shall require the registration of the evidence of city indebtedness.

SEC. 19. The present city officers shall deliver to the Trustees all records, books, papers and effects belonging to said city upon demand of the President of the Board.^{Books, records, &c.}

SEC. 20. The Act entitled "An Act to Incorporate the City of Sonora," passed May 1st, 1851, and the Act entitled "An Act to Incorporate the City of Sonora," passed May 1st, 1851, as amended by the Act of the Legislature, passed May 15th, 1854, are hereby repealed, and that this act take effect from and after its passage.^{Repeal.}

CHAPTER XXXIII.

AN ACT

To create a "Board of Supervisors" for the County of Alameda.

[Approved March 9, 1855.]

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

SECTION 1. There shall be in the county of Alameda, a Board of Supervisors, to consist of one member from each township in said county, to be elected as hereinafter prescribed; *provided*, that no Justice of the Peace, Clerk, Sheriff or other county officer or deputy thereof, shall be eligible to the office of Supervisor.^{Members of Board. Not eligible.}

SEC. 2. Said Supervisors, who shall be qualified electors of said county, shall be elected each by the qualified voters of his respective township at the next general election, and at the general election of every subsequent year, and shall hold office until their successors shall be elected and qualified; *provided*, that the first election for the Board of Supervisors created by this Act shall be held on the third Monday^{Qualifications. When elected. Term of office. First election.}

- of March, 1855, and it shall be the duty of the County Judge to give within the respective townships of said county at least five days' notice of the time and places of holding said election, and to appoint inspectors and judges to conduct the same and make returns thereof, in accordance with the Act to regulate elections.
- SEC. 3. The persons chosen at said election to constitute the Board of Supervisors in and for said county of Alameda, immediately after having qualified, and as soon as the second Monday after the election, shall meet at the Clerk's office in said county for organization and for the purpose of transacting the business of said county. They shall also meet at the county seat of said county on the first Mondays of April, July, October and January, and likewise on the second Monday after each general election, and oftener, if in their judgment the affairs of the county require it, and their proceedings shall be public.
- SEC. 4. They shall elect one of their number Chairman of the Board, and the County Clerk of said county shall be ex-officio Clerk of said Board, who shall keep a full and complete record of all its proceedings in a journal which shall be duly signed by the Chairman of said Board.
- SEC. 5. The clerk shall receive a reasonable compensation for his services, to be fixed by the Board, in no case to exceed three hundred dollars a year.
- SEC. 6. The books, records and accounts of the Board shall be kept in the office of the County Clerk, and shall at all times be open, and free of charge, to inspection.
- SEC. 7. The Board of Supervisors shall have power, with the consent of a majority of all its members, to make such orders concerning the property of the county as they may deem expedient, and to sell and otherwise dispose of the same, appropriating the proceeds thereof to the use of the county; to audit the accounts of all officers having the management, collection or disbursement of any county funds; to examine, settle and allow all accounts by law chargeable against the county; to have the management and control of all public roads, highways, bridges and the opening of new roads, and to make all necessary orders concerning the same; to establish townships and election precincts, and to change or modify the same; to appoint Judges and Inspectors of elections; to act as a Board of Canvassers and declare all election returns in and for said county; *provided*, however, that the returns for the election of Supervisors therein, shall be canvassed and declared by the County Judge, County Clerk and Sheriff acting as a Board; to purchase and receive any property necessary for the use of the county; to erect, purchase or lease a Court House. Jail and such other public buildings and improvements as may be necessary for the use of the county; to levy and determine the rate of taxation pursuant to law; to ascertain and determine with a jury, or by consent of parties without a jury, the just compensation to be made to the owners of private property taken for public use; to sue and defend on the part of the county, and to perform all such acts as may be necessary to the discharge of the duties imposed upon them by law; but said Board shall not allow any claim against the county except such as are definitely specified by law; and in any and all cases where an allowance may be made by them between a higher and lower sum, they shall always allow the claim at the lowest sum named by law; they may allow each officer or clerk of any election the sum of five dollars for his services.
- SEC. 8. The Board shall require from the County Treasurer and

Notice of election.
Inspectors and Judges.

First meeting.

Regular meeting

Chairman.

Clerk.
Keep record.

Compensation of Clerk.

Books, where kept.

County property.

Audit accounts.

Examine accounts.

Roads, highways, bridges.

Townships and precincts.

Judges of election

Canvass votes for Supervisors.

Court House, jail.

To levy tax. Ascertain value of private property.

Claims.

Compensation of Clerk.

other officers charged with the collection of any revenue or moneys of Treasurer. the county, a quarterly report of all collections and disbursements made Report. by them. They shall see that the County Treasurer and other officers Officers' duties. as aforesaid, faithfully perform all their duties in regard to the revenue, money and property of the county, and shall have power to prosecute Delinquencies. them for any and all delinquencies or neglect of the discharge of their duties while in office, and shall, from time to time, when acting as such Board, examine the books and vouchers of the County Treasurer, Examine books, Sheriff, Assessor and all other officers engaged in the collection or dis- vouchers, &c. bursement of the moneys of the County.

SEC. 9. The Board shall have no power to contract any debt against Debt. the county, but shall only order the appropriation of money actually on hand at the time the order may be made. They shall set apart in a fund by itself sufficient to pay all salaried officers of the county, adding Salary. thereto what they may estimate as sufficient for the payment of other officers' fees and expenses, and only the county revenue above the amount so set apart, shall be subject to be appropriated by them to public purposes.

SEC. 10. The Board of Supervisors shall constitute a Board of Board of Appeals. Appeals, for the equalization of taxes, and for that purpose they shall meet as the law may direct, and continue in session for such Powers. time as they may deem necessary to transact the business of the county.

SEC. 11. Each member of the Board shall be entitled to receive Compensation. for his services for each day's necessary attendance on the business of his county, the sum of three dollars per day, and twenty-five cents per mile for travel in going from his residence to the place of sitting once only during each session, and no member shall be interested in Contracts. any contract for the county.

SEC. 12. The Board of Supervisors shall have no power or au- Office rent. thority to allow any account for office rent or Clerk hire, for any Justice of the Peace or any town, county or State officer, unless specially directed so to do by law.

SEC. 13. It shall be the duty of the Board of Supervisors to ex- Bonds. amine and approve the bonds of all county officers, and upon giving ten days' notice in writing to require all county officers intrusted with Notice. the collection, safe keeping or disbursement of county money to give additional security whenever in their judgment it shall be necessary, Security. and upon his failure to give such additional security, to declare the office vacant and to notify the County Judge of the same. Office vacant.

SEC. 14. This Act shall commence and be in force from and after the passage thereof.

CHAPTER XXXIV.

AN ACT

To provide for the Erection of a County Jail and certain Bridges in the County of Sonoma.

[Approved March 9, 1855.]

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

Levy tax.

SECTION 1. That the Board of Supervisors of Sonoma county be and they are hereby authorized to levy and collect, in addition to the taxes otherwise authorized by law, a special tax not exceeding twenty-five cents on each one hundred dollars of taxable property in said county, for the purpose of erecting a County Jail and such bridges within the county of Sonoma, as said Board may deem necessary.

Jail, etc.

CHAPTER XXXV.

AN ACT

Fixing the time of holding the several Courts authorized to be held by the County Judges in the Counties of Shasta, Santa Clara and Monterey.

[Approved March 9, 1855.]

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

Time of holding.

SECTION 1. The Courts authorized to be held by the County Judges in and for the counties of Shasta, Santa Clara and Monterey shall hereafter be held all at the same time, viz.: On the first Monday of February, April, June, August, October and December of each year, and shall continue from day to day until a disposition is made of the business.

Length of term.

SEC. 2. At said terms, the business pertaining to the Court of Sessions shall first be disposed of, and after that the business of the County Court and Probate Court in such order as the Judge may determine.

Order of business.

SEC. 3. The records of each of said Courts shall be kept separately, as required by law.

Separate records.

SEC. 4. The County Judges of said counties may call and hold special terms of the Probate Court and Court of Sessions whenever the public interest may require it. ^{Special terms.}

SEC. 5. "An Act entitled an Act concerning the Courts of Justice of this State and Judicial Officers," passed May 19th, 1853, so far as the same conflicts or is inconsistent with the provisions of this Act, are hereby repealed. ^{Repeal.}

CHAPTER XXXVI.

AN ACT

To authorize the Funding Commissioners of Contra Costa County to audit certain Claims against the County.

[Approved March 10, 1855.]

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

SECTION 1. The Funding Commissioners of the county of Contra Costa are hereby authorized to audit all accounts and claims properly chargeable against the county of Contra Costa for the erection and furnishing the Court House at Martinez, and when so audited, the County Auditor shall draw his warrants on the County Treasurer for the same. <sup>Claims against
Contra Costa
County.</sup>

SEC. 2. This Act to take effect from and after its passage, and to continue in force until a Board of Supervisors shall be elected and qualified in said county of Contra Costa, and no longer. <sup>Take effect.
Expire.</sup>

CHAPTER XXXVII.

AN ACT

Supplementary to an Act passed May 15th, 1854, entitled "An Act to Fund the Debt of the County of Mariposa, and provide for the Payment of the same."

[Approved March 14, 1855.]

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

Plate for
bonds.

SECTION 1. In order to carry out the provisions of the above described Act, the Treasurer and Auditor of Mariposa county are hereby authorized to procure a suitable plate, and have printed at the expense of said county, a suitable number of bonds with coupons for interest attached, to fund the debt of said county which accrued prior to the first day of June, one thousand eight hundred and fifty-four ; said bonds shall be in proper form to carry out the provisions of the Act above referred to.

Old bonds.

SEC. 2. Any person owing [owing] bonds issued under the provisions of the above recited Act, shall be entitled to exchange the same for the new bonds provided for in this Act at par value. Said new bonds to be in lieu of those issued under the Act above described, and to bear the same date.

Redemption.

SEC. 3. The time for the redemption with bonds of the indebtedness of said county, which accrued prior to June first, one thousand eight hundred and fifty-four, is hereby extended to July first, one thousand eight hundred and fifty-five.

Bonds recorded
and destroyed.

SEC. 4. The County Judge, Auditor and Treasurer of said county shall each keep a record of all bonds issued under the provisions of this Act, and shall destroy all bonds which may be redeemed by the new bonds, as provided for under this Act. No compensation shall be allowed any county officer for services rendered in carrying out the provisions of this Act.

CHAPTER XXXVIII.

AN ACT

To fix the time of holding the District Court in the Third Judicial District.

[Approved March 14, 1855.]

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

SECTION 1. The District Court in the Third Judicial District shall be held as follows : First, In the county of Santa Clara on the ^{When in Santa Clara.} third Monday of January, April, July and October ; Second, In the county of Alameda on third Monday of February, May, Au- ^{Alameda.} gust and November ; Third, In the county of Monterey on the ^{Monterey.} second Monday of March, June, September and December ; Fourth, In the county of Santa Cruz on the first Monday of January, April, ^{Santa Cruz.} July and October.

SEC. 2. So much of section one of the Act passed May 18th, ^{Repeal.} A. D. 1853, entitled " An Act to fix the time of holding the terms of the District Court throughout this State " as conflicts with the provisions of this Act, is hereby repealed.

CHAPTER XXXIX.

AN ACT

Making Appropriations to meet Deficiencies in Appropriations heretofore made to Defray the Civil Expenses of Government accruing prior to the first day of February, 1855.

[Approved March 14, 1855.]

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

SECTION 1. That the following sums be and are hereby appropriated out of any money in the Treasury not otherwise appropriated for the objects hereinafter expressed, to meet the outstanding indebtedness of the State prior to February 1st, 1855, namely : For ^{Prisoners.} transportation of prisoners to the State Prison, fifteen thousand dollars. For transportation of insane to the Insane Asylum, twelve ^{Insane.} hundred dollars. For official advertisements, seven thousand dollars. ^{Advertisements.}

| | |
|-------------------------|--|
| Counsel. | For fees of counsel employed by the State, one thousand dollars. |
| Suits. | For costs of suits in cases where the State was a party, two thousand dollars. |
| Warrants. | For Controller's Warrant plate and printing, seven hundred and fifty dollars. |
| Counsel. | For counsel to assist Attorney General, two thousand dollars. |
| Printing. | For paper for State printing, two thousand five hundred dollars. |
| Legislature. | For contingent expenses of Legislature, eight thousand dollars. |
| Land Commission. | For contingent expenses of the California Land Commissioners, twenty-two thousand dollars. |
| Supreme Court. | For contingent expenses of Supreme Court, eleven thousand eight hundred and twenty-five dollars. |
| Controller. | For contingent expenses of the Controller's office, three thousand dollars. |
| Treasurer. | For contingent expenses of Treasurer's office, two thousand eight hundred and fifty dollars. |
| Secretary of State. | For contingent expenses of Secretary of State's office, nineteen hundred dollars. |
| Attorney General. | For contingent expenses of Attorney General's office, two thousand four hundred dollars. |
| Sup Public Instruction. | For contingent expenses of Superintendent of Public Instruction, twenty-eight hundred and fifty dollars. |
| Surveyor General. | For contingent expenses of Surveyor General's office, fifty dollars. |
| Quarter-master General. | For contingent expenses of Quarter-Master General's office, one hundred and fifty dollars. |

CHAPTER XL.

AN ACT

Supplementary to an Act entitled "An Act concerning County Recorders," passed March twenty-sixth, one thousand eight hundred and fifty-one.

[Approved March 14, 1855]

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

SECTION 1. The provisions of the Act entitled "An Act concerning County Recorders, passed March twenty-sixth, one thousand eight hundred and fifty-one," shall not apply to Mariposa county, so far as such Act unites the office of County Recorder with that of County Clerk, but in said county the office of County Recorder shall be separate and distinct from the office of County Clerk.

Mariposa County excepted.

Separate from County Clerk.

Act to apply to Mariposa Co.

SEC. 2. All the provisions of said Act concerning County Recorders, as to the duties and responsibilities, and continuance in office of the Recorders of San Francisco, Sacramento, Santa Clara, El Dorado, San Joaquin, Tuolumne and Butte, shall apply in all respects to the records [Recorders] of Mariposa county.

When elected. Books, etc.

SEC. 3. There shall be an election held in Mariposa county for a County Recorder, at the next general election held for county officers in said county, and after the Recorder is so elected and qualified according to law, the County Clerk shall deliver to said Recorder all the papers, furniture, books, &c., belonging properly to said office.

CHAPTER XLI.

AN ACT

Extending the provisions of an Act entitled "An Act giving the Consent of the Legislature of the State of California to the Purchase by the United States of Land within this State for Public Purposes," to the Grant heretofore made by Thomas O. Larkin and wife, Robert Semple and wife and Bethuel Phelps to the United States of certain Lands adjoining the City of Benicia.

[Approved March 14, 1855]

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

SECTION 1. The several provisions of the Act entitled "An Act giving the consent of the Legislature of the State of California to the purchase by the United States of land within the State for Public Purposes," passed April 27th, 1852, are hereby extended, so as to include the grant made by Thomas O. Larkin and wife, Robert Semple and wife and Bethuel Phelps, on the sixteenth and seventeenth days of April, eighteen hundred and forty-nine, to the United States, of the tract of land adjoining to the city of Benicia, containing six hundred acres, be the same more or less, and now occupied and used by the United States for military purposes.

CHAPTER XLII.

AN ACT

Concerning the Office of Treasurer of State.

[Approved March 16, 1855]

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

SECTION 1. When upon presentation for payment to the Treasurer of State of any Controller's warrant or warrants, drawn upon the Treasurer of State, there shall be no funds or money in the Treasury applicable to the payment of the same, it shall be the duty of the Treasurer to endorse on the back of each warrant so presented for payment, the date of its presentation, by whom presented, and

Duty of
Treasurer
when no funds
in Treasury.

that the same is not paid for want of funds, and also make registry of the same in a book prepared and kept by him for that purpose; which registry shall state the number of each warrant, the date and amount of the same; also the date of presentation for payment, and by whom presented.

Order of
payment.

SEC. 2. It shall be the duty of the Treasurer, and he is hereby directed and required to pay and redeem warrants drawn upon the Treasurer of State, and payable out of the general or any special fund, in the order of the date of their presentation, commencing with the earliest date, as evidenced by the endorsement and registry provided for in the preceding section, and not otherwise, except as hereinafter provided.

Notice to
holders.

SEC. 3. Whenever funds applicable to the redemption of outstanding Controller's warrants once presented and registered as aforesaid, shall have accumulated in the Treasury to the amount of twenty thousand dollars, it shall be the duty of the Treasurer of State to give notice of the fact to the holders of such warrants, by advertisement for twenty days in two daily newspapers published in the city of Sacramento, and one in the city of San Francisco, which notice shall state the amount of money in the Treasury, applicable to the payment and redemption of such warrants, the dates of the presentation of the warrants entitled to payment, and that, unless the same be re-presented for payment within sixty days from the date of the notice, the fund reserved for the redemption of the same, will be applied to the payment of unpaid warrants next in order of registry; and the money reserved for the payment of warrants not re-presented within ninety days from the date of the notice, shall, by the Treasurer, be applied to the redemption of unpaid warrants next in order of registry; *provided*, nothing in this Act contained shall be so construed as to prohibit the Treasurer of State from receiving Controller's warrants for school lands, State taxes, or in payment of other State dues, in pursuance of the provisions of laws now in force.

Purport of
notice.

Proviso.

SEC. 4. The registry of all warrants which have failed to be re-presented within the sixty days notice provided for in section three of this Act, shall, by the Treasurer, be cancelled; but said warrants may again be presented to the Treasurer, who shall make a new registry of presentation of the same.

Warrants not
presented.

Books to
be open.

SEC. 5. The books of the Treasurer containing the registry of warrants shall always be open to the inspection of those who present warrants for payment, free of charge.

Report to
Controller.

SEC. 6. It shall be the duty of the State Treasurer to report to the Controller of State on the first Monday of each month, the amount, date and number of all warrants redeemed by him.

Warrants
applied to.

SEC. 7. This Act shall not apply to warrants issued previous to July first, A. D. 1855, nor to warrants issued for indebtedness which has accrued previous to the first day of July next.

Takes effect.

SEC. 8. This Act shall take effect, and be in force from and after the thirtieth day of June, eighteen hundred and fifty-five.

CHAPTER XLIII.

AN ACT

In relation to the Contingent Expenses of the Legislature.

[Approved March 16, 1855.]

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

SECTION 1. The Controller of State is hereby required to set apart from the first moneys received into the Treasury to the uses of the General Fund as heretofore provided by law, the sum of five thousand dollars for the Senate, and eight thousand dollars for the Assembly, not otherwise appropriated, as the Contingent Fund of the Legislature from the first of February, 1855, to first of February 1856. ^{Appropriation.}

SEC. 2. Bills for the same shall be audited by the Committee on Contingent Expenses of each house respectively, and upon their approval, the President of the Senate, and the Speaker of the House of Assembly, shall certify the same, and the Controller of State shall draw warrants upon the Treasurer for payment, out of the Contingent Fund of the Legislature. ^{Bills to be audited and approved.} ^{Warrants.}

SEC. 3. Whatever surplus that may remain unexpended from the Contingent Fund of the Legislature shall be paid into the General Fund at the close of the session ; *provided*, that nothing herein contained shall be so construed as to require any payment to be made from this Contingent Fund to any Member of the Legislature nor to any person employed by the Legislature for per diem services. ^{Surplus.} ^{Proviso.}

CHAPTER XLIV.

AN ACT

To repeal an Act entitled An Act to provide for the Establishment of a State Marine Hospital at San Francisco, and to provide for the Indigent Sick in this State, passed May 19, 1853.

[Approved March 16, 1855.]

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

SECTION 1. An Act entitled An Act to provide for the Establishment of a State Marine Hospital at San Francisco, and to provide for the Indigent Sick in this State, passed May nineteenth, one thousand eight hundred and fifty three, is hereby repealed. ^{Repealed}

SEC. 2. This Act shall take effect from and after the first day of April next. ^{Take effect.}

CHAPTER XLV.

AN ACT

To Fund the Indebtedness of the State, existing in the form of State Controller's Warrants, drawn upon the Treasurer of State between the thirtieth day of June, A. D., 1853, and the first day of July, A. D., 1855.

[Approved March 16, 1855]

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

To fund the State debt.

SECTION 1. That for the purpose of funding so much of the indebtedness of the State as has accrued, and remains unpaid since the thirtieth day of June, one thousand eight hundred and fifty-three, and so much as may accrue up to the first day of July, one thousand eight hundred and fifty five, as evidenced by State Controller's Warrants drawn upon the Treasurer of State, and thereafter to collect the revenue of the State in gold and silver only: The Treasurer of State shall cause to be prepared bonds to an amount not exceeding seven hundred thousand dollars of the denominations of one hundred, five hundred, and one thousand dollars, bearing interest at the rate of seven per cent. per annum from the day of their issue, payable in the cities of New York or San Francisco or at the State Treasurer's office, at the option of the party or parties to whom such bonds are issued. On the first day of July one thousand eight hundred and seventy, the interest accruing on the said bonds shall be due and payable either in the cities of New York or San Francisco or at the office of the Treasurer of State, on the first day of January and July of each year; *provided*, that the first payment of the interest shall not be made sooner than the first day of January, one thousand eight hundred and fifty-six. Said Bonds shall be signed by the Governor and countersigned by the Controller and endorsed by the Treasurer of State, and shall have the Seal of State affixed thereto.

Bonds.
Denomination.

Interest.
Where payable.
When.

Proviso.

By whom signed.

Coupons.

To advertise.

Separate records

Appropriation.

SEC. 2. Coupons for the interest shall be attached to each bond, so that the coupon may be removed without injury or mutilation to the Bond. Said coupons, consecutively numbered, shall be signed by the Treasurer of State; and it shall be his duty to advertise in one or more papers published in the city of New York and San Francisco, at least twenty days immediately preceeding the day on which the same shall be due, stating at what place or house the said interest will be paid.

SEC. 3. It shall be the duty of the Treasurer and Controller of the State each to keep a separate record of all such bonds as may be issued, showing the number, date and amount of each bond, and to whom the same was issued.

SEC. 4. The sum of one thousand (1000) dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay the expense that may be incurred by the Treasurer in having said Bonds prepared.

SEC. 5. From and after the passage of this act, all persons having any indebtedness of this State in the form of warrants drawn by the Controller of State, upon the State Treasurer, between the thirtieth day of June, one thousand eight hundred and fifty-three, and the first day of July, one thousand eight hundred and fifty-five, shall upon the presentation of the same to the Treasurer of the State of California, receive in exchange therefor a Bond or Bonds of the State of California, such as are provided for in the first section of this act. The Treasurer shall endorse on the back of each warrant so redeemed, the date on which he redeemed the same, and from whom received: he shall also keep a record of the same, giving the number of the warrant, date of the same, and the amount. And the Treasurer shall liquidate none of the aforesaid indebtedness of the State, but in the manner herein provided, unless otherwise directed by future enactments: *provided*, this act shall not prevent or affect the payment of warrants issued under "An Act requiring the Controller to audit certain bills of the members and officers of the present Legislature," finally passed on the first of February, one thousand eight hundred and fifty-five.

SEC. 6. For the payment of the principal and interest of the Bonds issued under this Act, there shall be levied and collected annually, in the same manner as is provided by law now in force, or which may hereafter be enacted, a tax of six cents on each hundred dollars of taxable property in the State, in addition to the taxes for general state purposes: and the fund derived from this tax shall be set apart and applied to the payment of the interest accruing on the Bonds, herein provided for, and the final redemption of the principal of said bonds. And the faith of the State of California is hereby pledged for the payment of the bonds issued by virtue of this Act, and the interest thereon; and if necessary to provide other and ample means for the payment thereof.

SEC. 7. Whenever on the first day of January or July, one thousand eight hundred and fifty-six, or upon the first day of January or July in any subsequent year, there remains a surplus, after the payments of the interest as hereinbefore provided, of ten thousand dollars or more, it shall be the duty of the Treasurer to advertise for the space of one month, in two newspapers published in English, in the city of San Francisco, and two newspapers published in English in the city of New York, for sealed proposals, for the surrender of Bonds issued in accordance with this Act, in such quantity as the holder may desire, not exceeding the amount to be redeemed. He shall state in said advertisement the amount of money that he has on hand for the purpose of redemption, and he shall accept such proposal at rates not exceeding par value, as may redeem at the lowest rates named for the Bonds, until the amount of cash on hand for redemption is exhausted.

SEC. 8. Full and particular account and record shall be kept by the Treasurer, of the condition of the funds collected, in accordance with the provisions of this Act, open at all times to the inspection of the Governor and Controller, and to any Committee appointed by the Legislature or either branch thereof.

SEC. 9. It shall be the duty of the Treasurer of this State to make arrangements for the payment of the interest of the said Bonds, when the same falls due; and in the event said "Interest Fund" is insufficient, the said Treasurer shall make up the deficiency from the

"General Fund," and in the event of the insufficiency of the "General Fund," the said Treasurer is authorized and required to make such contracts and arrangements as may be necessary for the payment of said interest, and the protection of the credit of the State.

Duty of
Governor and
Controller.

SEC. 10. It shall be the duty of the Governor and Controller to attend at least once in each month at the Treasurer's office to examine all warrants received by the Treasurer as aforesaid, and to cause the same to be registered and cancelled in such manner as to prevent them from being re-issued or put in circulation.

Bonds of
employees.

SEC. 11. The Treasurer of State, having occasion to employ or trust any person or persons in or about the business devolved upon him by the provisions of this Act, shall take for his own security, and for the security of the State, such security by Bond and Mortgage or otherwise, as shall be approved by the Governor, which bonds and mortgages so approved by the Governor, upon the default of the obligor or mortgagor may be prosecuted in the name of the obligor for his own use, or for the State.

Approved.
Default.

Abstract of
proceedings.

SEC. 12. The Treasurer of the State shall transmit to the Governor an abstract of all his proceedings under this Act with his annual report, to be by the Governor laid before the Legislature; and all books and papers pertaining to the matter, provided for in this Act, shall at all times be open to the inspection of any party interested, or to any Committee of either branch of the Legislature, or a joint Committee of both.

CHAPTER XLVI.

AN ACT

To prohibit Barbarous and Noisy Amusements on the Christian Sabbath.

[Approved March 16, 1855.]

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

SECTION 1. All barbarous and noisy amusements on the Sabbath are hereby prohibited.

Certain
amusements a
misdemeanor.

SEC. 2. Any person who shall get up, or aid in getting up, or opening of any bull, bear, cock or prize fight, horse race, circus, theatre, bowling alley, gambling house, room or saloon, or any place of barbarous or noisy amusements on the Sabbath, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not less than fifty nor more than five hundred dollars.

Persons
attending.

SEC. 3. Any person who shall purchase any ticket, or pay any admission fee to any of the places of amusement named in the second sec-

tion of this Act, for the purpose of attending the same on the Sabbath, shall be deemed guilty of a misdemeanor, and on conviction thereof, ^{Penalty.} shall be punished by fine not less than ten nor more than fifty dollars.

SEC. 4. Justices of the Peace shall have jurisdiction in all cases ^{Justices of Peace.} arising under the provisions of this Act.

SEC. 5. This Act shall take effect on and after the first day of June, ^{Take effect.} one thousand eight hundred and fifty-five.

CHAPTER XLVII.

AN ACT

To create a Board of Supervisors in the Counties of this State, and to define their duties and powers.

[Approved March 20, 1855.]

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

SECTION 1. There shall be in each of the counties of this State a ^{Creation.} Board of Supervisors, to consist of three members, to be elected and to possess such qualifications and have such powers as hereinafter given; *provided*, that in the counties of Los Angeles, Tuolumne, Placer, Alameda and Yuba, said Board shall consist of five members; *and further provided*, that this Act shall not apply to such counties of this State as have, or hereafter may have, Boards of Supervisors provided by special enactment.

SEC. 2. Said Supervisors shall be qualified electors of their respective ^{How elected.} counties, and shall be elected at the next general election, and at the general election annually thereafter; they shall enter on their duties on the first Monday of the month subsequent to their election, and shall ^{Term of office.} hold their office one year, or until their successors are elected and qualified; but no county or township officer shall be eligible to the office of Supervisor; *and provided*, that in all those counties where no Board of ^{Proviso.} Supervisors now exists, the County Clerk, the County Assessor and the County Surveyor shall constitute a special board, who shall, previous to the first election herein provided for, divide the county into a number of districts corresponding with the number of Supervisors to be elected; but in such divisions no township shall be divided unless said township shall contain an incorporated city or town; and the qualified electors of each district so formed shall elect only one supervisor, who shall be a resident of that district; and the Board of Supervisors in these counties shall have ^{Authority.} authority at their last session before the general election in each year, to change the boundaries of the districts in their said respective counties.

SEC. 3. In each of the counties, except the county of Contra Costa, ^{Election.} where no Board of Supervisors now exists, there shall be an election

- held for Supervisors on the second Monday in April, A. D. one thousand eight hundred and fifty-five; and the Supervisors elected under this Act, shall qualify on or before the first day of the first regular meeting of the Board, as provided in this Act, and shall hold their office until the next general election, and until their successors are elected and qualified; *provided*, that in the counties of Sacramento and Yuba the first election for Supervisors to be held under the provisions of this section, shall be held on the first Monday in April, A. D. one thousand eight hundred and fifty-five; *and provided further*, that in the county of Klamath the election be held on the first Monday in May next; *and provided further*, that in the county of San Joaquin the first election for Supervisors to be held under the provisions of this section shall be held on the same day of the municipal election of the city of Stockton, next following the passage of this Act,
- Term of office.**
- Proviso.**
- Meetings.** SEC. 4. The regular meetings of the Board of Supervisors shall be held at the county seat of their respective counties, on the first Mondays of May, August, November and February, and shall continue from time to time, until all the business before them is disposed of. The Board shall also meet on the second Monday after each general election, to canvass election returns.
- Special meetings.** SEC. 5. If at any time after the final adjournment of a regular meeting, the business of the county shall require a meeting of the Board, a special meeting of the same may be ordered by a majority of the Board. The order shall be entered on the Records of the Board, and the Clerk shall give at least five days' notice of such special meeting to any member of the Board not joining in the order. The order shall specify the business to be performed, and no other shall be transacted at such special meeting.
- Quorum.** SEC. 6. A majority of the Board shall form a quorum for the transaction of business, and all sessions of the Board shall be public. They shall elect one of their number as Chairman of the Board, and the County Clerk shall be Clerk thereof. The Clerk shall keep a full and complete record of all the proceedings of the Board, and all their proceedings shall be entered on the records, and the vote of each member on every question where there is any division, shall be entered on the record. The record of proceedings shall be signed by the Chairman of the Board and the Clerk.
- Chairman and Clerk.**
- Compensation.** SEC. 7. The Clerk shall receive a compensation for his services, to be fixed by the Board, (in no case to exceed two hundred and fifty dollars a year,) and no fee or other compensation whatever shall be allowed the Clerk for any service connected with the proceedings or business of the Board of Supervisors; *provided*, that in the counties of El Dorado, Nevada, Placer, Tuolumne and Yuba, a greater allowance to the Clerk may be made, but it shall in no case exceed the sum of eight dollars per day for each day of actual service, nor shall he receive in the aggregate more than five hundred dollars per annum; *provided further*, that in the counties of Butte, Plumas, Los Angeles, San Bernardino, Napa, Solano and Yolo, the compensation of Clerk shall be four dollars per day for each day actually engaged in service of the Board while sitting, and no other fee or compensation for any services as Clerk of said Board; *and provided further*, that in the counties of Klamath, Sacramento, San Joaquin, Shasta, Sierra and Trinity, the Clerk shall receive a per diem compensation which shall not exceed three hundred dollars in the aggregate for the year, and he shall receive no other compensation whatever for any service connected with the Board.
- Proviso.**

SEC. 8. The books, records and accounts of the Board shall be kept ^{Books, etc.} at the office of the Clerk of the Board, and shall at all times be open to public inspection, free of charge.

SEC. 9. The Board of Supervisors shall have power and jurisdiction ^{Power and jurisdiction.} in their respective counties: First, to make orders respecting the property of the county in conformity with any law of this State, and to take care of and preserve such property. Second, to examine, settle and allow all accounts legally chargeable against the county, and to levy, for the purposes prescribed by law, such amount of taxes on the assessed value of real and personal property in the county, as may be authorized by law; *provided*, the salary of the County Judge need not be audited by the Board, but the County Auditor shall, on the first judicial day of each month, draw his warrant on the County Treasurer in favor of the County Judge for the amount due such Judge as salary for the month preceding. Third, to examine and audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county, or appropriated by law or otherwise for its use and benefit. Fourth, to lay out, control and manage public roads, turnpikes, ferries and bridges within the county, in all cases where the law does not prohibit such jurisdiction, and to make such orders as may be necessary and requisite to carry its control and management into effect. Fifth, to take care of and provide for the indigent sick of the county. Sixth, to divide the county into townships, and to change the divisions of the same, and to create new townships, as the convenience of the county may require. Seventh, to establish and change election precincts and to appoint inspectors and judges of elections. Eighth, to control and manage the property, real and personal, belonging to the county, and to receive, by donation, any property for the use and benefit of the county. Ninth, to lease or to purchase any real or personal property necessary for the use of the county; *provided*, no purchase of real property shall be made unless the value of the same be previously estimated by three disinterested persons, to be appointed for that purpose by the County Judge. Tenth, to sell at public auction, at the court house of the county, after at least thirty days' previous public notice, and cause to be conveyed, any property belonging to the county, appropriating the proceeds of such sale to the use of the same. Eleventh, to cause to be erected and furnished, a court house, jail, and such other public buildings as may be necessary, and to keep the same in repair; *provided*, that the contract for building the court house, jail or other public buildings, be let out, after at least thirty days' previous public notice, in each case, of a readiness to receive proposals therefor, to the lowest bidder, who will give good and sufficient security for the completion of any contract which he may make respecting the same; but no bid shall be accepted which the Board may deem too high. Twelfth, to control the prosecution and defense of all suits to which the county is a party. Thirteenth, to do and perform all such other acts and things as may be strictly necessary to the full discharge of the powers and jurisdiction conferred on the Board.

SEC. 10. The Board of Supervisors shall also act as a Board of ^{Canvassers.} Canvassers, and declare the election returns, and cause a certificate of election to be given by the Clerk to any person who shall be elected to any county or township office within the county; *provided* that, ^{Proviso} when the election shall be held for Supervisors, the County Judge shall canvass and declare the election returns for these officers, for which purpose all election returns shall be sealed up and delivered,

- according to law, to the County Clerk, and by him opened, in the presence of the County Judge, who shall declare the result as to Supervisors, and the Clerk shall give to each person elected as Supervisor a certificate of his election, and the Board of Supervisors shall then canvass the returns as to other officers.
- Certificate.**
- Bonds of officers.** SEC. 11. The Board of Supervisors may, by an order to that effect, entered upon the records, require new bonds of any county or township officer, with additional securities, whenever they deem the same necessary, and may require of all county and township officers entrusted with the collection, management, safe-keeping or disbursement of public funds, a quarterly report of all collections and disbursements made by them during the preceding quarter, and may examine their books, accounts and vouchers. They shall see that all the county and township officers entrusted with the collection, disbursement, safe-keeping or management of the public revenue, faithfully perform the duties imposed upon them by law, and shall prosecute them for any delinquencies.
- Reports.**
- Duties.**
- Board of Equalization.** SEC. 12. The Board of Supervisors shall act as a Board of Equalization, in their respective counties, and shall, after the Assessor shall have made and returned an assessment of the taxable property within the county, convene, and hear and determine any objections to assessments of property, and may reduce or equalize the valuation of such property as the justice of the case may require, and they may increase the assessed value of any property in the county whenever they believe it to have been assessed at less than its actual value.
- Duties.**
- Taxes.** SEC. 13. The Board of Supervisors for the several counties, shall cause the State and county taxes to be levied upon the valuation made by the County Assessors; and it is made the duty of the respective County Assessors of each county to furnish the Board of Supervisors a certified copy of the assessment made by them of all taxable property within the county, on or before the first Monday of August, annually, for which they shall receive such compensation as the Board may deem just.
- Assessors.**
- Compensation.**
- Warrants.** SEC. 14. Warrants drawn on the fund for current expenses during the year, must distinctly specify the liability for which they are drawn, and when it accrued, and shall be paid in the order of presentation to the County Treasurer; and if there be not sufficient money in the fund for current expenses to pay all such warrants, then the balance shall be paid in the same manner as the present outstanding warrants.
- Debts and Property.** SEC. 15. The Board of Supervisors shall, within sixty days after they enter upon the discharge of their duties, ascertain the amount of the then existing debt of the county, and the amount and condition of all property and revenue belonging to the county, and cause a statement of the same to be made out and published; and, semi-annually thereafter, the Board shall publish a statement of the receipts and expenditures of the six months next preceding, and the accounts allowed. Said publications shall be made by making one insertion of the statement in a newspaper published in the county, but if no newspaper be published in the county, then a copy of such statement shall be posted at the court house door, and at two other public places in said county.
- Statement of receipts, etc.**
- Debts.** SEC. 16. The Board of Supervisors shall not, for any purpose, contract debts or liabilities, except those fixed by or in pursuance of

law, and, whenever debts or liabilities shall have been created, which, added to the salaries of county officers and other estimated liabilities fixed by law for the remainder of the year, will equal the revenue of the county for current expenses, no allowance whatever shall be made of any account, nor shall any expense be incurred other than the salaries and fees expressly prescribed by or in pursuance of law

SEC. 17. The Board of Supervisors may, by an order entered on the record, adopt, ratify and confirm all acts, proceedings and con- ^{Acts of Courts of Sessions.} tracts of the Courts of Sessions heretofore made.

SEC. 18. Each member of the Board of Supervisors shall be en- ^{Compensation.} titled to receive for his services, for each day's necessary attendance on the business of the county, a sum to be fixed by the Board, not exceeding four dollars per day, and not to exceed, in the aggregate, during any one year, one hundred and fifty dollars; and he shall receive twenty-five cents per mile for each mile necessarily traveled in going to and returning from the county seat; *provided*, that no charge shall be made for more than one trip going and returning from the residence of such Supervisor, at each term held; *and provided*, that no Supervisor shall be allowed more than one day's per diem for any one day, by reason of his being on the committees appointed by the Board, or for any other cause; and no further allowance whatever shall be made for services as a member of the Board; *provided, further*, that in the counties of Calaveras, Colusi, Nevada, Placer, Sutter, El Dorado and Tuolumne, a greater per diem may be paid, not exceeding eight dollars, and in these last named counties, the aggregate of per diem during any one year shall not exceed five hundred dollars to each member of the Board; *and provided further*, that in the counties of Klamath, Mariposa, San Joaquin, Shasta, Sierra, Siskiyou, Butte, Plumas, Yuba and Trinity, the per diem shall not exceed six dollars, and in the aggregate not to exceed two hundred and fifty dollars; *and provided further*, that in the county of Sacramento the per diem to be paid to the Supervisors for their services shall be six dollars to each, but the aggregate of per diem, as aforesaid, shall not exceed eight hundred dollars for any one year to each Supervisor.

SEC. 19. Whenever a vacancy occurs in the Board of Supervisors ^{Vacancy.} of any county, from failure to elect or otherwise, the County Clerk of the county shall call a special election, to be held after ten days' public notice, to fill such vacancy.

SEC. 20. When a vacancy shall occur in any county or township ^{County and Township offices.} office, except the office of County Judge or Supervisor, the Board of Supervisors shall appoint some suitable person, an elector of the county, to fill the vacancy until the next general election.

SEC. 21. Any person being a citizen and a tax-payer of the ^{Claim against County.} county in which he resides, may appear before the Board of Supervisors, and oppose the allowance of any claim or demand made against the county.

SEC. 22. No member of the Board of Supervisors shall be inter- ^{Purchases, &c.} ested, directly or indirectly, in any property purchased for the use of the county, or in any purchase or sale of property belonging to the county, nor in any contract made by the county for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for other purposes; and a violation of this section shall be a misdemeanor.

Notices.

SEC. 23. All public notices required by this Act, shall be given by one insertion of the same in a newspaper published in the county; but if no newspaper be published in the county, then a copy of the notice shall be posted at the court house door, and at two other public places in the county.

Suing the county.

SEC. 24. No person shall sue a county in any case, or for any demand, unless he or she shall first present his or her claim or demand to the Board of Supervisors for allowance; and if they fail or refuse to allow the same or some part thereof, the party feeling aggrieved may sue the county, and if the party suing recover in the action more than said

Allow judgment.

Board allowed or offered to allow, said Board shall allow the amount of the said judgment and costs as a just claim against the county; but if the party suing shall not recover more than the Board shall have offered to allow him or her, then costs shall be recovered against him or her, by the county. All claims for services and items of account of a similar nature, presented by any one person to the Board of Supervisors at any session of the Board, shall be included in one account, and so considered by the Board, unless by consent of the Board.

Claims for services.

Powers conferred.

SEC. 25. The Board of Supervisors shall have and exercise in its county, all jurisdiction and powers other than criminal, conferred by any law on the court of sessions, or heretofore exercised by said Court under any statute, or by any statute provided to be exercised by said Court, when the same does not conflict with the provisions of this Act.

Repeal.

SEC. 26. An Act entitled "An Act to create a Board of Supervisors for the counties of this State, and to define their duties and powers," passed May third, one thousand eight hundred and fifty-two, and "An Act to fix the compensation of the Board of Supervisors of Tuolumne county," passed May thirteenth, one thousand eight hundred and fifty-four, are hereby repealed; But this repeal shall not take effect until the first Wednesday of September, one thousand eight hundred and fifty-five," and "An Act to provide for the erection of Court Houses," passed April tenth, one thousand eight hundred and fifty, is hereby repealed.

CHAPTER XLVIII.

AN ACT

To provide for the Prosecution of Escheated Estates.

This bill, having remained with the Governor ten days, (Sundays excepted) and the Senate and Assembly being in session, it has become a law, this, twentieth day of March, A. D. 1855.

J. W. DENVER,
Secretary of State.

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

SECTION 1. That a sum of money not exceeding thirty thousand dollars be and the same is hereby appropriated out of any money in the General Fund not otherwise specially appropriated, for the purpose of prosecuting the claim of the State to escheated estates. Appropriation.

SEC. 2. The Controller is hereby authorized and required to draw his warrants on the Treasurer for all legal charges made, and necessary expenses incurred, in prosecuting the claim of the State to escheated property, upon receiving the certificate of the Attorney General that the same are correct and reasonable, and made and incurred in the prosecution of the claim of the State to escheated property, and also naming the case ; for what purpose the money was expended ; and to whom paid ; for which such charges were made, or in which such expenses were incurred. Controller's warrant.

SEC. 3. Whenever any money or property has been declared by the legal tribunals escheated to this State, the Treasurer of State shall transfer from the School Fund to the General Fund, out of the first moneys received into the Treasury from any estate, the full amount of all moneys drawn from the General Fund, to prosecute the right of the State to said estates. Transfer from School Fund.

CHAPTER XLIX.

AN ACT

Amendatory of and supplementary to an Act entitled " An Act to provide for the Incorporation of Towns," passed March 27th, 1850.

[Approved March 27, 1855.]

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

SECTION 1. Section six of an Act to provide for the Incorporation of Towns, passed March 27th, 1850, is hereby amended, so as to read Amended.

as follows: Section Sixth. The Board of Trustees shall have power to make such by-laws and ordinances, not inconsistent with the Constitution and laws of the United States, and of this State, as they may deem necessary to prevent and remove nuisances; to prohibit disorderly conduct; to provide for licensing public shows, lawful games, and bars at which spirituous liquors are sold; to regulate and establish markets; to construct and keep in repair wharves; to construct pumps, aqueducts, reservoirs or other works necessary for duly supplying the town with water; to keep in repair public wells; to lay out, alter, keep open and repair the streets and alleys of the town; to provide such means as they may deem necessary to protect the town from injuries by fire; to levy and collect annually a tax on all property in the town not exceeding fifty cents on every hundred dollars of the assessment valuation thereof; to impose and collect a poll tax of not exceeding one dollar per annum, on every male inhabitant of twenty-one years of age and upwards; to impose and collect a tax on dogs of not exceeding six dollars per annum on every dog found at large within the incorporated limits of the town; and to pass such other by-laws and ordinances for the regulation and police of such town, as they may deem necessary.

Special election. SEC. 2. Whenever the amount of revenue arising from taxes, licenses, fines, penalties, forfeitures and other sources, shall be found insufficient to carry out the objects which are given under the control and jurisdiction of the Trustees, said Trustees, or a majority of them, may cause a special election to be held for the purpose of ascertaining the sense of the qualified voters of the town, as to the propriety or necessity of imposing an additional tax of not exceeding fifty cents on every hundred dollars upon all taxable property in the town, according to the assessment valuation thereof.

Trustees to give notice. SEC. 3. The Trustees shall give notice of said special election by posting printed or written notices, two weeks prior to such election, in three of the most public places in the town, if no newspaper be printed therein, but in case a newspaper or newspapers are printed in the town, then the Trustees shall give notice of said election by at least two weekly insertions in said newspaper or newspapers, or in the one having the largest circulation; all said written or printed notices shall set forth the object for which a special election is called, and the time and place of holding such election.

Ballots. SEC. 4. The ballots used at said election shall contain thereon the words "Tax" or "No Tax," and if, when the votes are counted, it shall be found that a majority of all the votes cast, contained the word "Tax," then the Trustees shall cause the taxable property in the town to be assessed and a tax levied and collected thereon, not to exceed the amount specified in section two of this Act, in like manner as any other tax authorized by law for town purposes is levied and collected. But if a majority of all the votes cast shall contain thereon the words "No Tax," then no tax shall be levied or collected, and no other such special election shall be called within one year, and in no case shall two special taxes be imposed within twelve months of each other.

Special election. SEC. 5. Said special election shall be conducted, and the expenses thereof paid in like manner as any other town election.

Election of Recorder. SEC. 6. The Trustees shall have power to order the election of a Recorder at each regular town election, if they or a majority of them shall deem such an officer necessary, who shall receive for his services the same fees as are or may be allowed Justices of the Peace for the like services

Fees.

SEC. 7. The Recorder, as to offenses committed within the town, shall have like jurisdiction as now is or may hereafter be conferred upon Justices of the Peace; to examine and commit persons brought before him, and charged with the commission of offenses within the limits of the town; to take recognizances to appear; to keep the peace; and to issue all such writs and processes as a Justice of the Peace may lawfully do, subject to all the rules governing Justices of the Peace. The Recorder shall also have jurisdiction over all violations of the town ordinances, and may, according to the provisions of such ordinance, hold to bail, fine or commit to prison any person found guilty of any violation thereof.

Recorder's
jurisdiction.

CHAPTER L.

AN ACT

Concerning the Offices of Controller and Treasurer of State.

[Approved March 27, 1855.]

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

SECTION 1. From and after the passage of this Act, it shall not be lawful for the Treasurer of State to receive or pay out any moneys, bonds, warrants or other evidences of indebtedness, in full or part payment of any State dues or indebtedness, except upon and in conformity with the order of the Controller of State.

SEC. 2. The Treasurer of State is hereby required to report to the Controller of State during the first three days of each month, the complete operations of the Treasury for the preceding month, specifying the amounts received, and from what sources, the amounts expended in the redemption of bonds, warrants, coupons for interest, &c., and the balance of cash on hand in the Treasury, to the credit of the various funds.

Treasurer to
report to the
Controller.

CHAPTER LI.

AN ACT

Concerning the County Records of Los Angeles County.

[Approved March 29, 1855.]

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*Recorder to
transcribe
certain records.

SECTION 1. The County Recorder of Los Angeles county shall, as soon hereafter as possible, transcribe in such manner and into such books as are prescribed by section twelve of an Act concerning County Recorders, approved March 26, 1851. all records except book No. 1 of deeds and mortgages and the old Spanish records and all indexes made in the books now used in his office. He shall note in the margin of the transcripts the name of the original volume and the number of the original page. The transcript and the copies from the same, shall have the same force and effect as the original records. As soon as the transcripts are complete, the Recorder shall make no more records or indexes in the books now used by him, with the exception aforesaid.

Marginal notes.

Compensation.

SEC. 2. For services under this Act, he shall be paid out of the County Treasury, at the rate of ten cents per folio of one hundred words, and he shall be allowed no further compensation whatever for services under this Act.

Records.

SEC. 3. The original records shall be carefully preserved in the office of said Recorder.

CHAPTER LII.

AN ACT

Appropriating Money to pay Louis Bartlett for Services rendered the State.

[Approved March 29, 1855.]

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

Appropriation.

SECTION 1. The sum of one hundred and forty-four dollars is hereby set apart and appropriated out of any moneys in the General Fund not otherwise appropriated, to pay Louis Bartlett for services as Journal Clerk of the Fourth Session of the Legislature.

CHAPTER LIII.

AN ACT

To amend an Act entitled "An Act amendatory of and supplementary to the Act entitled an Act to Regulate Proceedings in Civil Cases in the Courts of Justice of this State," passed May 15th, 1854.

[Approved March 29, 1855]

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

SECTION 1. Section five of said amendatory and supplementary Act Amendment. is hereby amended, so as to read as follows: Section 5. Section twenty-eight is amended, so as to read as follows: The summons shall be served by the Sheriff of the county where the defendant is found, or by his Deputy, or by any other person competent to be a witness in the cause; a copy of the complaint shall be served with the summons. The summons shall be returned with the certificate of the officers, on [or] the affidavit of the person, of its service, and of the service of the copy of the complaint, to the office of the Clerk from which the summons issued; *provided*, if there be more than one defendant to the action, and such defendants reside within three miles of the County Clerk's office, a copy of the complaint need be served only on one of the defendants.

CHAPTER LIV.

AN ACT

Authorizing the Governor of this State to transmit to the Secretary of War at Washington City a statement in relation to "War Debt" of California.

[Approved March 29, 1855.]

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

SECTION 1. The Governor of this State is hereby authorized to transmit to the Secretary of War at Washington City, a certified copy Governor to transmit. from the office of Controller of State, of the amount of indebtedness incurred and actually paid by the State of California in the suppression of Indian hostilities, prior to the 1st day of January, A. D. 1854; also

Other docu-
ments.

a certified copy from the office of Secretary of State, of all laws authorizing military expeditions against the Indians, and making appropriations to pay the expenses of the same, and to communicate such further information as in his discretion may be deemed necessary to enable this State to procure from the General Government the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents, (\$924,259 65) it being the amount appropriated to this State under the provisions of an Act of Congress entitled "An Act making appropriations for the support of the Army for the year ending the thirtieth of June, one thousand eight hundred and fifty-five," approved August 5th, 1854.

Publish certified
copies.

SEC. 2. The Controller of State is hereby required to furnish the Governor with a certified copy from the records of his office, of the amount, number, date and rate of interest, and to whom paid, of "War Bonds" issued prior to January 1st, 1854, in payment of expenses incurred by said State in the suppression of Indian hostilities; and also the amount of "War Warrants" issued and not converted into Bonds prior to January 1st, 1854.

CHAPTER LV.

AN ACT

To provide J. G. Stebbins, W. W. Stow and H. P. A. Smith with Duplicate Warrants in lieu of certain Warrants lost or destroyed.

[Approved March 29, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and required to draw and deliver his warrants in favor of James G. Stebbins, Wm W. Stow and H. P. A. Smith on the General Fund, for the several sums herein named to each : To James G. Stebbins for the sum of eight hundred and thirty-six dollars, the same to be in lieu of, and duplicate of, warrants number one thousand four hundred and eight, (1408) issued to B. P. Hugg for services as porter of the Assembly, and bearing date January the thirtieth, A. D. 1855. Number one thousand six hundred and eighty-seven, (1687) issued to J. G. Stebbins for services as Senator, and bearing date the tenth day of February, A. D. 1855. To Wm. W. Stow for the sum of six hundred and forty dollars, the same to be in lieu of, and duplicate of warrants number nine hundred and forty-four, (944) issued to W. W. Stow for mileage as Assemblyman, and bearing date January the twelfth, A. D. 1855. Number one thousand three hundred and four, (1304) issued to the said Stow for services as Assemblyman, and bearing date January

J. G. Stebbins.

W. W. Stow.

twenty-ninth, A. D. 1855. To H. P. A. Smith, for the sum of five hundred and eight dollars, the same to be in lieu of, and duplicate of warrants number one thousand three hundred and thirty-five, (1335) issued to H. P. A. Smith for services as Assemblyman, and bearing date January twenty-ninth, A. D. 1855. And number one thousand four hundred and eighty-five, (1485) issued to the said Smith for mileage as Assemblyman, and bearing date February second, A. D. 1855; all of which warrants are verily believed to have been lost or destroyed.

SEC. 2. The said warrants shall be marked "Duplicate," by the Controller, and the said James G. Stebbins, Wm. W. Stow and H. P. A. Smith, or their several agents or attorneys, shall severally execute to the State and deliver to the Treasurer of State, a bond, with good and sufficient sureties to the satisfaction of the Treasurer, in a sum double the amount aforesaid authorized to be issued in warrants to each, conditional, to be paid to said Treasurer of State, as the Agent of the State of California, if the warrants claimed to be lost or destroyed or any of them shall ever be presented and paid.

CHAPTER LVI.

AN ACT

To amend and supplementary to an Act entitled "An Act to incorporate the City of Sacramento," passed March, 1851.

[Approved March 31, 1855.]

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

SECTION 1. Section 4 of said Act shall be amended so as to read as follows : There shall be elected in said city, at the time and in the manner hereinafter prescribed, a Mayor, Recorder, City Assessor, City Collector, City Marshal, City Attorney, City Treasurer, and nine Councilmen, but no person shall be eligible to any of said offices, nor to any office which may be created by ordinance, who shall not at the time be a qualified elector according to the constitution and laws of the state, and who shall not have resided in the city thirty days next preceeding the election, and ten days in the ward where such election is held, and no person shall be entitled to vote for any city officer in any but the wards in which he resides.

SEC. 2. Section 25 of said Act shall be amended so as to read as follows : Any officer of the City Government elected by the people, except the Mayor and Common Council, may be removed from office by a vote of two thirds of the members of the Common Council elect, for any malfeasance or misfeasance in office, or neglect of duty ; *provided*, that no removal from office shall take place, except upon charges fully specifying the cause of complaint, and until the party

sought to be removed has had an opportunity to be heard in his defense, and the cause of such removal shall be entered at length upon the journals.

Perquisites.

SEC. 3. Section 29 of said Act shall be amended so as to read as follows: No city officer shall be entitled to receive or collect for his own use any fee or perquisite for the discharge of the duties of his office, except as otherwise provided in this Act; but all fees collected by him in virtue of any ordinance of the Common Council, shall be paid into the City Treasury, at such times as the Common Council may direct; and if any officer shall receive or appropriate to his own use any fee or perquisite collected as aforesaid, or any funds belonging to the city, he shall be considered guilty of a misdemeanor, and punished by a fine not exceeding five thousand dollars, or imprisonment not exceeding twelve months, or both such fine and imprisonment, and shall be removed from office.

Fees.

Misdemeanor.

Penalty.

Salaries.

SEC. 4. Section 30 of said Act shall be amended so as to read as follows: There shall be paid by the city out of the appropriate funds, the following salaries per annum, but in no case exceeding the sums or rates herein named, to wit: To the Mayor, (\$2,000) two thousand; to the Recorder, (\$4,000) four thousand dollars; to the City Marshal, (\$3,000); to the Deputy City Marshal, (\$1,500) fifteen hundred dollars; to the City Attorney, (\$2,000) two thousand dollars; to the City Treasurer, (\$1,500) fifteen hundred dollars. The Chief Engineer of the Fire Department shall receive such pay as the Common Council may fix by ordinance. To the Superintendent of Water Works (\$2,000) two thousand dollars; to the City Assessor, (\$1,500) fifteen hundred dollars; to the Clerk of the Recorder's Court, (\$1,500) fifteen hundred dollars. Each Policeman to be elected as hereinafter provided, shall receive for his services, not exceeding one hundred and twenty-five dollars (\$125) per month, which together with the salaries to the above named officers shall be paid at such times and in such manner as the Common Council shall by ordinance direct. The City Tapper shall be paid for his services such fees as the Common Council shall by ordinance prescribe, to be paid in all cases by the party requiring his services. The City Collector shall receive for collecting and paying over all revenue collected by him, not exceeding one and one-half per cent. The City Surveyor shall receive such fees as the Common Council may authorize by ordinance, and his fees shall be paid by the party requiring his services.

When and how paid.

City Tapper.

City Collector.

City Surveyor.

Jurisdiction of Recorder.

SEC. 5. Section 35 of said Act shall be amended so as to read as follows: The Recorder shall have exclusive jurisdiction over all violations of City ordinances, and may hold to bail, fine or commit to prison offenders in accordance with the provisions of such ordinances; of all proceedings for the recovery of any fine, penalty, or forfeiture imposed by ordinance *provided*, the amount thereof shall not exceed five hundred dollars; of all cases of misdemeanor and wilful injury to property committed within the city limits, punishable by fine not exceeding five hundred dollars, and imprisonment not exceeding six months; and he shall have final and exclusive jurisdiction in all cases of petit larceny, *provided*, in all cases the defendant shall have the right of trial by jury; he shall have exclusive jurisdiction of the following offenses committed within the city limits:—assault and battery not charged to have been committed on a public officer in the execution

Proviso.

Injury to property.

Petit larceny.

Trial by jury.

Exclusive jurisdiction.

of his duties; or with intent to kill; all breaches of the peace, riots and affrays; committing a wilful injury to property; and all misdemeanors, punishable by fine not exceeding five hundred dollars or imprisonment not exceeding six months, or by both such fine and imprisonment. He shall exercise all the powers of a Justice of the Peace in regard to offenses committed within the city limits, subject to all the rules governing Justices of the Peace; and have power to administer all oaths known to the law. In case of death, sickness, absence from the city, disability, resignation or removal of the Mayor, the Recorder shall perform the duties of his office during such vacancy, absence, or disability. Be it provided also, in case of death, sickness, absence from the city, disability, resignation, or removal of the Recorder, the Mayor shall perform the duties of his office during such vacancy, absence, or disability, and have the same jurisdiction and powers that are invested in the Recorder.

Have powers of Justice of Peace.

To perform the duties of Mayor.

Mayor to perform duties of Recorder.

SEC. 6. Section 37 of said Act shall be amended so as to read as follows: It shall be the duty of the City Marshal to execute and return all process issued by the Recorder, or directed to him by any legal authority, and to attend upon the Recorder's Court regularly. He may, upon the approval of the Mayor, appoint a deputy, who shall possess the same power and authority as the Marshal, and for whose acts as such, the Marshal shall be held responsible; he shall arrest all persons guilty of a breach of the Peace, and all persons guilty of a breach of any city ordinance, and bring them before the Recorder for trial. He shall also perform such police and other duties as the Common Council may direct.

Duty of City Marshal.

Deputy.

SEC. 7. Section 39 of said Act shall be amended so as to read as follows: It shall be the duty of the City Attorney to attend to all suits, matters and things, in which the city may be interested; to give his advice in writing, when requested, to the Mayor and Common Council, and to do and perform all such things touching his office, as the Common Council may require of him, and to attend all prosecutions in the Recorder's Court when required so to do by the Recorder.

Duty of City Attorney.

SEC. 8. No city officer except as herein otherwise provided, shall be allowed to employ a clerk at the expense of the city.

SEC. 9. The Common Council shall, on their first meeting after a general election, or as soon thereafter as the same can be conveniently done, appoint in such manner as the Council may prescribe, the following officers to serve during the pleasure of the Council, to wit: one Superintendent of Water Works; one Secretary of the Common Council; one City Surveyor, one Engineer of Water Works, but the salary of said Engineer shall not exceed the rate of (\$150) one hundred and fifty dollars per month; they shall also elect or appoint not exceeding fifteen regular policeman, to be under the direction of the Mayor, and subject to be removed at any time by the Council; provided, however, that the Mayor may in his discretion, and in cases of emergency, appoint special policeman, and of the same shall make a report to the Common Council. The office of Harbor Master is hereby abolished, and the duties appertaining to said office shall be performed by the City Marshal, in such manner and form as the Common Council may by ordinance direct; but for such services or such duties he shall not receive any fee or compensation otherwise than is in this Act provided for the salary of City Marshal.

Officers appointed.

Engineer of Water Works.

Number of policeman.

Special policeman.

Harbor Master.

Marshal's duties.

Secretary of
Council.

SEC. 10. Section 40 of said Act is hereby amended so as to read as follows: It shall be the duty of the Secretary of the Common Council to keep the corporate seal and all the papers and documents belonging to the city; to file them in his office, under appropriate heads; to attend the sittings of the Common Council, and to keep a journal of their proceedings and a record of all by-laws and ordinances; to countersign all warrants and licenses issued in pursuance of the orders and ordinances of the Council; to affix the corporate seal thereto; to keep an accurate account in a suitable book, under the appropriate heads of expenditures, of all orders drawn on the Treasury and all warrants issued in pursuance thereof; also to keep an account in an appropriate book of all licenses issued, the name of the person to whom issued, the date of the issue, the time for which the same is granted, and the sum paid therefor; and he shall do and perform all such other duties as may be required, or directed by the Common Council.

Recorder's
Clerk
Duties.

SEC. 11. The Recorder shall have power to appoint a Clerk to his Court, who shall be empowered, and whose duty it shall be to keep a record of all proceedings in said Court; to administer all oaths known to the law; to issue all process original, mean, [mesne] and final in said Court, and to take down in writing at the time the same is given, all testimony in all examinations before the Recorder for offenses of which said Court has not final jurisdiction, and to perform such other duties as the Council may direct. The said Clerk shall be subject to removal by the Common Council on the complaint of the Recorder.

Subject to
removal.

Duty of
Collector.

SEC. 12. It shall be the duty of the Collector to receive and collect all taxes and licenses due the city, and all other moneys and revenues due, or to become due the city, in such manner as the Common Council shall direct; *provided*, however, that the Common Council may by ordinance require the Superintendent of Water Works to collect the Water revenue, and also may require the Marshal to collect the Harbor or Levee dues, in such manner and form, and under such bonds, as the Council may prescribe.

Proviso.

City Controller.

SEC. 13. The office of City Controller shall be and the same is hereby abolished—the duties appertaining to that office shall be assigned by the Council to the appropriate officers, authorized by this Act to be elected by the people or the Common Council.

SEC. 14. The Common Council shall have no powers to create any new office, otherwise than by a vote of seven members out of the nine Councilmen elected.

City Printing.

SEC. 15. All city printing, of whatever nature or kind, shall be given out by contract, and it shall be the duty of the Common Council to advertise for such contract for at least five days, in a newspaper published in the city, and they shall award the contract to the lowest bidder, *provided*, always that the entire expense for the city or public printing shall not exceed the sum of three thousand dollars per annum.

Proviso.

Warrants.

SEC. 16. From and after the passage of this Act, all warrants drawn by the Mayor shall be consecutively numbered and registered by the Secretary of the Common Council, in a book to be kept by him for that purpose, which book during office hours shall be open to public inspection, and the Treasurer shall pay such warrants only in the order in which they are drawn, to wit: warrants having priority of date and number, shall be first paid.

Treasurer
to pay.

SEC. 17. No city officer shall be allowed any compensation for

extra services by him rendered to the city; but such officer or officers ^{Extra services.} shall be required without additional pay to perform such services as the Common Council may require.

SEC. 18. At the same time, and in the same manner as other city ^{Superintendent of Common Schools.} officers are elected, there shall be elected one Superintendent of Common Schools, and each Ward shall elect two Common School Commissioners, and said Superintendent and Commissioners shall form a Board of School Commissioners, which Board shall have all the power and perform all the duties that are or may be by law given to Commissioners of Common Schools in cities. But it shall not be lawful for such Superintendent or Commissioners to charge or receive any pay, or compensation whatever, for any services rendered in regard ^{Salary.} to Common Schools.

SEC. 19. The Act entitled "An Act creating the office of Clerk ^{Repeal.} of the Recorder's Court of the City of Sacramento," passed May 1, 1852, is hereby repealed.

SEC. 20. All Acts or parts of Acts in any manner conflicting with the provisions herein contained, are hereby repealed.

CHAPTER LVII.

AN ACT

To provide for the Indigent Sick in the Counties of this State.

[Approved April 11, 1855]

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

SECTION 1. All moneys received in commutation of Bonds under ^{Commutation} the provisions of "An Act concerning passengers arriving in the ports of the State of California," shall be used for no purpose other than for the protection and support of the Indigent Sick, and shall constitute and be known as the "Hospital Fund of the State of California."

SEC. 2. The hospital fund, together with all moneys collected for ^{Set apart.} the benefit of said fund, shall be set apart by the State Treasurer for the purpose expressed and directed in the first section of this Act; and after the first day of April, 1855, shall be divided and apportioned ^{Apportioned.} among the counties of this State in proportion to the population as ascertained by the census of 1855; *provided*, that until ^{Proviso.} the official return of the next census shall be made, the pro rata distribution shall be made upon the highest aggregate vote of the different counties as returned to the Secretary of State's office at the last election; and said funds shall be paid over by the Treasurer of the State on the warrants of the State Controller, who shall issue ^{How paid.} such warrants upon receiving the order of the Board of Supervisors to

- How used.** the County Treasurer of each county. The Board of Supervisors of each county shall use the same for the support and care of the Indigent Sick in their counties, and for no other purpose, and shall render a semi-annual account of the use made thereof, to the Controller of State, to be presented by him in a condensed form in his annual report. The amounts appropriated after the first apportionment, shall be due to the counties on the first Mondays of March, June, September and December of each year.
- Account to be rendered.**
- When appropriations shall be due counties.**
- Medical aid.** SEC. 3. The Board of Supervisors shall employ such medical aid for the proper treatment and care of the Indigent Sick, as may in their judgment be required, and shall fix the compensation of the same.
- Compensation.**
- Physician to be a graduate.** SEC. 4. Every Physician employed by the Board of Supervisors, shall be a graduate from some legally incorporated college of medicine.
- Physician discharged.** SEC. 5. Any physician being employed by the Board aforesaid to attend to the Indigent Sick of the county in which he resides, and failing to perform any of the duties assigned him by the Board aforesaid, or wilfully neglecting the same, shall be forthwith discharged; *provided*, the charge or charges be sustained by competent testimony before the said Board of Supervisors.
- Proviso.**
- Care of indigent sick.** SEC. 6. It shall be the duty of the Board of Supervisors to take cognizance of all Indigent Sick persons, for whose benefit the funds provided in this Act have been set apart, and to make all contracts they may deem necessary to provide for the same, and all applications for the benefits of this Act shall be made to the Board of Supervisors or Physician by them appointed.
- Contracts. Applications.**
- Building.** SEC. 7. When necessary, it shall be the duty of the Board of Supervisors to provide a suitable building or buildings for the separate accommodation of persons laboring under contagious diseases.
- Board to assess tax.** SEC. 8. In addition to the taxes to be assessed under the provisions of law now existing, or which may hereafter exist, the Board of Supervisors of each county shall annually assess such taxes not exceeding one fourth of one per cent. on all real and personal property in their respective counties, as may by them be deemed necessary and sufficient for the care and protection of the resident Indigent Sick, which tax shall be collected in the same manner, at the same time, and by the same officers, who are or may be appointed to collect county and State revenue; and the said taxes when collected, shall be paid into the County Treasury, and the Treasurer shall receipt therefor; and the money thus collected shall constitute and be known as the Special Hospital Fund of the county, and be used for the care and protection of the Indigent Sick, and shall be appropriated for no other object.
- How collected.**
- Money drawn.** SEC. 9. No money set apart under the provisions of this Act, for the benefit of the Indigent Sick, shall be drawn from the hands of the officer or officers having charge of the same according to law, except upon presentation of the order of the Board of Supervisors drawn on the hospital fund.
- SEC. 10. No person having charge, care, keeping or disbursing of the fund provided for in this Act, or any part thereof, shall have any interest directly or indirectly, in any undertaking or contracts made or entered into for the purpose of carrying out the object and intention of this Act,

SEC. 11. The corporate authorities of any city or town in this State, may, and are hereby authorized to contract with the Board of Supervisors of their respective counties, for the care and protection of their Indigent Sick, by paying such sums of money as the said Board of Supervisors may deem proper. ^{Cities may contract}

SEC. 12. The Board of Supervisors shall have power to receive, dispose of and convey, all real and personal property, conveyed to them by gift, devise, or otherwise, for the use of the Indigent Sick; and said Board shall prosecute and defend any action at law, where the interests of the County Hospital Fund requires it. ^{Power of Board}

CHAPTER LVIII.

AN ACT

Supplemental to, and explanatory of an Act entitled "An Act to fund the indebtedness of the State existing in the form of State Controller's Warrants, drawn upon the Treasurer of State, between the thirtieth day of June, A. D. 1853, and the first day of July, A. D. 1855," passed March 16, 1855.

[Approved March 31, 1855.]

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

SECTION 1. The first section of an Act entitled "An Act to fund the indebtedness of the State existing in the form of State Controller's Warrants, drawn upon the Treasurer of State, between the thirtieth day of June, A. D. 1853, and the first day of July, 1855," passed March 16th, 1855, shall be taken and construed so as to read as follows : Section first, That for the purpose of funding so much of the indebtedness of the State, as has accrued, and remains unpaid since the thirtieth day of June, one thousand eight hundred and fifty-three, and so much as may accrue up to the first day of July, one thousand eight hundred and fifty-five, as evidenced by State Controller's Warrants drawn upon the Treasurer of State ; and thereafter to collect the revenue of the State in gold and silver only, the Treasurer of State shall cause to be prepared bonds to an amount not exceeding seven hundred thousand dollars, of the denomination of one hundred, five hundred and one thousand dollars, bearing interest at the rate of seven per cent per annum from the day of their issue, payable either in the city of New York or San Francisco, or at the State Treasurer's office, at the option of the party or parties to whom such bonds are issued, on the first day of July, one thousand eight hundred and seventy ; the interest accruing on said bonds shall be due and payable either in the city of New York or San Francisco, or at the office of the Treasurer of State, on the first days of January and July of each year ; *provided*, that the first payment of the ^{Construction.}

interest shall not be made sooner than the first day of January, one thousand eight hundred and fifty-six. Said bonds shall be signed by the Governor, and countersigned by the Controller, and endorsed by the Treasurer of State, and shall have the seal of the State affixed thereto.

CHAPTER LIX.

AN ACT

To prevent the trespassing of Animals upon Private Property.

[Approved March 31, 1855.]

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

- Damages.** SECTION 1. If any horse, mule, jack, jenny, hog, sheep, goat or any head of neat cattle, should break into any ground enclosed by a lawful fence, the owner or manager of such animal shall be liable to the owner of such enclosed premises for all damages sustained by such trespass ; and if the trespass be repeated, by neglect of the owner or manager of such animals, he shall for the second and every subsequent offense or trespass, be subject to double the damages of such trespass, to the owner of said premises.
- Double damages.**
- Injuring animals.** SEC. 2. If any owner or occupier of any grounds or crops, trespassed upon by animal, or animals, entering upon or breaking into his or their grounds, whether enclosed by a lawful fence or not, shall kill, maim or materially injure the animal or animals so trespassing, he, she or they shall be liable to the owner of such stock for all damages, and for the cost accruing from a suit for such damages, when necessarily resorted to for their recovery ; *provided*, the owner or occupier of such grounds and crops so damaged and trespassed upon, may take up and safely keep, at the expense of the owner or owners thereof, such animals for ten days, and if not applied for by the proper owner or owners before the expiration of ten days, the same may be posted under the "Estray Laws" of the State, and before restitution shall be had by the owner or owners of such animals, all damages done by them, as well also as the expense of posting and keeping them, shall be paid. Any Justice of the Peace in the township shall have jurisdiction of all such reclamation of animals, together with the damages, expense of keeping and posting the same, when the amount claimed does not exceed five hundred dollars.
- Proviso.**
- May keep animals.**
- Owner to pay.**
- Damages.** SEC. 3. When two or more persons shall agree to cultivate lands under one enclosure, neither of them shall place, or cause to be placed, any animal on his, her or their ground, to the injury or damage of the other or others, but shall be liable for all damages thus sustained by the other or others ; and if repeated after due notice is

given, and for every such subsequent repetition, double damages: it shall not be necessary to prove any express agreement to cultivate under one enclosure, but the fact of such cultivation shall be deemed sufficient evidence of such agreement.

CHAPTER LX.

AN ACT

To authorize the Funding of the Outstanding Stockton City Scrip.

[Approved March 31, 1855.]

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

SECTION 1. The city of Stockton is hereby authorized to fund its ^{Commissioners.} floating debt as hereinafter provided ; and for this purpose the Mayor, President of the Council and Controller of the city, are hereby constituted and shall be known as Commissioners for funding the floating debt of the city of Stockton, with the powers hereinafter enumerated.

SEC. 2. The said Commissioners shall have power to issue on the ^{Bonds.} part of said city, bonds for ten thousand dollars, over and above the aggregate amount of the floating debt of the city, which shall be due on the organization of the Board of Commissioners, (not to exceed, however, the sum of fifty thousand dollars.) Such bonds shall be in ^{\$50,000 bonds.} such form as such Commissioners shall prescribe, and shall be signed by each of said Commissioners, and each and every bond to purport ^{Purport.} in substance as follows : That the city of Stockton owes to the holder thereof a sum, to be expressed therein, (not less, however, than one hundred dollars,) bearing an interest of ten per cent. per annum : ^{Interest.} the said interest to be payable on the first Monday of January, A. D. ^{When payable.} one thousand eight hundred and fifty-six, and semi-annually thereafter, upon coupons signed by each of said Commissioners, and annexed to such bonds.

SEC. 3. It shall be the duty of said Commissioners to furnish the ^{Commissioner to furnish.} City Council at the time of revising the city assessments, a statement of the amount of the bonds issued by virtue of this act, and of the amount of interest annually accruing on the same ; and it shall be the ^{Interest.} duty of the Common Council in completing their assessment list to include the amount of said interest, and a further sum, not to exceed five per cent. of the amount of bonds issued, with other sums now authorized by law to be raised thereon.

SEC. 4. Of the moneys received by the City Treasurer, arising out ^{Moneys set apart.} of the taxes annually assessed and collected, under the provisions of this act, there shall be set apart and exclusively appropriated an amount sufficient to meet the interest due on the bonds ; and any ^{Surplus.} surplus that may remain in the Treasury belonging to the fund so accu-

ing, shall be appropriated to the redemption of said bonds. The Treasurer previously giving ten days' notice in any newspaper published in the city of Stockton, the advertisement to set forth the amount in hands for that purpose, and he shall accept such bid as will secure the cancellation of the greatest amount of bonds; *provided*, that no bid shall be received greater than the par value.

Proviso.

Duty of City Treasurer.

SEC. 5. It shall be the duty of the City Treasurer to cause the interest becoming due on the bonds issued by the Commissioners, to be paid at some responsible banking house in the city of Stockton, and he shall, prior to said interest becoming due, deposit the money received for that purpose as provided in section four; *provided*, no charge is made for such agency.

Proviso.

Bonds in lieu of scrip.

SEC. 6. Any person holding scrip of the city of Stockton, shall have the privilege of receiving in lieu thereof bonds, as provided in section two; *provided*, all parties holding such scrip shall present the same for funding within three months after the passage of this Act.

Proviso.

Scrip not received.

SEC. 7. After the passage of this Act, no scrip or evidence of indebtedness of the city shall be received in payment of licenses, rents of city property, Levee dues, taxes, or city dues, of any kind; and all such payment shall in future be made in lawful money of the United States; and all salaries of city officers, or other disbursements on the part of the city, shall be made in cash only.

Salaries, &c

Unlawful to issue scrip.

SEC. 8. From and after the passage of this Act, it shall be unlawful for any officer of the city of Stockton to issue scrip to any creditor of said city, or any other person, and any and all officers so offending shall, on conviction before any Justice of the Peace of said city, be punished by a fine of double the amounts of scrip issued, and any officer refusing to pay such fine, shall be imprisoned in the City Jail until such fine be paid.

Penalty.

SEC. 9. This Act shall take effect from and after its passage.

CHAPTER LXI.

AN ACT

Authorizing the Commissioners of the Funded Debt of the County of Tuolumne to re-issue certain Bonds to John W. Dwinelle.

[Approved March 31, 1855.]

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

Bonds in favor of J. W. Dwinelle.

SECTION 1. The Commissioners of the Funded Debt of the county of Tuolumne, upon receiving satisfactory proof that five original funded bonds, of the county of Tuolumne, of the denomination of one hundred dollars each, payable to John W. Dwinelle or bearer, and numbered,

respectively, numbers fifty-one, fifty-two, fifty-three, fifty-four and eighty-eight, have not been paid, and were lost at sea in the Winfield Scott, ^{Numbers of lost bonds.} are hereby authorized and directed as hereinafter specified in this Act to re-issue to John W. Dwinelle, duplicates of five original funded, ^{Duplicate bonds.} bonds of the county of Tuolumne, of the denomination of one hundred dollars each, payable to him or bearer, numbered respectively, numbers ^{Numbers.} fifty-one, fifty-two, fifty-three, fifty-four and eighty-eight, with all the coupons attached, except coupons numbered one and two, to replace five original bonds of said county, of said numbers and amounts, lost at sea in the steamer Winfield Scott. Across the face of each bond so re-issued, shall be written "Re-issued in place of an original bond of same date, number and amount, lost at sea in the steamer Winfield Scott," and ^{Coupons.} each coupon shall also be marked "Re-issued" on the face thereof; ^{Re-issued.} *provided*, that the said John W. Dwinelle shall first deposit with the ^{Proviso.} said Commissioners, his bond payable to the county of Tuolumne, in a sum not less than one thousand dollars, with at least two sufficient sure- ^{Bond for \$1000.} ties to be approved by the District Judge of the county, and condi- ^{By whom approved.} tioned, that he will indemnify and save harmless the county of Tuolumne, against the re-appearance of the said bonds and coupons so alleged to have been lost, or any part of the same; said duplicate bonds and coupons shall be signed by the President and Clerk of said Com- ^{Bonds, by whom signed.} missioners, who shall be in office at the time the same shall be issued, and shall be dated at the date of the original bonds.

CHAPTER LXII.

AN ACT

For the Relief of Knox and Farquharson.

[Approved April 2, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and re- ^{Appropriation.} quired to draw his warrants on the Treasurer of State in favor of Knox and Farquharson for the sum of four thousand six hundred and seventy-one dollars and seventeen cents, and the Treasurer of State is required to pay the same out of any moneys in the Treasury not otherwise appropriated.

CHAPTER LXIII.

AN ACT

For the Relief of Addison Martin.

[Approved April 2, 1855.]

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

Addison Martin. SECTION 1. The Controller of State is hereby authorized and required to draw his warrants on the Treasurer of State in favor of Addison Martin, for the sum of eleven hundred dollars, and the Treasurer of State is required to pay the same out of any moneys in the Treasury not otherwise appropriated.

Warrant for \$1,100.

CHAPTER LXIV.

AN ACT

For the Relief of Abram T. Melvin.

[Approved April 2, 1855.]

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

Warrant in favor of A. T. Melvin. SECTION 1. The Controller of State is hereby authorized and required to draw his warrants on the Treasurer of State in favor of Abram T. Melvin, for the sum of eighteen thousand four hundred and twenty dollars, and the Treasurer of State is required to pay the same out of any moneys in the Treasury not otherwise appropriated.

CHAPTER LXV.

AN ACT

Appropriating Money for the payment of Frank Denver, for services rendered in making repairs on the State Capitol.

[Approved April 2, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and required to draw his warrant on the State Treasurer, payable out of the General Fund, in favor of Frank Denver, for the sum of one thousand dollars, (\$1000). Warrant.

SEC. 2. The sum of one thousand dollars is hereby appropriated and set apart, out of any money in the General Fund not otherwise appropriated, to meet the warrant authorized to be drawn by this Act. Appropriation.

CHAPTER LXVI.

AN ACT

Supplementary to "An Act Defining the time of Commencing Civil Actions in Certain Cases," passed May 4th, 1852.

[Approved April 2, 1855.]

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

SECTION 1. An action upon any judgment, contract, obligation or liability for the payment of money or damages obtained, executed or made out of this State, can only be commenced within two years from the time the cause of action has accrued or shall accrue. Action to be commenced.

SEC. 2. Section second of the Act entitled "An Act defining the time for commencing Civil Actions," passed April 22d, 1850, is hereby repealed, so far as it may conflict with the provisions of this Act. Repeal.

CHAPTER LXVII.

AN ACT

To suppress houses of Ill-Fame.

[Approved April 2. 1855]

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

- Misdemeanor.** SECTION 1. Every person who shall keep a house of Ill-Fame in this State, resorted to for the purposes of prostitution or lewdness, or who shall reside in such house for the purposes aforesaid, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in a common jail for a term not exceeding six months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment, at the discretion of the Court.
- Penalty.**
- Leseo of house.** SEC. 2. Whenever the lessee of any house shall be convicted of the offense of keeping such house of ill-fame as aforesaid, the lease or contract for letting such house shall at the option of the lessor become void ; and such lessor shall thereupon have the like remedy to recover the possession of such house, as is provided against a tenant holding over after the termination of his lease.
- Redress.**
- Security.** SEC. 3. Every Justice of the Peace may, on the complaint of any citizen of the county, require sureties of the peace and good behavior from any person who shall be guilty of keeping or maintaining houses reputed to be houses of bawdry and ill-fame ; and every person being so ordered to find sureties of the peace and good behavior, who shall neglect or refuse to comply with such order, may by said justice be committed to the common jail in the county where the offense was committed, for a term not exceeding thirty days ; and the bond required as aforesaid shall be filed with the County Clerk of the County where the offense was committed, and from said order the accused shall have the right to appeal to the next County Court in the county within which the offense was committed.
- May be committed.**
- Appeal.** SEC. 4. When any person prosecuted under the next preceding section of this Act, shall be required to procure sureties of the peace and good behavior, such person shall pay the costs of prosecution, and on failure so to do, shall be imprisoned in the County Jail, at the discretion of the Court having cognizance thereof, until such costs shall be paid and satisfied.
- Failure to pay costs.**
- To take effect.** SEC. 5. This act shall take effect and be in force from and after its passage.

CHAPTER LXVIII.

AN ACT

To amend An Act entitled "An Act dividing the State into Counties and Establishing the seats of Justice therein," passed April 25, 1851.

[Approved April 4, 1855]

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

SECTION 1. The twenty-fifth section of an Act entitled "An Act ^{Amendment.} dividing the State into counties and establishing the seats of Justices therein, passed April twenty-fifth, one thousand eight hundred and fifty-one," is hereby amended so as to read as follows: County of Napa; commencing at a point in Guichica creek where the said creek empties into San Pablo Bay; thence running in a direct line due east to the top of the ridge of mountains dividing Napa Valley from Suisun Valley; thence in a northerly direction along the top of said mountains to a point parallel with the southern boundary line of the Ranch known as the Chimilas Rancho; thence easterly along said line to the top of the mountains known as the Vacca mountains, which divide the Vacca Valleys from the Chimilas Rancho; thence northerly along the top of the main ridge of said Vacca Mountains to the Puta Creek; thence northerly across said creek to the top of the mountains dividing Berriessa Valleys from Sacramento Valley; thence northerly along the top of said ridge to the outlet of Clear Lake; thence easterly to the top of the mountains dividing Clear Lake Valleys from Sacramento Valley; thence northerly along the top of said mountains to the head of Clear Lake; thence westerly to the top of the mountains that divide Clear Lake Valleys from the Russian River Valley; thence southerly along the top of said mountains to a point on the top of said mountains one mile east of the eastern boundary line of the rancho known as Fitch's Rancho on Russian River; thence in a direct line southerly to the westerly branch of the headwaters of the Guichica Creek; thence westerly to the top of the main ridge that divides the Guichica Valley from the Sonoma Valley; thence in a southerly direction along the said dividing ridge to the tule bordering on San Pablo Bay; thence southerly to the centre of the Guichica Creek; thence following the centre of said creek to its mouth, the place of beginning: The county seat shall be at Napa City.

Boundaries
of Napa.

CHAPTER LXIX.

AN ACT

For the Relief of Preston K. Woodside.

[Approved April 4, 1855.]

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

SECTION 1. The sum of seven hundred and one dollars is hereby appropriated, to be paid out of the "General Fund," to Preston K. Woodside, for service for the people of the State in criminal cases, while he was Clerk of the Supreme Court ; and the Controller of State is hereby directed to issue warrants for the above-mentioned sum in favor of said Woodside, to be paid out of any moneys in the Treasury not otherwise appropriated.

CHAPTER LXX.

AN ACT

To authorize the Board of Supervisors in and for the County of Sutter, to levy a Special Tax, for the Erection of Public Buildings in said County.

[Approved April 4, 1855]

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

SECTION 1. The Board of Supervisors in and for the County of Sutter, are hereby authorized and empowered to levy and cause to be collected, in the same manner and at the same time as other State and county revenue, the following annual tax, to wit : a sum not to exceed one-half of one per cent. upon all the taxable property in said county, for the erection of a Court House and Jail.

SEC. 2. The said fund shall be applied to the erection and furnishing of a County Jail and Court House, and shall be applied to no other purpose.

SEC. 3. Whenever said building shall be completed, furnished and paid for, this Act shall cease, and be of no effect.

Special tax.

Amount.

For what
purpose levied.
Applied to
no other.

To cease.

CHAPTER LXXI.

AN ACT

Concerning the Duties of County Treasurer.

[Approved April 6, 1855.]

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

SECTION 1. It shall be the duty of the several County Treasurers ^{County Treasurers to report.} to make a detailed report, at every regular meeting of the Board of Supervisors of his county, of all moneys received by him, and the disbursements thereof, and of all debts due to and from the county, and of all other proceedings in his office, so that the receipts into the Treasury and the amount of disbursements, together with the debts due to and from the county, may clearly and distinctly appear.

SEC. 2. It shall be the duty of the Board of Supervisors ^{Supervisors to publish.} to cause each and every report made according to the provisions of section first of this Act, to be published in some newspaper in their county ; and if there is no newspaper published in their county, then they shall cause the same to be posted in five public places in the county.

SEC. 3. If any County Treasurer shall neglect, or refuse to report, ^{Penalty.} as required in section first of this act, he shall forfeit and pay the sum of five hundred dollars for every such neglect or refusal, to be recovered by action of debt or information, in the name of the people of the county, in any court of competent jurisdiction, and applied to the use of the county ; and it shall be the duty of the Board of Supervisors to institute such suit or suits.

SEC. 4. That this Act shall take effect and be in force from and after the 1st day of July next.

CHAPTER LXXII.

AN ACT

To Legalize certain Records in the County of Nevada.

[Approved April 7, 1855.]

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

SECTION 1. The records of the District Court, County Court, Court of Sessions and Probate Court, of Nevada County, as the same are transcribed from Book "A" of each of said Courts, by order of the Judges of each of said Courts, are hereby legalized.

CHAPTER LXXIII.

AN ACT

To provide for certifying and removing certain cases from the Courts of this State to the United States Circuit Courts, and to remove, by writ of error, certain cases from the Supreme Court of this State to the Supreme Court of the United States.

[Approved April 9, 1855]

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

Where sum exceeds \$500.

Petition.

Surety.

Special bail.
Duty of court.

Cause may be removed.

SECTION 1. If a suit be commenced in any Court of this State, against an alien, or by a citizen of this State against a citizen of another State, and the matter in dispute exceeds the sum or value of five hundred dollars, exclusive of costs, to be made to appear to the satisfaction of the Court, and the defendant shall, at the time of entering his appearance in such Court of this State, file a petition for the removal of the cause for trial into the next Circuit Court of the United States, or District Court of the United States, having the powers and jurisdiction of a Circuit Court, to be held in the district where the suit is pending, and offer good and sufficient surety for his entering in such Court, on the first day of its session, copies of said process against him, and also for his there appearing and entering special bail in the cause, if bail was originally requisite therein, it shall then be the duty of such Court of this State to accept the surety and proceed no further in the cause ; and all subsequent proceedings which may be taken or had in such Court in contravention of the provisions of this section, shall be void and of no force or effect for any purpose whatsoever.

SEC. 2. A final judgment or decree in any suit in the highest Court of law or equity of this State in which a decision of the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity ; or where is drawn in question the validity of a statute of, or an authority exercised under this State on the ground of their being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of such, their validity ; or where is drawn in question the construction of any clause of the Constitution of the United States, or of a treaty, or of a statute of, or commission held under the United States, and the decision is against the title, right, privilege, or exemption specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute or commission, may be removed by writ of error to, and be re-examined and reversed or affirmed in the Supreme Court of the United States, in the manner prescribed by the laws of the United States ; and upon the issuance and service of such writ of error, the Chief Justice or any Judge of the Court, rendering or passing the judgment or decree complained of, upon being applied to by the plaintiff in error, or his attorney, shall sign the requisite citation to the adverse party.

SEC. 3. After a final judgment shall have been rendered in any ^{Duty of court.} decision in the highest Court of this State, if the party against whom the decision may have been given, shall within ten days thereafter file notice, in writing, with the Clerk, of his intention to remove the cause, by writ of error, to the Supreme Court of the United States, and shall offer sufficient security, to be approved by the Judge of the Supreme Court, or any District Court of this State, for the prosecution of such writ of error, it shall be the duty of the said Court in which such final judgment was rendered, or any Judge thereof at chambers, to stay all proceedings for such time not exceeding four months, to be fixed by the said Court or Judge, as will be sufficient to enable such party to apply for and serve his writ of error in the mode prescribed by the laws of the United States, and upon the receipt of such writ of error the Clerk of the Court in which the record may be, and to ^{Duty of Clerk.} which the writ may be directed, shall make return thereto, and send up the record or a transcript, without the necessity of any other or further order or authority whatsoever.

SEC. 4. If any Judge, Clerk, or other officer of any Court of this ^{Misdemeanor.} State, shall knowingly and voluntarily act in contravention of the provisions of this act, he shall be deemed guilty of a misdemeanor in office and liable to impeachment and removal from office.

CHAPTER LXXIV.

AN ACT

To Regulate Fees of Office.

[Approved April 10, 1855.]

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

SECTION 1. Such fees are allowed to the officers hereinafter ^{Fees of officers.} named, for their services rendered in discharging the duties imposed on them by law, as herein provided, and such officers may lawfully charge, demand and receive the same.

FEES OF CLERK OF THE SUPREME COURT.

SEC. 2. For filing each transcript of record from an inferior Court, ^{Clerk of Supreme Court.} four dollars. For entering any motion, rule or order, two dollars. For entering judgment, for first folio, two dollars; for each subsequent folio, one dollar. For each certificate given at request, and on seal, two dollars. For copy of record or opinion of Court, or other papers, for each folio, thirty cents. For entering each cause on calendar, and making copy for the bar, one dollar. For every remittitur

Suitors and
Attorneys.

or mandate, for each folio, thirty cents. For searching records or files in his office, (but no charge shall be made to suitors or attorneys,) for each year searched, one dollar. Filing each paper, fifty cents. For certificate of admission as attorney or counsellor, and seal, ten dollars. For administering oath or affirmation and copying the same, one dollar. For taking and writing out acknowledgment of deeds or other instruments, for each signature, including seal, one dollar. For recording opinion of Court, each folio, thirty cents. For issuing any process of Court, including seal, two dollars.

FEES OF NOTARY PUBLIC.

Notaries Public. SEC. 3 For drawing and copying every protest for the non-payment of a promissory note, or for the non-payment, or non-acceptance of a bill of exchange, draft or check, two dollars. For drawing and serving every notice of non-payment of a promissory note, or of the non-payment or non-acceptance of a bill of exchange, order, draft, or check, one dollar. For recording every protest, one dollar. For drawing an affidavit, deposition, or other paper for which provision is not herein made, for each folio, thirty cents. For taking an acknowledgment or proof of a deed or other instrument, to include the seal and the writing of the certificate, for each signature, one dollar. For administering an oath or affirmation, twenty-five cents. For every certificate, to include writing the same, and the seal, one dollar.

Provisions apply
to certain
counties

SEC. 4. In the counties of El Dorado, Placer, Calaveras, Sutter, Yuba, Tuolumne, Sierra, Siskiyou, Klamath, Mariposa, Shasta, Trinity, Nevada, Colusi, Plumas and Amador, the fees of office shall be as prescribed in this Act from Section fourth to Section twenty-second inclusive, for the officers named in such parts of this Act, and all provisions contained in such parts of this Act, shall apply to said officers in these counties.

FEES OF CLERK OF DISTRICT COURT.

Clerk of
District Court.

SEC. 5. For entering each suit on the Clerk's Register of Actions, and making the necessary entries therein, during the progress of the trial, for each folio, forty cents. For issuing every writ or process, under seal, one dollar. For issuing subpoena for each witness, twenty-five cents. For filing such paper, twenty-five cents. For entering every motion, rule, order, or default, fifty cents. For entering every discontinuance, dismissal or non-suit, fifty cents. For entering every cause on the calendar and making a copy thereof for the Bar, for each term of the Court, one dollar. For calling and swearing every Jury, one dollar. For receiving and entering each verdict of a Jury, one dollar. For entering every final judgment, for the first folio, one dollar and fifty cents. For each subsequent folio, forty cents. For filing judgment roll, forty cents. For entering judgment on judgment docket, fifty cents. For entering satisfaction of judgment, one dollar. For administering every oath or affirmation, twenty-five cents. For certifying every oath or affirmation, twenty-five cents. For copy of any proceeding, record or paper, for each folio, forty cents. For every certificate, under seal, one dollar.

For searching the files of each year in his office, (but not to charge suitors or attorneys,) one dollar. For issuing every commission to take testimony, one dollar. For taking down testimony of witnesses during trial, for each folio, forty cents. For issuing every execution or other final process, one dollar. For issuing every decree, or order of sale of mortgaged property, one dollar. For issuing writ of injunction or attachment, one dollar. For entering judgment by confession, the same fees as in other cases of entering judgment. For receiving and filing every remittitur from Supreme Court, and accompanying papers, one dollar. ^{Supreme Court.} For taking each bond required by law, one dollar. For taking justification thereto, one dollar. For acknowledgment of deed or other instrument, including all writing, and the seal for each name thereto, one dollar. When the Court is sitting as a Court of Criminal jurisdiction, he shall receive for the trial of each issue, where the charge is felony, five dollars. For the trial of each issue, where the charge is misdemeanor, three dollars. He shall receive no other fee for any service whatever in a criminal action or proceeding, except for copies of papers, for each folio, forty cents.

FEES OF CLERK OF COUNTY COURT.

SEC. 6. For filing all the papers sent on appeal from Justice's Courts, in each cause, one dollar and fifty cents. ^{Clerk of County Court.} For all other services, the same fees as are allowed in the District Court for similar services.

FEES OF CLERK OF COURT OF SESSIONS.

SEC. 7. The Clerk shall receive the same fees as are allowed the Clerk of the District Court in criminal cases. ^{Clerk of Court of Sessions.}

CLERK OF PROBATE COURT.

SEC. 8. For issuing letters testamentary or of administration, one dollar. ^{Clerk of Probate Court.} For certificate of appointing appraisers or guardians, one dollar. For writing and posting notices when required, for each copy, one dollar. For notice given by publication, in addition to the cost of publication, one dollar. For recording wills, per folio, forty cents. For all other services, the same as are allowed the Clerks of the District Court for similar services.

FEES OF COUNTY RECORDER.

SEC. 9. For recording any instrument, paper or notice, when required, for each folio, forty cents. ^{County Recorder.} For copies of any record or paper, per folio, forty cents. For filing or receiving every instrument for record, and making the necessary entries therein, twenty-five cents. For making in the several indexes required, all the entries required of the filing and recording any instrument, paper or notice, for every such instrument, paper or notice, twenty-five cents. For every certificate under seal to copies of papers or records in his office, when required, one dollar. For every entry of discharge of

mortgage on margin of record, fifty cents. For searching records and files of each year in his office, when required, fifty cents. For abstract or certificate of title, when required, for each conveyance or incumbrance certified, one dollar. For recording every town-plot, for every course, twenty-five cents. For figures and lettering plots and maps, per folio, one dollar. For taking and writing acknowledgments, including seal, for each signature, one dollar. For filing and entering a minute of certificate of sheriff's sale, fifty cents. For filing and entering a minute of certificate of tax sale, fifty cents. For recording marriage certificate, one dollar. For filing and keeping each paper not required to be recorded, and indorsing same, if required, fifty cents.

THE FEES OF SHERIFFS.

Sheriff.

SEC. 10. For serving a summons and complaint, or any other process by which action or proceeding is commenced, on every defendant, two dollars. For traveling in making such service, per mile, in going only, to be computed in all cases from the Court House of the county, fifty cents; *provided*, that if any two or more papers require to be served in the same suit, at the same time, one mileage only shall be charged. For taking bond or undertaking in any case in which he is authorized to take the same, two dollars. For copy of any writ, process or other paper, when demanded or required by law, for each folio, forty cents. For serving every notice, rule or order, one dollar. For serving a subpoena, for each witness summoned, fifty cents. For traveling, per mile, in serving each subpoena or venire, in going only, but when two or more witnesses or jurors live in the same direction, traveling fees shall be charged only for the most distant, fifty cents. For serving an attachment on property or levying an execution, or executing an order of arrest, or order for the delivery of personal property, and with traveling fees as on a summons, three dollars. For serving an attachment upon any ship, boat or vessel, in proceedings to enforce any lien thereon created by law, five dollars. For making and posting notices and advertising property for sale on execution, or under any judgement or order of sale, not to include the cost of publication in newspaper, three dollars.

Per centage.

For commissions for receiving and paying over money on execution or process, where lands or personal property has been levied on, advertised and sold, on the first one thousand dollars, four per cent.; on all sums above that amount, two per cent. For commissions for receiving and paying over money on execution without levy, or when the land or goods levied on shall not be sold, three per cent. on the first one thousand dollars, and two per cent. on all over that sum.

The fees herein allowed for the levy of an execution, and for advertising, and for making or collecting the money on an execution, shall be collected from the defendant by virtue of such execution, in the same manner as the sum therein directed to be made. For drawing and executing every sheriff's deed, to be paid for by the grantee, who shall, in addition, pay for the acknowledgments thereof, five dollars. For serving a writ of possession or restitution, putting any person entitled into possession of premises and removing the occupant, five dollars. For travel in the service of any process not hereinbefore mentioned, for each mile necessarily traveled in going only, fifty

cents. For attending, when required, on any court, in person or by deputy, for each day, to be paid out of the County Treasury, five dollars. For bringing up a prisoner on *habeas corpus*, to testify or answer in any court, or for examination as to the cause of his arrest and detention; or to give bail, two dollars. He shall also be allowed such further compensation for his trouble and expense in taking possession of property under attachment or execution or other process, and of preserving the same, as the court from which the writ or order may issue, shall certify to be just and reasonable. For holding each inquest or trial of right of property, when required, to include all service in the matter except mileage, five dollars. For attending on Supreme Court, either in person or by deputy, to be paid out of the State Treasury as other claims, for each day, five dollars. For making every arrest, in a criminal proceeding, three dollars. For serving each subpoena, in criminal proceedings, fifty cents. For executing every sentence of death, fifty dollars. For summoning a Grand Jury of twenty-five, fifteen dollars. For summoning each trial jury of twelve persons, six dollars. For each additional juror, fifty cents. For service of any process in criminal cases, for each mile necessarily traveled, twenty cents; and the same mileage for taking prisoner before a magistrate or to prison. In serving subpoenas or venires in criminal cases, he shall receive mileage for the most distant only, where witnesses and jurors live in the same direction. For all service in Justice's Courts, the same fees allowed to Constables.

Attending on
Supreme Court.Summoning
Grand Jury.Services in
Justices' Courts.

FEES OF CORONER.

SEC. 11. All services in summoning jury of inquest, five dollars. For swearing a jury, one dollar. For issuing a warrant of arrest, fifty cents. For issuing subpoena, for each witness, twenty-five cents. For each mile necessarily traveled in going to the place of the dead body, fifty cents; which fees, in all inquests, shall be paid out of the County Treasury, as other demands. For all services rendered by them when acting as Sheriffs, the same fees as are allowed to Sheriffs for similar services. For swearing each witness, twenty-five cents. For taking down the testimony of each witness, per folio, forty cents.

Coroner.

Acting as Sheriff.

FEES OF CONSTABLES.

SEC. 12. For serving summons in civil suit, for each defendant, one dollar. For summoning a jury before a Justice of the Peace, three dollars. For taking a bond required to be taken, one dollar, For summoning each witness, fifty cents. For serving an attachment against the property of a defendant, three dollars. For summoning and swearing a jury to try the rights of property, and taking the verdict, three dollars. For receiving and taking care of property on execution, attachment or order, his actual necessary expenses to be allowed by the Justice who issued the execution, upon the affidavit of the Constable that such charges are correct and the expenses necessarily incurred. For collecting all sums on execution, four per cent., to be charged against the defendant in the execution. Constables shall receive in serving summons, attachment, order, execution, venire, notice and subpoena in civil cases, for each mile necessarily traveled, in going only, (but when two or more persons are served in

Constable.

Per centage.

the same suit, mileage shall only be charged for the most distant, if they live in the same direction,) fifty cents. For serving a warrant or order for delivery of personal property, or making an arrest in criminal cases, three dollars. For service and travel in criminal cases, the same fees as Sheriffs for like services. For all other service, except attending court, the same fees as are allowed to Sheriffs for similar services.

FEES OF WITNESSES.

Witness. SEC. 13. For attending in any suit or proceeding, civil or criminal, before any Court of Record, Referee, Commissioner, or Justice of the Peace, for each day, three dollars. For traveling to the place of trial, for each mile twenty-five cents. No person shall be obliged to testify in a civil action, unless his fees for attendance have been tendered him, or he shall not have demanded the same; in criminal cases witnesses' fees shall be taxed and paid as other costs, and no person shall be obliged in a civil action or proceeding to attend as a witness without the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of trial.

Fees in advance.

Not obliged to go out of county.

FEES OF JURORS.

Jurors. SEC. 14. For each day, to be paid in civil cases by the party in whose favor verdict is rendered, before the same shall be entered; but the same may be recovered as costs from the party losing the case, three dollars; *provided*, that in the District Court, County Court and Court of Sessions, the Clerk shall keep an account of all moneys received for trials, by each juror during the term; and if the sum so received by such juror, shall not amount to three dollars per day, he shall deliver to such juror a certificate of the time for which he is still entitled to receive pay, which shall be paid out of the County Treasury, as other county dues. If in any trial in a civil case before any court, the jury be from any cause discharged without finding a verdict, the fees of the jury shall be paid by the plaintiff, but may be recovered back as costs, if he afterwards obtain judgment; until they are paid no further proceedings shall be allowed in the action. No person shall receive any compensation for serving as a juror on a Coroner's Inquest.

Civil cases.

Coroners' inquests.

FEES OF THE COUNTY AUDITOR.

County Auditor. SEC. 15. For making duplicate of taxes, or copies thereof required, per folio, thirty cents. For filing Treasurer's receipt and issuing license, to be paid by the party, fifty cents.

FEES OF JUDGES AND CLERKS OF ELECTIONS.

Judges and SEC. 16. For each day's attendance at any general or special election, the Inspector, Judges and Clerks of election shall each re-

ceive three dollars, (to be audited and paid out of the County Treasurers, as other charges against the county.) Clerks of elections.

FEES OF JUSTICES OF THE PEACE.

SEC. 17. For filing each paper, twenty-five cents Issuing any writ or process, by which suit is commenced, one dollar. For entering such cause upon his docket, fifty cents. For subpoena to each witness, twenty-five cents. For administering an oath or affirmation, twenty-five cents. For certifying the same, fifty cents. For each certificate, fifty cents. For issuing writ of attachment or of arrest, or for delivery of property, two dollars. For entering any final judgment, per folio, for the first folio, one dollar ; for each additional folio, forty cents. For taking and approving any bond or undertaking, directed by law to be taken, or approved by him, fifty cents. For taking justification to a bond, one dollar. For swearing a jury, one dollar. For taking depositions, per folio, forty cents. For entering satisfaction of a judgment, fifty cents. For copy of judgment, order, docket, proceedings, or paper in his office, for each folio, forty cents. For transcript of judgment, per folio, forty cents. For issuing commission to take testimony, one dollar. For issuing superseas to an execution, fifty cents. For making up and transmitting transcript and papers on appeal, two dollars. For issuing search warrant, one dollar. For issuing an execution, fifty cents. For celebrating marriage and returning certificate to the Recorder, five dollars. For all service and proceedings before a Justice of the Peace, in a criminal action or proceeding, whether on examination or trial, three dollars. For taking bail after commitment in criminal case, one dollar. For entering cause without process, one dollar. For entering judgment by confession, and only on affidavit, as required in the District Court, three dollars. For entering every motion, rule, order, verdict, or default, twenty-five cents. For services as Associate Justice of the Court of Sessions, eight dollars per day, together with fifty cents per mile necessarily traveled, in going only, and once only during each term of the court. Justices of the Peace. Associate Justice of the Court of Sessions.

INTERPRETERS AND TRANSLATORS.

SEC. 18. Interpreters and Translators may be allowed such compensation for their services as the court shall certify to be necessary, to be taxed and collected as other costs; but the same shall not exceed five dollars per day. Interpreters and Translators.

FEES OF COUNTY SURVEYOR.

SEC. 19. For the first mile actually run with the compass and chain, five dollars. For each succeeding mile, four dollars. For each mile run with the compass alone, three dollars. For each copy of a plot and certificate, three dollars. For each lot laid out and plotted in any city or town, three dollars. For recording a survey, two dollars. For calculating the quantity of every tract of land not divided, one dollar. For calculating the quantity of each division made in a tract of land, town lots excepted, one dollar. For traveling to the place of survey, for each mile, in going only, fifty cents. County Surveyor.

For ascertaining the location of every town lot, in an old survey, and measuring and marking the same, three dollars. For copies and certificates, per folio, forty cents. For erecting a monument at the corner of any survey, when required, three dollars. Expenses of assistants shall be an additional charge, to be agreed upon by the parties.

Assistants.

FEEES OF PROBATE JUDGE.

Probate Judge. SEC. 20. For every order or judgment, when not contested, one dollar. When contested, three dollars.

County Judge
as Probate
Judge.

SEC. 21. The fees allowed for services rendered by the County Judge, as Probate Judge, shall be collected by the County Clerk, who shall keep a full and accurate account of the same, in a book kept separate and apart for that purpose. The County Clerk shall make a settlement, at least once a month, with the County Treasurer, of the fees collected, and pay the amount in his hands into the County Treasury. His accounts shall always be open to inspection by any county officers, or any persons who may be interested therein. The County Treasurer, in a book kept specially for that purpose, shall keep a full account of all moneys thus received, which shall constitute a separate and distinct fund, and so much thereof as may be necessary for that purpose, shall be applied to the payment of the salary of the County Judge, and the residue, if any, shall be paid into the County Treasury; and it shall be a misdemeanor for a Probate Judge to receive any fees to his own use, except in such manner as is prescribed in this section.

County Clerk.

Treasurer's
account of
moneys.

Fees—when
payable.

SEC. 22. The fees allowed in these counties shall be payable at the time the service is rendered, and any officer, when it is not otherwise expressly provided by law, may refuse to perform any service in any suit or proceeding in which there are any fees due in the same suit or proceeding, (criminal proceedings excepted,) from the person applying, until such fees are paid.

Fees in certain
counties.

SEC. 23. In the counties of San Diego, San Bernardino, Los Angeles, Santa Barbara, San Luis Obispo, Tulare, Monterey, Santa Cruz, Santa Clara, Stanislaus, Alameda, Contra Costa, San Joaquin, Sacramento, Yolo, Solano, Napa, Sonoma, Marin, Mendocino, Humboldt, Butte, the fees of office shall be as prescribed in this Act, from section twenty-third to section fortieth, inclusive, for the officers named in such parts of this Act, and all provisions contained in such parts of this Act, shall apply to said officers in these counties.

FEEES OF CLERK OF DISTRICT COURT.

Clerk of
District Court.

SEC. 24. For entering each suit on the Clerk's register of actions, and making the necessary entries therein, during the progress of the trial, for each folio, thirty cents. For issuing every writ or process under seal, one dollar. For issuing subpoena, for each witness, twenty-five cents. For filing each paper, twenty-five cents. For entering every motion, rule, order, or default, fifty cents. For entering every discontinuance, dismissal, or nonsuit, fifty cents. For entering every cause on the calendar, and making a copy thereof for the bar, for each term of the Court, fifty cents. For calling and swearing every jury, fifty cents. For receiving and entering each

verdict of a jury, fifty cents. For entering every final judgment, for the first folio, one dollar. For each subsequent folio, thirty cents. For filing judgment roll, one dollar. For entering judgment on judgment docket, fifty cents. For entering satisfaction of judgment, fifty cents. For administering every oath or affirmation, twenty-five cents. For certifying every oath or affirmation, twenty-five cents. For copy of any proceeding, record, or paper, for each folio, thirty cents. For every certificate under seal, one dollar. For searching the files of each year in his office, (but not to charge suitors or attorneys,) one dollar. For issuing every commission to take testimony, one dollar. For taking down testimony of witnesses during trial, for each folio, thirty cents. For issuing every execution, or other final process, one dollar. For issuing every decree or order of sale of mortgaged property, one dollar. For issuing writ of injunction or attachment, one dollar. For entering judgment by confession, the same fees as in other cases of entering judgment. For receiving and filing every remittitur from the Supreme Court, and accompanying papers, one dollar. For taking each bond required by law, with justification thereto, one dollar. For acknowledgment of deed, or other instrument, including all writing, and the seal, for each name thereto, one dollar. When the court is sitting as a court of criminal jurisdiction, he shall receive, for the trial of each issue, when the charge is felony, five dollars. For the trial of each issue, when the charge is misdemeanor, three dollars. He shall receive no other fee for any service whatever, in a criminal action or proceeding, except for copies of papers, for each folio, thirty cents.

FEES OF CLERK OF COUNTY COURT.

SEC. 25. For filing all the papers sent on appeal from Justice's Courts, in each cause, one dollar. For all other services, the same fees as are allowed in the District Court for similar services.

FEES OF CLERK OF COURT OF SESSIONS.

SEC. 26. The Clerk shall receive the same fees as are allowed the Clerk of the District Court in criminal cases.

CLERK OF PROBATE COURT.

SEC. 27. For issuing letters testamentary, or of administration, fifty cents. For certificate of appointing appraisers or guardians, fifty cents. For writing and posting notices, when required, for each copy of the notice, one dollar. For notice given by publication, in addition to the cost of the publication, fifty cents. For recording wills, per folio, thirty cents. For all other services, the same fees as are allowed the Clerk of the District Court for similar services.

FEES OF THE COUNTY RECORDER.

SEC. 28. For recording any instrument, paper or notice, when required, for each folio, thirty cents. For copies of any record or paper, per folio, thirty cents. For filing or receiving every instru-

ment for record, and making the necessary entries thereon, twenty-five cents. For noting on any instrument the time when and place where recorded, twenty-five cents. For entering in the several indexes required, all the entries required for any instrument, paper, or notice filed and recorded, for every such instrument, paper or notice, twenty-five cents. For every certificate under seal to copies of papers or records in his office, when required, one dollar. For every entry of discharge of mortgage on margin of record, fifty cents. For searching records and files of each year in his office, when required, fifty cents. For abstract or certificate of title, when required, for each conveyance or incumbrance certified, one dollar. For recording every town plot, for every course, twenty-five cents. For figures and lettering plots and maps, per folio, sixty cents. For taking and writing acknowledgments, including seal, for each signature, one dollar. For filing and entering a minute of certificate of sheriff's sale, fifty cents. For filing and entering a minute of certificate of tax sale, fifty cents. For recording marriage certificate, one dollar. For filing and keeping each paper not required to be recorded, and indorsing same if required, fifty cents.

FEEES OF SHERIFF.

Sheriff.

Sec. 29. For serving a summons and complaint, or any other process by which action or proceeding is commenced, on every defendant, one dollar. For traveling in making such service, per mile, in going only, to be computed in all cases from the Court House of the County, fifty cents. For taking bond or undertaking in any case in which he is authorized to take the same, one dollar. For copy of any writ, process or other paper, when demanded or required by law, for each folio, thirty cents. For serving every notice, rule or order, one dollar. For serving a subpoena, for each witness summoned, fifty cents. For traveling, per mile, in serving each subpoena or venire, in going only, but when two or more witnesses or jurors live in the same direction traveling fees shall be charged only for the most distant, fifty cents. For serving an attachment on property, or levying an execution, or executing an order of arrest, or order for the delivery of personal property, and with traveling fees as on a summons, two dollars. For serving an attachment upon any ship, boat or vessel in proceedings to enforce any lien thereon created by law, two dollars. For making and posting notices and advertising property for sale on execution, or under any judgement or order of sale, not to include the cost of publication in newspaper, three dollars. For commissions for receiving and paying over money on execution or process, where lands or personal property has been levied upon, advertised and sold, on the first one thousand dollars, four per cent.; on all sums above that amount, two per cent. For commissions for receiving and paying over money on execution without levy, or when the land or goods levied on shall not be sold, three per cent. on the first one thousand dollars, and one per cent. on all over that sum. The fees herein allowed for the levy of an execution, and for advertising, and for making or collecting the money on an execution, shall be collected from the defendant by virtue of such execution, in the same manner as the sum therein directed to be made. For drawing and executing every sheriff's deed, to be paid for by the grantee,

Per centage.

who shall, in addition, pay for the acknowledgments thereof, five dollars. For serving a writ of possession or restitution, putting any persons entitled into possession of premises, and removing the occupant, five dollars. For travel in the service of any process not hereinbefore mentioned, for each mile necessarily traveled, in going only, fifty cents. For attending, when required, on any court, in person or by deputy, for each day, to be paid out of the County Treasury, five dollars. For bringing up a prisoner on *habeas corpus* to testify or answer in any court, or for examination as to the cause of his arrest and detention, or to give bail, one dollar; he shall also be allowed such further compensation for his trouble and expense in taking possession of property under attachment, or execution, or other process, and of preserving the same, as the court from which the writ or order may issue shall certify to be just and reasonable. For holding each inquest or trial of right of property, when required, to include all service in the matter, five dollars. For attending in Supreme Court, either in person or by deputy, to be paid out of the State Treasury, as other claims, for each day, five dollars. For making every arrest in a criminal proceeding, two dollars. For serving each subpoena in criminal proceedings, fifty cents. For executing every sentence of death, twenty dollars. For summoning a Grand Jury of twenty-four, twelve dollars. For summoning in any case a trial jury of twelve persons, six dollars. For each additional juror summoned in the same cause by order of the court, twenty-five cents; but when a number of jurors less than twelve shall be agreed upon by the parties, for each juror summoned, fifty cents. For service of any process in criminal cases he shall receive for travel, in going only, per mile, twenty-five cents; and the same mileage for taking prisoners before a magistrate or to prison. In serving subpoenas or venire in criminal cases, he shall receive mileage for the most distant only, where witnesses or jurors live in the same direction. For service in civil cases in Justice's Courts, the same fees allowed to Constables.

Further compensation.

In Supreme Court.

In Justice's Courts.

FEE OF CORONER.

SEC. 30. For all services in summoning Jury of Inquest, three dollars. For swearing a Jury, one dollar. For issuing a warrant of arrest, fifty cents. For issuing subpoena for each witness, twenty-five cents. For each mile necessarily traveled in going to the place of the dead body, twenty-five cents. Which fees, in all inquests shall be paid out of the County Treasury, as other demands. For all services rendered by them when acting as Sheriffs, the same fees are allowed to Sheriffs for similar services. For swearing each witness, twenty-five cents. For taking down the testimony of each witness, per folio, thirty cents.

Coroner

As Sheriff.

FEE OF CONSTABLES.

SEC. 31. For serving summons in civil suits, for each defendant, one dollar. For summoning a jury before a Justice of the Peace, three dollars. For taking a bond required to be taken, fifty cents. For summoning each witness, twenty-five cents. For serving an attachment against the property of a defendant, two dollars. For

Constable.

summoning and swearing a jury to try the rights of property, and taking the verdict, three dollars. For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the Justice who issued the execution, upon the affidavit of the constable that such charges are correct, and the expenses necessarily incurred. For collecting all sums on execution, four per cent., to be charged against the defendant in the execution. Constables shall receive, in serving summons, attachment, order, execution, venire, notice and subpoena, in civil cases, for each mile necessarily traveled in going only, (but when two or more persons are served in the same suit, mileage shall only be charged for the most distant, if they live in the same direction,) fifty cents. For serving a warrant or order for delivery of personal property, or making an arrest in civil cases, two dollars. For service and travel in criminal cases, the same fees as Sheriffs for like services. For all other service, except attending Court, the same fees as are allowed to Sheriffs for similar services.

Per centage.

For other service.

FEEES OF WITNESSES.

Witness. SEC. 32. For attending in any suit or proceeding, civil or criminal, before any Court of Record, Referee, Commissioner, Justice of the Peace, or Coroner, for each day, two dollars. For traveling to the place of trial, for each mile, twenty-five cents. No person shall be obliged to attend as a witness in a civil action, unless his fees for attendance have been tendered him, or he shall not have demanded the same; in criminal cases, witnesses' fees shall be taxed and paid as other costs, and no person shall be obliged in a civil action or proceeding, to attend as a witness without the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of trial.

Fees in advance.

Not obliged to go out of county.

FEEES OF JURORS.

Jurors. SEC. 33. For each day, to be paid in civil cases by the party in whose favor verdict is rendered, before the same shall be entered; but the same may be recovered as costs, from the party losing the case, two dollars; *provided*, that in the District Court, County Court, and Court of Sessions, the clerk shall keep an account of all moneys received for trials by each juror during the term; and if the amount so received by such juror, shall not amount to two dollars per day, he shall deliver to such juror a certificate of the time for which he is still entitled to receive pay, which shall be paid out of the County Treasury, as other county dues. If in any trial in a civil case before any court, the jury be, from any cause, discharged, without finding a verdict, the fees of the jury shall be paid by the plaintiff, but may be recovered back as costs, if he afterwards obtain judgment; until they are paid, no further proceedings shall be allowed in the action. No person shall receive fees for serving on a Coroner's jury.

Fees paid by plaintiff.

FEEES OF THE COUNTY AUDITOR.

SEC. 34. For making duplicate of taxes, or copies thereof requir-

ed, per folio, thirty cents. For filing Treasurer's receipt and issuing County Auditor license, to be paid by the party, fifty cents.

FEES OF JUSTICES OF THE PEACE.

SEC. 35. For filing each paper, twenty-five cents. Issuing any writ or process, by which suit is commenced, fifty cents. For entering each cause upon his docket, fifty cents. For subpoena to each witness, twenty-five cents. For administering an oath or affirmation, twenty-five cents. For certifying the same, twenty-five cents. For each certificate, fifty cents. For issuing writ of attachment, or of arrest, or for delivery of property, one dollar. For entering any final judgment, per folio, for the first folio, one dollar; for each additional folio, thirty cents. For taking and approving any bond or undertaking, directed by law to be taken or approved by him, with the justifications thereto, one dollar. For swearing a jury, fifty cents. For taking depositions, per folio, thirty cents. For entering satisfaction of a judgment, fifty cents. For copy of a judgment, order, docket, proceedings, or paper in his office, for each folio, thirty cents. For transcript of judgment, per folio, thirty cents. For issuing commission to take testimony, one dollar. For issuing supersedeas to an execution, fifty cents. For making up and transmitting transcript and papers, on appeal, two dollars. For issuing an execution, fifty cents. For celebrating marriage, and returning certificate thereof to the Recorder, five dollars. For all service and proceedings before a Justice of the Peace, in a criminal action or proceeding, whether on examination or trial, three dollars. For taking bail after commitment by another magistrate, in criminal cases, one dollar. For entering cause without process, one dollar. For entering judgment by confession, and only on affidavit, as required in the District Court, three dollars. For entering every motion, rule, order, verdict, or default, twenty-five cents. For services as Associate Justice of the Courts of Sessions, five dollars per day, together with fifty cents per mile necessarily traveled, in going only, and once only during each term of the court.

INTERPRETORS AND TRANSLATORS.

SEC. 36. Interpretors and translators may be allowed such compensation for their services as the court shall certify to be necessary and just, to be taxed and collected as other costs, but the same shall not exceed five dollars per day.

FEES OF COUNTY SURVEYOR.

SEC. 37. For the first mile actually run with compass and chain, five dollars. For each succeeding mile, four dollars. For each mile run with the compass alone, three dollars. For each copy of a plot and certificate, three dollars. For each lot laid out and plotted in any city or town, two dollars. For recording a survey, two dollars. For calculating the quantity of each division made in a tract of land, town lots excepted, one dollar. For traveling to place of survey, for each mile, in going only, fifty cents. For ascertaining the loca-

tion of every town lot, in an old survey, and measuring and marking the same, three dollars. For copies and certificates per folio, thirty cents. For erecting a monument at the corner of any survey, when required, three dollars. Expenses of assistants shall be an additional charge, to be agreed upon by the parties.

Assistants.

FEES OF PROBATE JUDGE.

Probate Judge. SEC. 38. For every order or judgment, when not contested, one dollar. When contested, three dollars.

County Judge as Probate Judge. SEC. 39. The fees allowed for services rendered by the County Judge, as Probate Judge, shall be collected by the County Clerk, who shall keep a full and accurate account of the same, in a book kept separate and apart for that purpose. The County Clerk shall make a settlement, at least once a month, with the County Treasurer, of the fees thus collected, and pay the amount in his hands into the County Treasury. His accounts shall always be open to inspection by any county officers, or any person who may be interested therein. The County Treasurer, in a book kept specially for that purpose, shall keep a full account of all moneys thus received, which shall constitute a separate and distinct fund, and so much thereof as may be necessary for that purpose, shall be applied to the payment of the salary of the County Judge, and the residue, if any, shall be paid into the County Treasury; and it shall be a misdemeanor for a Probate Judge to receive any fees to his own use, except in such manner as is prescribed in this section.

County Clerk to settle with Treasurer.

Salary of County Judge.

Misdemeanor.

Officers' fees.

Services without fees in advance.

SEC. 40. Any officer may refuse to perform any services in a civil action or proceeding, until the fee for such service is paid by the party requiring the service; *provided*, if any person shall make an affidavit before the County Judge, setting forth that he has a good cause of action, or defense, and that he is unable to pay fees in advance, the County Judge may in his discretion make an order that the officers perform such services without pay in advance, or may in his discretion require such person to give security for the costs, and then require such officers to perform such services; and it shall be the duty of such officers to obey the order of the County Judge so made.

Relative to San Francisco county.

SEC. 41. In the County of San Francisco the fees of office shall be as prescribed in this act, from section forty-first to section fifty-ninth inclusive, for the officers named in such part of this act, and all provisions contained in such part of this act, shall apply to said officers in the county of San Francisco.

Clerk of District and Superior Courts.

SEC. 42. The fees of the Clerk of the District Court of the Fourth Judicial District, of the District Court of the Twelfth Judicial District, and of the Superior Court of the city of San Francisco, shall be as follows: For each execution or writ of possession, fifty cents. For entering and filing return of each execution, twenty-five cents. For every writ under seal, fifty cents. For entering appearance, discontinuance, non-suit, default, rule or order, fifty cents. For every certificate under seal, fifty cents. For each calling and swearing of a jury, fifty cents. For swearing each witness, twenty-five cents. For entering each cause in a calendar and making a copy for the Court, or Bar, fifty cents for the first term, and twenty-five cents for each subsequent term. For receiving and

entering a verdict, fifty cents. For filing each paper, and marking thereon the time of filing, twenty-five cents. For entering every final judgment, for each folio, fifty cents. For filing acknowledgment and entering satisfaction of judgment, one dollar. For copy of record or paper, for each folio, twenty cents. For searching records, (not charging parties to suit,) twenty-five cents for each name. For administering oath and certifying same, fifty cents. For taking down testimony of witness in Court, when required, for each folio, twenty-five cents, to be paid by the party requiring the service. For transcript of judgment, his fee shall be fifty cents. For each notice given by publication in addition to the cost of publication, fifty cents.

SEC. 43. The fees of the Clerk of the County Court shall be as follows: For filing all the papers sent in each case on appeal from a Justice's Court, and making the necessary entries concerning the same, five dollars. For all other services, the same fees as are allowed in the District Court for similar services. Clerk of
County Court.

SEC. 44. The Clerk of the Court of Sessions shall receive the same fees as are allowed to the Clerk of the District Court in criminal cases. Clerk of Court
of Sessions.

SEC. 45. The fees of the Clerk of the Probate Court shall be as follows: For issuing letters testamentary or of administration, fifty cents. For certificate of appointing appraisers, fifty cents. For all other services, the same fees as are allowed to the Clerk of the District Court for similar services. Clerk of
Probate Court.

Other services.

SEC. 46. The fees of the County Recorder shall be as follows: For recording any instrument, paper or notice, and for copies of any records, papers or notices, when required, for every folio, fifteen cents. For noting on any instrument recorded, the time when, and the place where recorded, twenty-five cents. For filing every notice or other paper, when required, and entering thereon a minute of the time of filing, twenty-five cents. For making in the index the several entries of the instruments, papers and notices, required by law to be indexed, for every such instrument, paper and notice, twenty-five cents for each name. For every certificate and seal attached to copies of records and papers in his office, when such copies are required, fifty cents. For every entry of a discharge of a mortgage on the margin of the record, fifty cents. For searching records and files in his office, for each year for which the search is made, fifty cents for each name. For recording any instrument, paper or notice in the Spanish language, and for copies of such instrument, papers and notices, for each folio thirty cents. For taking the acknowledgment or proof of every instrument paper or notice which may by law be recorded, fifty cents for each signature. For recording the plot of any town or city, such price as may be agreed upon between the parties. County
Recorder.

SEC. 47. The fees of Commissioners to take testimony shall be as follows: For taking depositions, for each folio, twenty-five cents. For administering an oath or affirmation, twenty-five cents. For certificate to the deposition, fifty cents. Commissioners.

SEC. 48. The fees of the Probate Judge shall be as follows: For every order or judgment, when not contested, fifty cents. For every order or judgment, when contested, two dollars. Probate Judge.

SEC. 49. The fees received by the Probate Judge shall be paid by him into the County Treasury. Fees paid into
County
Treasury.

SEC. 50. The fees of the Sheriff shall be as follows: For serving a Sheriff.

summons, or any other process, by which an action or proceeding is commenced, on each defendant, one dollar. For traveling, in making such service, per mile, twenty-five cents in going only, to be computed, in all cases from the court-house of the county. For taking a bond or undertaking in any case in which he is authorized to take the same, one dollar. For a certificate thereof, when requested, fifty cents. For a copy of any writ, process, or other paper, when required or demanded by law, twenty-five cents. For serving subpoena, for each witness summoned, twenty-five cents, and twenty-five cents for each mile actually travelled in going only; but when two or more witnesses live in the same direction, traveling fee shall be charged only for the most distant. For serving an attachment on property, or levying an execution, or executing an order for arrest, or for the delivery of personal property, two dollars. Advertising property for sale on execution, or under any judgment or order of sale, one dollar. For making the money upon the execution, for the first five thousand dollars, two per cent.; for all above five thousand dollars, one per cent. The fees herein allowed for the levy of an execution, and for advertising, and for making or collecting the money on an execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the judgment therein directed to be made. For drawing and executing a deed, pursuant to a sale of real estate, three dollars, to be paid by the grantee, who shall also pay the fee for the acknowledgment of the deed. For serving a writ of possession or restitution, putting any person entitled into possession of premises, and removing occupants, three dollars; and the same compensation for mileage as herein allowed in other cases. For summoning a jury in any case, two dollars. For summoning a grand jury, four dollars. Attending on same, one dollar. For serving a writ of "habeas corpus," one dollar. For attending, in obedience to a writ of "habeas corpus," with the body in custody, three dollars for each day's actual attendance. For traveling each mile from jail, twenty-five cents. For attending before any officer with a prisoner, for the purpose of having him surrendered in exoneration of his bail, or attending to receive a prisoner so surrendered, and receiving such prisoner into custody, in either case, two dollars. For serving an attachment upon any ship, boat, or vessel, in proceeding to enforce any lien thereon created by law, two dollars; also three dollars per day for each day, while such ship, boat or vessel is in the actual custody of the Sheriff, or one of his deputies, and further, such necessary expenses incurred in serving the process as are supported by the oath of the officer serving the same. For selling any ship, boat, vessel or tackle, apparel and furniture thereof so attached, or other goods attached, and for advertising such sale, the same fees as for sale on execution. For any services which might be rendered by a Constable, the same fees as are allowed by law for such services to a Constable. For attending in person, or by deputy, the Supreme Court, each day, three dollars, to be allowed by the Controller on the certificate of the Clerk, and paid out of the State Treasury. For executing every sentence of death, twenty dollars.

Per centage.

In Supreme Court.

No other fees,

SEC. 51. No other fees shall be charged than those specially set forth herein, nor shall any fees be charged for any other services than those mentioned in this Act.

SEC. 52. It shall be the duty of each and every of said officers

hereinbefore mentioned, to keep severally a book, to be called a "fee book," in their respective offices, open to the inspection of any one desiring to inspect the same, in which book shall be stated the fees charged, and the services for, and the title of the case in which, they are charged; and it shall be the duty of the District Attorney to inspect said books at least once in every three months; and the foreman of each and every Grand Jury shall also have the same before him, and shall examine the same.

Fee book.
Duty of District Attorney and Foreman of Grand Jury.

SEC. 53. It shall be the duty of the Clerks of the several courts to cause a printed copy of this Act to be posted and kept in some conspicuous place in his office; the cost of such printing shall be paid out of the County Treasury.

Duty of Clerks.

SEC. 54. It shall be the duty of the County Judge, sitting as a Judge of the Court of Sessions, to give this Act specially in charge of the Grand Jury.

Duty of County Judge.

SEC. 55. The fees of the Coroner shall be the same, for all services rendered by him when acting as Sheriff, as are allowed to the Sheriff for similar services.

Coroners' fees.

SEC. 56. The fees of a Constable shall be as follows: For serving a citation, summons or other process by which a suit shall be commenced, one dollar. On all sums made on execution, to be collected in the same manner as the judgment, and in addition thereto, three per cent. For all other services the same fees as are allowed to Sheriffs for similar services.

Constable.

Per centage.
Other services.

SEC. 57. The fees of a Justice of the Peace shall be as follows: For filing every paper required to be filed, twenty-five cents. For issuing a citation, summons or other process by which a suit shall be commenced, fifty cents. For a subpoena to each witness, twenty-five cents. For administering oath to witness, twenty-five cents. For taking and certifying an oath, fifty cents. For issuing writ of attachment, one dollar. For entering any order or judgment in a case, for each folio, fifty cents. For taking and approving any bond directed by law to be approved by him, fifty cents. For swearing a jury, fifty cents. For taking depositions, per folio, twenty-five cents. For certified copy of judgment, or of any order or paper on file in his office, twenty cents. For entering satisfaction of judgment, fifty cents. For entering amicable suit, without process, fifty cents. For transcript of judgment, twenty-five cents. For issuing commission to take testimony, fifty cents. For issuing supersedeas to an execution, twenty-five cents. For making up transcript and returning papers on appeal, one dollar. For issuing an execution, twenty-five cents. For celebrating a marriage and returning a certificate thereof to the Recorder, two dollars.

Justice of the Peace.

SEC. 58. Any officer who shall violate any of the provisions of the twelfth and thirteenth sections of this Act, shall be indicted, and if found guilty, shall be fined in a sum not less than one thousand dollars nor more than (at the discretion of the jury) five thousand dollars.

Penalty.

SEC. 59. If any officer shall take more, or other fees than are herein allowed, he shall be liable to indictment, and on conviction shall be removed from office, and shall pay such fine and suffer such imprisonment as the jury trying the case may inflict; *provided*, such fine shall not exceed one thousand dollars; or such imprisonment six months' confinement in the county jail.

More fees than are allowed.

MISCELLANEOUS PROVISIONS.

- Tables of fees.** SEC. 60. Every officer whose fees are herein ascertained, shall publish and set up in his office fair tables of his fees according to this Act, within six months after the passage thereof, in some conspicuous place, for the inspection of all persons who have business in his office, upon pain of forfeiting for each day a sum not exceeding twenty dollars, which may be recovered by any person by action before any Justice of the Peace of the same county, with costs.
- Penalty.**
- Cost of publication.** SEC. 61. When, by law, any publication is required to be made by an officer, of any suit, process, notice, order or other paper, the costs of such publication shall be first tendered by the party, if demanded, for whom such process or order was granted, before the officer shall be compelled to make publication thereof.
- Execution for fees.** SEC. 62. If any Clerk, Sheriff, Justice of the Peace or Constable shall not have received any fees which may be due him for services rendered in any suit or proceeding, he may have execution therefor in his own name, against the party from whom they are due, to be issued from the court in which the action is pending.
- Privileges of State officers.** SEC. 63. The Secretary of State, Treasurer, Controller, Attorney General and District Attorneys shall be authorized to require searches in the respective offices of each other, and in the office of the Clerk of the Supreme Court, of the several District Courts, of the County Courts, Courts of Sessions or Recorder's, for any papers, records or documents necessary to the discharge of the duties of their respective offices, and to require copies thereof and extracts therefrom, without the payment of any fee or charge whatever.
- Term "folio" defined.** SEC. 64. The term "folio," when used as a measure for computing fees, or compensation, shall be construed to mean one hundred words, counting every figure necessarily used, as a word; any portion of a folio, when in the whole draft or paper there should not be a complete folio, and when there shall be an excess over the last folio exceeding a quarter, shall be computed as a folio. The filing a paper shall be construed to include the certificate of the same.
- Excess of last folio.**
- Mileage of Sheriff, Constable and Coroner.** SEC. 65. When any Sheriff, Constable or Coroner, serves more than one process in the same cause, not requiring more than one journey from his office, he shall receive mileage only for the most distant service.
- Fees not allowed attorneys.** SEC. 66. No Attorney or Counsellor at Law in any case shall be allowed any fees for attending as a witness in such cause.
- Officers shall specify fees.** SEC. 67. Every officer upon receiving any fees for official duty or service, may be required by the person paying the same, to make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so when required, or shall receive illegal fees, he shall be liable to the party paying the same, for three times the amount so paid.
- Penalty for illegal fees.**
- Oath of office.** SEC. 68. No fees shall be charged by any officer for administering and certifying the oath of office.
- Fees not enumerated.** SEC. 69. Officers whose fees are set forth in this Act, shall not be entitled to charge or receive any fees not herein enumerated, unless specially provided for by law.
- Witnesses.** SEC. 70. The Attorney General, or any District Attorney, is authorized to cause subpoenas to be issued, and compel the atten-

dance of witnesses on the behalf of the State, without paying or tendering fees in advance to either officers or witnesses, and any witness failing or neglecting to attend after being served with a subpoena, may be proceeded against and shall be liable in the same manner as provided by law in other cases where fees have been tendered or paid. Witness failing to appear.

SEC. 71. The Clerk of any Court, at which any witness shall have attended on behalf of the State, in a civil action, shall give to such witness a certificate, under seal, of travel and attendance, which shall entitle him to receive the same from the State Treasury, on the Controller's Warrant. Witness on behalf of State.

SEC. 72. The provisions of the two preceding sections of this Act shall extend to all actions and proceedings brought in the name of the Attorney General, or any other person or persons, for the benefit of the State. Provisions of two preceding sections.

SEC. 73. An Act entitled "An Act to regulate Fees in Office," passed May 1, 1851; and "An Act to regulate Fees in Office," passed April 22, 1850; and all other Acts or parts of Acts in conflict or inconsistent with the provisions of this Act, are hereby repealed. Act of April 22, 1850, repealed.

SEC. 74. This Act shall take effect on the first day of June, A. D. one thousand eight hundred and fifty-five, in the counties of San Diego, San Bernardino, Los Angeles, Santa Barbara, San Luis Obispo, Tulare, Monterey, Santa Cruz, Santa Clara, Stanislaus, Alameda, Contra Costa, San Joaquin, Sacramento, Yolo, Solano, Napa, Sonoma, Marin, Mendocino, Humboldt, Butte, and San Francisco; and in the counties of El Dorado, Placer, Calaveras, Sutter, Yuba, Tuolumne, Sierra, Siskiyou, Klamath, Mariposa, Shasta, Trinity, Nevada, Colusi, Plumas, and Amador, it shall take effect on the first day of October next. Act shall take effect in certain counties. same shall take effect in certain counties.

CHAPTER LXXV.

AN ACT

To Prohibit Lotteries, Raffles, Gifts, Enterprises and other Schemes, of a like Character.

[Approved April 10, 1855]

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

SECTION 1. It shall be unlawful for any person or persons, to dispose of any money, goods, personal property, real estate, or other valuables by lottery, raffle, or any game of chance, or by any drawn numbers represented by tickets or cards, or by throwing and counting of dice, or by any other scheme or means by which an uncertain dispo- Raffles, etc unlawful

sition of said money, goods, personal property, real estate, or other valuables, is sought to be had. It shall also be unlawful for any person or persons to aid in any such scheme before-named, in any way whatever, either by printing, circulating, buying or selling, managing or drawing tickets or cards, or chances, in any lottery, raffle, gifts, enterprise or other unlawful means as above-named.

Unlawful
to aid.

SEC. 2. Any person who shall get up, or aid to any extent, or in any manner in getting up, or who shall sell, or offer for sale, or who shall have in his possession, with intent to sell or offer for sale, or to exchange or negotiate, or shall in any wise aid or assist in selling, negotiating, or disposing of any lottery ticket or tickets, or any share or part of any scheme or chance named or designated in the first section of this Act, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the County Jail not to exceed six months, and by fine in any sum not less than five hundred dollars, nor more than five thousand dollars.

Misdemeanor.

Penalty.
Goods, etc.
forfeited.

SEC. 3. Any and all moneys, goods, personal property, real estate, or other valuables, of which a disposal shall be attempted, sought or offered in any way specified in the first section of this Act, shall be forfeited to the use of the State, and may be recovered by information to be filed, or by an action to be brought by the Attorney General, or by any District Attorney, in the name and on the behalf of the State.

How apply
fines.

SEC. 4. All moneys arising from the collection of fines, under the provisions of this Act, shall be appropriated to county purposes, in the counties where the same is collected.

Repeal.

SEC. 5. "An Act to prohibit Lotteries," passed March 11th, 1851, and an Act explanatory of an Act entitled "An Act to prohibit Lotteries," passed May 15th, 1854, are hereby repealed.

Take effect.

SEC. 6. This Act shall take effect and be in force from and after the first day of June, one thousand eight hundred and fifty-five.

CHAPTER LXXVI.

AN ACT

To amend an Act entitled "An Act to provide for the Incorporation of Railroad Companies," passed April 22d, 1853.

[Approved April 10, 1855.]

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

Section 27
amended.

Surveys.

SECTION 1. Section twenty-seven of said Act is hereby amended, to read as follows: Every such corporation shall have power, First—To cause such examinations and surveys, for the proposed railroad, to be made, as may be necessary to the selection of the most advantageous route for the railroad, and for such purpose, by their officers, agents

and servants, to enter upon lands or waters of any person or persons, subject to responsibility for all damages which they shall do thereto; Second, To receive, hold, take and convey such voluntary donations of real estate and other property as shall be made, to aid and encourage the construction of said road; Third, To purchase, and by voluntary grants and donations, receive and take, and by its officers, engineers, surveyors and agents, enter upon and take possession of, and hold and use, in any manner they may deem proper, the same as a natural person might, or could do, all such lands and real estate, and other property, as the directors may deem necessary for the construction and maintenance of said road, and for the stations, depots and other accommodations and purposes deemed necessary to accomplish the objects of the company; Fourth, To lay out its road or roads, not exceeding nine rods wide, and to construct and maintain the same with a single or double track, with such appendages as may be deemed necessary for the convenient use of the same, and for the purpose of cutting embankments and procuring timber, stone and gravel, may take as much more land as may be necessary for the purposes aforesaid, in the manner hereinafter provided for the proper construction and security of the road; Fifth, To construct their road across, along or upon any stream of water, water-course, roadstead, bay, navigable stream, street or highway, or across any railway, canal, ditch or flume, which the route of its road shall intersect, cross or run along, but the corporation shall restore the stream or water course, road or highway, railroad, canal, ditch or flume, that intersected, to its former state, as near as practicable, so as not to impede its usefulness; *providing*, that when such railroad company shall be about to change any stream of water from its natural or artificial channel, any person who shall be injured by such change, shall serve a notice in writing, on the President or Secretary of such company, and post up a copy of such notice at the point where the water is to be turned, which shall serve as a notice upon the contractor or contractors of said company; whereupon, such company shall proceed to ascertain the amount of such damage, in the following manner: The company shall choose one referee, and the party another, and if they do not agree, the two shall choose a third; said referees shall have the same powers as commissioners, provided for by section twenty-eight of the "Act April 22d, 1853." The award shall be final and conclusive upon the parties; when the award of the referees shall be against the railroad company, such company shall pay, or secure to be paid, such amount within thirty days after such amount is so found, and said company notified of the finding of said referees; Sixth, It shall not be lawful for any person or persons to dig, excavate, or remove earth, or other material, from, or to lay out any mining or other claim upon lands taken, owned, required, or located upon by any railroad company formed under this Act, who may have complied with the provisions of the laws of this State in relation to the incorporation of railroad companies and the provisions of this Act in relation to filing their location with the Secretary of State, without permission of said company, under penalty of being prosecuted for a misdemeanor, and forfeiting to said corporation treble the amount of damages sustained thereby, besides a fine of five hundred dollars, or imprisonment in the County Jail not exceeding six months, or both such fine and imprisonment, in the discretion of the Court; but if by reason of such unlawful digging away of earth, any accident should happen to life or limb of any person riding in the cars upon said "railroad," then such person or persons shall be

Lands and
waters.
Damages.

To purchase
lands.
Donations.

To lay out
and maintain
road.

To cross
streams.

Restore stream
to channel.

Proviso.

Person injured
to notify
President.

Damages.
How
ascertained

Award.

Mining claims.

Penalty.

Accident.

Penalty.

guilty of felony, and upon conviction thereof, shall be imprisoned in the Penitentiary for any term not less than three nor more than ten years; but the provisions of this subdivision shall not extend to any property or possessions of any railroad company beyond the track of the road or the nine rods in width occupied by the same; nor shall anything in this section be so construed as to authorize the company, or any member thereof, to excavate for mining purposes, or to sell or lay out any mining claim along said railroad track, or within the nine rods in width.

Track of
the road.

CHAPTER LXXVII.

AN ACT

To authorize the payment of the Rent of the Court House in Sacramento County.

[Approved April 10, 1855.]

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

Sheriff to
pay rent.

SECTION 1. The Sheriff of Sacramento county is hereby authorized to pay the rent which is accruing against the said county for rent of a Court House, out of any money which may come into his hands, belonging to the General County Fund of said county; and the County Treasurer of said county shall credit him, in his settlements, for said amounts; *provided*, said payments shall not exceed two hundred dollars per month from the first day of February, one thousand eight hundred and fifty-five.

\$200 a month.

CHAPTER LXXVIII.

AN ACT

To authorize the Board of Supervisors in and for the County of Marin to levy a Special Tax for the Erection of Public Buildings in said County.

[Approved April 10, 1855.]

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

SECTION 1. The Board of Supervisors in and for the County of Marin, are hereby authorized and empowered to levy and cause to be collected, in the same manner and at the same time as other State and county taxes, the following annual tax, to wit : a sum not to exceed one-half of one per cent. upon all the taxable property in said county, for the erection of a Court House and Jail. ^{Supervisors to levy tax.}

SEC 2. The said fund shall be applied to the erection and furnishing of a County Jail, and Court House, and shall be applied to no other purpose. ^{To build Court House.}

SEC. 3. Whenever said building shall be completed, furnished and paid for, this Act shall cease, and be of no effect.

CHAPTER LXXIX.

AN ACT

To change the time of holding the different Courts, authorized to be held by the County Judge in the County of Yolo.

[Approved April 10, 1855.]

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

SECTION 1. That the Court of Sessions in and for said County, shall be held at the County Seat of said County, on the first Monday of August, December and April, of each year. ^{Court of Sessions. When and when held.}

SEC. 2. That the County Court of said County be held on the third Monday of August, December and April of each year. ^{County Court.}

SEC. 3. That the Probate Court of said County be held on the fourth Monday of August, December and April, of each year. ^{Probate Court.}

SEC. 4. That so much of an act entitled "An Act concerning the Courts of Justice of this State, and Judicial Officers," passed May 19th, 1853, as conflicts with the provisions of this Act, is hereby repealed. ^{Repeal.}

CHAPTER LXXX.

AN ACT

Authorizing the Board of Supervisors of Napa County to levy a tax for certain purposes.

[Passed April 10, 1855.]

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

Supervisors
to levy tax.

SECTION 1. The Board of Supervisors of the County of Napa, are hereby authorized and empowered, to levy a tax upon the taxable property of said County, not exceeding one-half of one per cent., the proceeds of which shall be applied equally as follows : One-half of the proceeds of said tax shall be expended towards the removal of snags and other obstructions, to the navigation of Napa River ; the other half shall be used for the construction or opening of a wagon road from Napa Valley to Clear Lake, by way of Pope and Cayote Valleys, and for no other purposes.

Proposals.

SEC. 2. After said tax has been collected, it shall be the duty of said Board, as soon as practicable, to advertise and receive proposals for the completion of said works : and shall be left discretionary with the Board to award such contract or contracts to such person or persons as they may deem sufficiently responsible for the prompt and faithful performance of the said works.

Contracts.

Act to expire.

SEC. 3. Whenever said works shall have been finished, and its completion approved by the Board of Supervisors, this Act shall cease and be of no effect.

CHAPTER LXXXI.

AN ACT

Amendatory of, and supplementary to, an act entitled "An Act defining the legal distances from each County Seat in the State of California, to the State Capitol at Sacramento, the State Lunatic Asylum at Stockton, and the State Prison at San Quentin," passed May 15th, 1854.

[Approved April 10, 1855.]

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

SECTION 1. Section second of the said Act, so far as the same relates to the County of Siskiyou, is hereby amended so as to read as follows, to wit: From the County Seat of Siskiyou County to Sacramento, four hundred and twenty miles; to Stockton, four hundred and seventy-five miles; to San Quentin, five hundred and seventy-five miles.

Section 2 amended.

Distance defined.

CHAPTER LXXXII.

AN ACT

To amend an Act concerning Crimes and Punishments, passed April 16th, 1850.

[Approved April 10, 1855.]

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

SECTION 1. The forty-seventh section of an act concerning crimes and punishments, passed April sixteenth, one thousand eight hundred and fifty, is hereby amended so as to read as follows: Section forty-seven. Rape is the carnal knowledge of a female, forcibly and against her will; and a person duly convicted thereof, shall be punished by imprisonment in the State Prison, for a term not less than five years, and which may extend to life; and any person of the age of fourteen years and upwards, who shall have carnal knowledge of any female child, under the age of ten years, either with or without her consent, shall be adjudged guilty of the crime of rape, and be punished as before provided.

Section 47 amended.

Rape defined.

Punishment.

- Section 50 amended. Various crimes. Penalty. Assault. Penalty.
- Section 116 amended. Riot. Penalty.
- Two more persons commit a riot. Penalty.
- Section 137 amended. Injury to animals. Penalty. Injury to goods. Penalty.
- Section 13 amended. Competent witnesses.
- SEC. 2. Section fifty of the same act, is hereby amended so as to read as follows : Section fifty. An assault with an intent to commit murder, rape, the infamous crime against nature, mayhem, robbery, or grand larceny, shall subject the offender to imprisonment in the State Prison for a term not less than one year, nor more than fourteen years. An assault with a deadly weapon, instrument, or other thing, with an intent to inflict upon the person of another, a bodily injury, where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant heart, shall subject the offender to imprisonment in the State Prison, not exceeding two years, or to a fine not exceeding five thousand dollars, or to both such fine and imprisonment.
- SEC. 3. Section one hundred and sixteen of the same act, is hereby amended so as to read as follows : Section one hundred and sixteen. If two or more persons shall meet to do an unlawful act, upon a common cause of quarrel, and make advances toward it, they shall be deemed guilty of a rout, and on conviction, shall be severally fined in a sum not exceeding five hundred dollars or imprisonment in the County Jail not more than six months ; and if two or more persons shall actually do an unlawful act of violence, either with or without a common cause or quarrel, or even do a lawful act, in a violent, tumultuous and illegal manner, they shall be deemed guilty of a riot, and upon conviction thereof, shall be fined in any sum not exceeding five hundred dollars each, or by imprisonment in the County Jail for any term of time not exceeding six months, or by both such fine and imprisonment.
- SEC. 4. Section one hundred and thirty-seven of the same act, is hereby amended, so as to read as follows : Section one hundred and thirty-seven. Every person who shall maliciously kill, maim or wound any horse, ox, or other domestic animal belonging to another, or shall maliciously or cruelly beat or torture any such animal, whether belonging to himself or another, shall upon conviction, be punished by fine of not more than five hundred dollars, or by imprisonment in the County Jail not exceeding six months, or by both such fine and imprisonment ; and every person who shall willfully, unlawfully and maliciously destroy, burn, cut, or otherwise injure any goods, chattels or property, of any description whatsoever, belonging to another, shall upon conviction, be punished by fine of not more than five hundred dollars, or by imprisonment in the County Jail not exceeding six months, or by both such fine and imprisonment.
- SEC. 5. Section thirteen of the same Act is hereby amended so as to read as follows : Section thirteen. The party or parties injured, shall in all cases be competent witnesses ; the credibility of all such witnesses shall be left to the jury as in other cases. In all cases where two or more persons are jointly or otherwise concerned in the commission of any crime or misdemeanor, either of such persons may be sworn as a witness against another, in relation to such crime or misdemeanor ; but the testimony given by such witness shall in no instance be used against himself, in any criminal prosecution, and any person may be compelled to testify as provided in this section.

CHAPTER LXXXIII.

AN ACT

For the Relief of B. Wing, and W. H. Williamson.

[Approved April 11, 1855.]

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

SECTION 1. The Controller of State is hereby authorized to draw Warrants his Warrants on the Treasurer of State, in favor of B. Wing, for authorized. fifty-four dollars, for services as Sergeant-at-Arms to State Prison Committee for four days and a half; and to W. H. Williamson, for thirty-six dollars, for services as Sergeant-at-Arms to the State Marine Hospital Committee for three days; which amounts are hereby appropriated out of any money in the Treasury not otherwise appropriated.

CHAPTER LXXXIV.

AN ACT

To recompense B. B. Redding and Geo. Kerr & Co, for work performed for the State of California during the year 1854,

[Approved April 11, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and re- To B. B. quired to draw his warrants on the Treasurer of State, in favor of B. Redding B. Redding, for the sum of nine thousand nine hundred and seventy-nine dollars and ninety-one cents, and in favor of Geo. Kerr & Co., To Geo. Kerr for the sum of seven thousand seven hundred and thirty-three dollars & Co. and fourteen cents.

SEC. 2. The sum of seventeen thousand seven hundred and thir- Appropriation. teen dollars and five cents, is hereby specially appropriated and set apart out of any money in the General Fund, for the payment of the warrants required to be issued by the first section of this Act.

CHAPTER LXXXV.

AN ACT

To supply a deficiency in the appropriation to provide for the Survey of a portion of the Northern Boundary of this State.

[Approved April 11, 1855.]

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

Appropriation.

SECTION 1. The Controller of State is hereby authorized and required to draw his warrant on the State Treasurer, in favor of the Surveyor General, for the sum of one thousand three hundred and seventy-four, 95-100 dollars, to supply a deficiency in the appropriation to provide for the survey of a portion of the Northern boundary of this State ; and the Treasurer is required to pay the same out of any money in the Treasury not otherwise appropriated.

CHAPTER LXXXVI.

AN ACT

To prohibit the sale of Ardent Spirits within two miles of the State Prison.

[Approved April 11, 1855.]

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

Unlawful to sell.

SECTION 1. No person or persons shall sell, or keep for sale, or have any shop or place open for the keeping or sale, either directly or indirectly, or shall give away, or keep in his house, store or warehouse, any spirituous liquors, or fermented liquors or liquor, a part of which is spirituous, within two miles of the State's Prison grounds, belonging to this State.

Penalty.

SEC. 2. Any person violating this Act, shall be liable for the first offense, to a fine not less than fifty dollars, nor more than two hundred dollars, and for every subsequent offense, to a fine as above, and imprisonment in the county Jail, not less than ten nor more than ninety days.

SEC. 3. Any Justice of the Peace, Judge of any County Court, or of the Court of Sessions, shall have jurisdiction of the offenses prohibited by this Act.

CHAPTER LXXXVII.

AN ACT

To amend an Act entitled "An Act defining the time for commencing Civil Actions," passed April 22, 1850.

[Approved April 11, 1855.]

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

SECTION 1. Section six of said Act is hereby amended so as to read Section 6 amended. as follows: No action for the recovery of real property or for the recovery of the possession thereof, shall be maintained, unless it appear Recovery of property. that the plaintiff, his ancestor, predecessor or grantor, was seized or possessed of the premises in question, within five years before the commencement of such action; *provided*, however, that an action may be Proviso. maintained by a party claiming such real estate, or the possession thereof under title derived from the Spanish or Mexican Governments or the Titles. authorities thereof, if such action be commenced within five years from the time of the final confirmation of such title by the Government of the United States or its legally constituted authorities.

SEC. 2. Section seven of said Act is amended so as to read as fol- Section 7 amended. lows: No cause of action, or defense to an action, founded upon the title to real property, or to rents, or to services out of the same, shall be Real property. effectual, unless it appear that the person prosecuting the action, or making the defense, or under whose title the action is prosecuted, or the defense is made, or the ancestor, predecessor, or grantor of such person was seized or possessed of the premises in question, within five years Possession. before the commencement of the Act, in respect to which such action is prosecuted, or defense made, or unless it appear that the title to such Title. premises was derived from the Spanish or Mexican Governments, or that the same was confirmed by the Government of the United States Confirmation. or its authorities, within five years before the commencement of such action.

SEC. 3. Section eighth of said Act is hereby amended so as to read Section 8 amended. as follows: Any peaceable entry upon real estate shall be deemed sufficient and valid as a claim, unless an action be commenced by the plaintiff in ejectment, within one year after the making such entry; or within five years from the time when the right to bring such action accrued, or within five years after the final confirmation by the United States of any title derived from Spain or Mexico. Peaceable entry.

CHAPTER LXXXVIII.

AN ACT

Amendatory of an Act entitled "An Act to provide for the Incorporation of Colleges," passed April 20, 1850.

[Approved April 13, 1855.]

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

Section 1
amended.

Incorporation
of colleges

SECTION 1. Section first of an Act entitled "An Act to provide for the Incorporation of Colleges," passed April 20, 1850, is hereby amended so as to read as follows: Any college may be incorporated in this State, according to the provisions of this Act, by the State Board of Education, consisting of the Governor, Superintendent of Public Instruction and Surveyor General.

Section 2
amended.
Founders and
contributors.

SEC. 2. Section second of the above recited Act is hereby amended so as to read as follows: The founders and contributors of any proposed College within this State, shall make to the State Board of Education, application in writing requesting that ——— College may be incorporated, specifying the first Trustees, and name by which the corporation is to be called.

Trustees
and name.

Section 3
amended.

Board to declare
colleges
incorporated.

SEC. 3. Section third of said Act is hereby amended so as to read as follows: In case the State Board of Education or a majority thereof, shall be satisfied that the proposed College has property to the amount of twenty thousand dollars, and that the proposed Trustees are capable men, then the said Board of Education, or a majority thereof, shall by an instrument under their hands, declare the college incorporated under the provisions of this Act, by the name specified in the application: and the application, together with the declaration of the Board or a majority thereof, shall be recorded in the office of the Secretary of State.

CHAPTER LXXXIX.

AN ACT

To provide for Paying the Outstanding Indebtedness of the County of Santa Clara.

[Approved April 13, 1855.]

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

SECTION 1. For the purpose of paying the outstanding indebtedness of the County of Santa Clara contracted prior to first day of March, A. D., eighteen hundred and fifty-four, and any other indebtedness that may have accrued for the erection of County buildings, prior to the passage of this Act, the Board of Supervisors of said county is hereby authorized to levy in each of the years eighteen hundred and fifty-five, eighteen hundred and fifty-six, and eighteen hundred and fifty-seven, in addition to the taxes now authorized by law to be levied for the current annual expenses of the county, the further sum of thirty cents on each hundred dollars value of real and personal property, to be applied exclusively to the payment of said indebtedness and to no other purpose

Supervisors
to levy tax.

Further tax.
How applied.

SEC. 2. All moneys received into the Treasury of said county, not required by law to be paid over to the State Treasury, from licenses, fines, orders in court, and poll tax, during the years eighteen hundred and fifty-five, eighteen hundred and fifty six, and eighteen hundred and fifty seven, shall be applied exclusively to the payment of the outstanding indebtedness described in the first section of this Act.

Moneys from
licenses, etc.

How applied.

SEC. 3. The provisions of this Act shall cease and determine at the end of the year eighteen hundred and fifty-seven.

Act to cease.

CHAPTER XC.

AN ACT

To authorize the Controller of State to issue a Duplicate Warrant to S. H. Marlette.

[Approved April 13, 1855.]

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

Duplicate
warrant.

SECTION 1. The Controller of State is hereby authorized, and required to issue a duplicate warrant drawn upon the Treasurer of State, in favor S. H. Marlette for warrant No. 2704, for two hundred dollars, dated April 12, 1854.

Bond.

SEC. 2. The Controller shall require before issuing said warrant, that the said S. H. Marlette, shall file in his office a good and sufficient bond to the State, with two good sureties in double the amount of said warrant, conditioned that if said warrant shall ever be presented for payment at the Treasury, then the party and his sureties shall repay the same.

Condition.

CHAPTER XCI.

AN ACT

Prescribing the manner of electing United States Senator.

[Approved April 14, 1855.]

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

Time of.
Special
elections.

SECTION 1. All regular elections for United States Senators for the State, shall be held after the first day of January next preceeding the commencement of the term which is to be filled. All special elections shall be held at any session of the Legislature, at which a vacancy or Executive appointment shall be reported by the Governor.

Two houses
meet together.

Joint vote.

Proviso.

SEC. 2. Whenever any election is to be held for an United States Senator, in pursuance of the Constitution of the United States, the Senate and Assembly shall meet together, on such a day, and at such an hour, as may be agreed to by both Houses and by joint vote proceed to the election: *provided*, that regular elections shall be held on a day subsequent to the period mentioned in the first section of this Act.

SEC. 3. A majority of all the votes given shall be necessary to elect a Senator. <sup>Majority -
to elect.</sup>

SEC. 4. The Joint Convention shall do no Act except to adjourn, ^{Restriction.} during the absence of a majority of all the members elect of either the Senate or Assembly; and the withdrawal of such majority shall cause a ^{Dissolution.} dissolution of the Joint Convention.

SEC. 5. When the election is made, the President of the Senate, and ^{Certify election.} the Speaker of the Assembly, shall certify the same to the Governor.

SEC. 6. The Governor shall cause a credential to be made out, with ^{Credential.} the great seal of the State affixed thereto, certifying the said election, and shall deliver it to such Senator.

SEC. 7. Whenever the Executive of this State shall by virtue of the ^{Appointment.} Constitution of the United States, make a temporary appointment of a Senator, he shall deliver to such Senator a credential under the great seal of the State, certifying said appointment.

SEC. 8. An Act entitled "An Act prescribing the manner of elect- ^{Repeal.} ing United States Senators," passed January 30, 1852, shall be and the same is hereby repealed.

CHAPTER XCII.

AN ACT

To attach a portion of El Dorado County to the County of Amador.

[Approved April 16. 1855.]

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

SECTION 1. All that portion of El Dorado county lying south of a <sup>Description
and boundary.</sup> line beginning at a point in the middle of the Consumnes river, at the eastern boundary of Sacramento county, running thence in an easterly direction, on an air line, to the mouth of the South Fork of the South Fork of the Consumnes river, thence up the middle of the South Fork of the South Fork of Consumnes river to its source, and thence due east to the present county line dividing El Dorado county from the county of Amador is hereby detached from the county of El Dorado, and at- ^{Attached to.} tached to, and made a part of Amador county.

CHAPTER XCIII.

AN ACT

To fix the Compensation of the County Judge of Sierra County, and to repeal, in part, the first section of an Act entitled "An Act to fix the Compensation of County Judges and Associate Justices of the Courts of Sessions," passed May 17th, 1853.

[Approved April 16, 1855.]

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

- Compensation. SECTION 1. The County Judge of Sierra county, shall receive for his services annually, the sum of three thousand dollars.
- Repeal. SEC. 2. The first section of "An Act to fix the compensation of County Judges and Associate Justices of the Courts of Sessions," passed May seventeenth, one thousand eight hundred and fifty-three, is hereby repealed, so far as the provisions of said section extends to the county of Sierra.
- Take effect. SEC. 3. This Act to take effect and be in force from and after the commencement of the ensuing term of office.

CHAPTER XCIV.

AN ACT

Fixing the time of Holding the several Courts authorized to be held by the County Judge in the County of Tuolumne.

[Approved April 16, 1855.]

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

- When held. SECTION 1. The Courts authorized to be held by the County Judge in the county of Tuolumne shall hereafter be held, all at the same time, viz: On the first Monday of February, April, June, August, October and December of each year.
- Order of business. SEC. 2. At said terms the business pertaining to the Courts of Sessions shall first be disposed of, and after that the business of the County Court, and Probate Court, in such order as the Judge may determine.
- Records. SEC. 3. The records of each of said Courts shall be kept separately, as required by law.

SEC. 4. The County Judge of said county may call and hold special terms of the Probate Court, and the Court of Sessions, whenever the public interest may require it. Power of County Judge.

SEC. 5. "An Act concerning the Courts of Justice of this State, and Judicial Officers," passed May 19th, 1853, so far as the same relates to the county of Tuolumne, and controverts the provisions of this Act, is hereby repealed.

CHAPTER XCV.

AN ACT

Concerning the Records in the Office of the County Recorder of San Francisco County.

[Approved April 16, 1855.]

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

SECTION 1. John A. Clark, late Deputy County Recorder of the county of San Francisco, is hereby authorized and empowered to sign the name of Thomas B. Russum, County Recorder, by him as Deputy, to the note at the foot of each of the records made during the term of office of said Russum, and left unsigned by him at the expiration of his said official term. Clark authorized to sign name of Russum.

SEC. 2. The records so signed and copies thereof certified by the Recorder, shall be received in all the Courts of this State, and shall have the same force and effect as evidence in said Courts, as if the same had been signed by said Russum during his official term. Records as evidence.

SEC. 3. Said John A. Clark shall, for the signing of each record, as provided by the provisions of this Act, receive the sum of forty cents; and the whole expense of so signing such records, is hereby made a charge upon the county of San Francisco, and shall be allowed, audited and paid, in like manner with other charges against said county. Recompense to clerk. Charged to county.

SEC. 4. *Provided*, that before being entitled to receive any compensation for services performed as prescribed by this Act, the said John A. Clark shall, before some competent officer, subscribe to an affidavit, stating the account is just, for services rendered under this Act, and that no charge is made for deeds already signed by him, before the passage of this Act. Provido. Deeds already signed.

CHAPTER XCVI.

AN ACT

To Incorporate the Town of El Dorado.

[Approved April 16, 1855]

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

- Incorporated.** SECTION 1. The inhabitants of the district of country hereinafter described, are hereby declared to be incorporated under the provisions of an Act to provide for the incorporation of towns, passed March twenty-seventh, eighteen hundred and fifty, with the style and name of the "Town of El Dorado," and by that name they shall have perpetual succession, may sue and be sued, and may purchase, receive and hold property for their common benefit, and sell, or otherwise dispose of the same.
- Name.**
- Privileges.**
- Boundaries.** SEC. 2. The boundaries of said "Town" shall be as follows: Commencing at a point half a mile north from the southeast corner of the Oriental Hotel, in the township of Mud Springs, El Dorado county, thence north half a mile, thence west one mile, thence south two miles, thence east one mile, thence north half a mile, thence east one mile, thence north one mile, thence west one mile to the place of beginning, containing three square miles.
- Powers of Trustees.** SEC. 3. The corporate powers in and of said "Town" shall be vested in a Board of Trustees, to consist of five members, who shall be elected by the qualified electors of said "Town," on the third Monday of April in each year, and shall hold office for the term of one year, and until their successors are qualified; and they shall receive a compensation for their services, which shall not exceed one dollar per day, for each day's actual service. Their sittings shall be public, and they shall keep a Journal of their proceedings, and the yeas and nays on any question shall be taken and entered on said Journal at the request of any member.
- When elected.**
- Term of office.**
- Compensation.**
- Sittings.**
- Power of Trustees.** SEC. 4. The Board of Trustees shall have power to open, alter, extend, pave, grade or otherwise improve and to regulate streets, lanes and alleys; to construct and keep in repair bridges, fences and public places. They shall have power to sell, lease, or otherwise dispose of the common property, but all sales or leases shall be by public auction, after ten days' notice, posted in three of the most public places within said "Town." They shall have power to organize and support Common Schools and Academies; to make regulations for securing the health, cleanliness, ornament, peace and good order of the Town, and for preventing and extinguishing of fires; they shall have power to levy taxes, not exceeding one half of one per cent. per annum on the assessed value of the real and personal property within the Town, for the support of Free Schools, and for defraying the ordinary expenses of the Town; to license exhibitions, shows, amusements and billiard tables; to suppress all gambling houses, dram shops, and all occupations, places, houses and exhibitions, which are against good morals, and contrary to
- Same.**

public order and decency; to regulate and change the location for the storage of gunpowder, slaughter-houses and tanneries, and to remove and abate nuisances; they shall also have power to appoint some suitable person to assess property, and collect the taxes, as the Board of Trustees may determine.

SEC. 5. No member of the Board of Trustees shall be directly or indirectly interested in any contract, or sale of anything belonging to said Town, or any work, or business, ordered to be executed by the authority of said "Board." Contracts, etc.

SEC. 6. The elections and returns under this Act, shall be regulated in the same manner as is prescribed in the Act to provide for the incorporation of Towns. Collections, etc.

SEC. 7. This Act shall commence and be in force from the passage thereof. Take effect.

CHAPTER XCVII.

AN ACT

To amend an Act entitled "An Act amendatory of and supplementary to an Act entitled an Act concerning the Courts of Justice of this State and Judicial Officers," passed May 15th, 1854.

[Approved April 16, 1855.]

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

SECTION 1. The twelfth section of the Act entitled "An Act concerning Courts of Justice of this State and Judicial Officers," passed May nineteenth, eighteen hundred and fifty-three, is amended, so as to read as follows: Section Twelfth. The State shall be divided into fifteen Judicial districts, which districts shall be composed of the several counties, and numbered as follows: First, The [First] Judicial District shall be composed of the counties of San Diego, Los Angeles and San Bernardino; Second, The Second Judicial District shall be composed of the counties of Santa Barbara and San Luis Obispo; Third, The Third Judicial District shall be composed of the counties of Santa Cruz, Santa Clara, Monterey and Alameda; Fourth, The Fourth Judicial District shall be composed of that part of the northern portion of the county and city of San Francisco, lying north of a line described as follows: commencing at the western boundary of said county, at a point in a line with the centre of Clay street, in said city, thence running east in a line with and through the centre of said Clay street to the western line of Kearny street, thence north along the western line of Kearny street to the City Hall or Court House between Merchant and Washington streets of said city, at a point in a line with the northern wall of said building, thence east to the northwest corner of said

Section 12
amended.
Judicial districts
How composed.
First.
Second.
Third.
Fourth.

Hall or Court House, thence east along said northern wall to the centre of Dunbais Alley, thence southerly along the centre of Dunbais Alley forty feet, thence at right angle westerly to a point sixty feet easterly from the eastern line of Kearny street, thence southerly to the southern wall of said City Hall, thence easterly along said wall to the centre of Dunbais Alley, thence southerly along the centre of Dunbais Alley to the centre of Merchant street, thence westerly along the centre of Merchant street, thence southerly along the eastern line of Kearny street to the centre of Clay street, thence easterly along the centre of Clay street to the centre of Montgomery street, thence south along the centre of Montgomery street to Sacramento street, thence east through Sacramento street, and in a straight line to the eastern boundary of the county of San Francisco; Fifth, The Fifth Judicial District shall be composed of the counties of Calaveras, Amador, Tuolumne, San Joaquin and Stanislaus; Sixth, The Sixth Judicial District shall be composed of the county of Sacramento; Seventh, The Seventh Judicial District shall be composed of the counties of Marin, Sonoma, Mendocino, Napa, Solano and Contra Costa; Eighth, The Eighth Judicial District shall be composed of the counties of Klamath and Siskiyou; Ninth, The Ninth Judicial District shall be composed of the counties of Colusa, Butte and Shasta; Tenth, The Tenth Judicial District shall be composed of the counties of Yuba and Sutter; Eleventh, The Eleventh Judicial District shall be composed of the counties of El Dorado, Placer and Yolo; Twelfth, The Twelfth Judicial District shall be composed of that portion of the county and city of San Francisco, which is not included within the limits of the Fourth Judicial District; Thirteenth, The Thirteenth Judicial District shall be composed of the counties of Mariposa and Tulare; Fourteenth, The Fourteenth Judicial District shall be composed of the counties of Sierra, Nevada and Plumas; Fifteenth, The Fifteenth Judicial District shall be composed of the counties of Trinity and Humboldt.

Sec. 2. The Governor shall appoint and commission some competent person in each of the said Thirteenth, Fourteenth and Fifteenth Districts, who shall hold their offices respectively, until the next general election, when Judges shall be elected by the qualified voters of the respective Districts, and until the said Judges thus elected shall be qualified. The salaries of the Judges appointed according to the provisions of this Act, shall be as follows: In the Thirteenth District, at the rate of four thousand dollars per annum; in the Fourteenth and Fifteenth Districts, six thousand dollars per annum, to be paid as other District Judges are paid; *provided*, that nothing contained in this section shall be so construed as to fix the salaries of the Judges of the Thirteenth, Fourteenth and Fifteenth Districts that shall be elected at the next general election. This Act shall take effect from and after its passage.

Fifth.
Sixth.
Seventh.
Eighth.
Ninth.
Tenth.
Eleventh.
Twelfth.
Thirteenth.
Fourteenth.
Fifteenth.
Governor to appoint.
Term of office.
Salaries.
In Thirteenth.
In Fourteenth and Fifteenth.
How paid.
Proviso.
Take effect.

CHAPTER XCVIII.

AN ACT

Amendatory of "An Act to establish Pilots and Pilot Regulations for the Port of San Francisco," passed May 11th, 1854.

[Approved April 16, 1855.]

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

SECTION 1. Section thirty-one of an Act to establish Pilots and Pilot Regulations for the port of San Francisco, passed May eleventh, one thousand eight hundred and fifty-four, is hereby amended, so as to read as follows: Section thirty-one. That all vessels arriving at, or leaving the harbor of San Francisco, shall be liable for the above rates of pilotage, when a pilot is employed; or when a vessel is spoken and the services of a pilot are refused, he shall be entitled to receive one half of the above rates; *provided*, that all vessels engaged in the coasting trade of this State, or between this State and Oregon, or Washington Territory shall not be liable to any charge for any pilotage, except when the services of a pilot shall have been actually accepted; *and provided further*, that no vessel engaged in the whaling traffic shall be liable for any fees for any pilotage, except when the services of a pilot shall have been actually accepted; and any vessel so engaged in such whaling traffic, who may have accepted the services of a pilot in either coming into or going out of the harbor of San Francisco, shall only be liable to pay pilot fees at the rate of one dollar for each foot of water that such vessel may draw; and any pilot refusing to render his services to vessels engaged in the whaling traffic, at the above rates, shall, upon conviction thereof, before the Board of Pilot Commissioners, forfeit his license.

Section 31 amended.

Vessels at San Francisco.

Rates of pilotage

services refused.

Proviso.

Further proviso.

Exception

Fees.

CHAPTER XCIX.

AN ACT

To provide for the settlement of the affairs of the State Marine Hospital at San Francisco, and to dispose of the Property belonging to the same.

[Approved April 16, 1855.]

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

Trustees.

SECTION 1. The Governor, Secretary of State and Controller of State are hereby constituted a Board of Trustees of the State Marine Hospital, whose duty it shall be to audit all just claims now outstanding against the said Hospital. Said Trustees shall be required to examine and report upon said claims prior to the first day of May next ; and the Controller of State is hereby required to draw his warrants on the Treasurer of State, in payment of all claims so audited by said Board of Trustees.

Duty of.

Warrants authorized.

Sum set apart.

SEC. 2. The sum of one hundred thousand dollars is hereby set apart and appropriated out of any moneys in the General Fund not otherwise appropriated, for the payment of the just claims now outstanding against the State Marine Hospital at San Francisco.

Hospital property ceded.

SEC. 3. All property now belonging to the State Marine Hospital at San Francisco, is hereby ceded and conveyed to the county of San Francisco, to be used for indigent sick purposes, and the Trustees of said Hospital are hereby required to take possession of all and every description of property belonging to said Hospital, and deliver the same to the Board of Supervisors for said county.

CHAPTER C.

AN ACT

To amend An Act to provide Revenue for the Support of the Government of this State, passed May 15, 1854.

[Approved April 17, 1855.]

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

SECTION 1. Section one hundred and eleven of an Act entitled "An Act to Provide Revenue for the Support of the Government

of this State," is hereby amended so as to read as follows : Section ^{Sheriff's} one hundred and eleven. The Sheriffs (or collectors of taxes) of ^{allowance.} the counties of Santa Clara, Alameda, Monterey, San Luis Obispo, Santa Barbara, Napa, Sonoma, Contra Costa, San Joaquin, Santa Cruz, Tulare, San Bernardino, Sacramento, San Francisco, Mendocino, Marin, Solano, Los Angeles, San Diego, Stanislaus and Yolo, shall be allowed for collecting all taxes (except license taxes, "foreign miner's" taxes and poll taxes,) the following rates on all moneys collected and paid over, namely : six per cent. on the first ten thousand dollars ; four per cent. on all over ten thousand dollars, and under twenty thousand dollars ; three per cent. on all over twenty thousand dollars and under fifty thousand dollars, and two per cent. on all over fifty thousand dollars ; *provided*, that in the county of San Francisco the Sheriff shall be allowed one per cent. on all sums over two hundred thousand dollars, and no more. The Sheriffs (or collectors of taxes) of the counties of Butte, Yuba, El Dorado, Plumas, Placer, Amador, Tuolumne, Calaveras, Sierra, Nevada, Trinity, Klamath, Shasta, Humboldt, Colusi, Siskiyou, Mariposa and Sutter, shall be allowed for collecting all taxes (except license taxes, foreign miners' taxes and poll taxes,) the following rates on all moneys collected and paid over, namely : six per cent. on the first ten thousand dollars ; eight per cent. on all over ten thousand dollars and under twenty thousand dollars, and ten per cent. on all over twenty thousand dollars. The Assessor and his ^{Assessors'} Deputies, each shall be allowed not more than ten dollars per diem ^{allowance.} for his services, whilst actually engaged in the assessment of the property of his county ; but he shall receive no per diem whilst engaged in collecting poll or other taxes. The County Auditor shall be ^{County Audit-} allowed thirty cents per folio for all services performed in the discharge ^{ors' allowance.} of his duties under this Act, and no other compensation ; *provided*, that in the county of San Francisco the Auditor shall not receive more than fifteen cents per folio, and no other compensation shall be allowed him. The County Treasurer shall be allowed for all moneys ^{County Treas-} received and disbursed by him, three per cent. on the first fifty ^{urers' allowance.} thousand dollars ; two per cent. on all over fifty thousand dollars, and under one hundred thousand dollars ; and one per cent. on all over one hundred thousand dollars ; *provided*, nothing in this Act shall be ^{Proviso.} construed so as to allow any officer a per centage on both receiving and disbursing.

CHAPTER CI.

AN ACT

To provide for the Extinguishment of the Indebtedness, present and accruing, of the County of Monterey.

[Approved April 17, 1855.]

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

| | |
|---|--|
| Special tax. | SECTION 1. The "Board of Supervisors" in and for the County of Monterey, in addition to other taxes they may levy under authority of law, shall annually levy a special tax on the taxable property in said county, of not exceeding one per cent., to be collected in legal currency of the United States ; one-half of the money collected under the provisions of this Act, shall be held and used as a "fund for current expenses" of the county, and the other half shall be held and used as a "sinking fund" for said county, and these funds shall be held, used and disbursed only as prescribed in this Act. |
| Disposition of tax Fund for current expenses. Sinking Fund. | |
| Fund for current expenses. How paid. | SEC. 2. The money collected and paid into the "fund for current expenses," shall be paid out exclusively for the necessary county expenses accruing during the year, commencing the first day of July next, and annually thereafter ; and all warrants drawn on the "fund for current expenses" during the year must distinctly specify the liability for which they are drawn, and when it accrued, and shall be paid in the order of presentation to the County Treasurer ; and if there be not sufficient money in the "fund for current expenses" to pay all such warrants, then the balance shall be paid in the same manner as the present outstanding warrants of the county. If there remain at the end of the year any surplus of the money so raised by taxation for current expenses, it shall be first applied to the payment, in the order it has been presented to the County Treasurer, of county indebtedness created prior to the commencement of the fiscal year, and for which no provision is made, if there be such ; and second, it shall be placed to the funds of the ensuing year ; and further, all license and poll-taxes received into the County Treasury for county purposes, shall first be applied to the payment, in the order it has been presented to the County Treasurer, of county indebtedness created prior to the commencement of the fiscal year, and for which no provision is made, if there be such ; second, be placed in the fund for the payment of the current expenses of the fiscal year ; and third, be placed to the funds of the ensuing year. |
| Warrants drawn. | |
| How paid. | |
| If fund be deficient. | |
| Surplus | |
| License and poll tax. How applied. First. | |
| Second. | |
| Third. | |
| Duty of Supervisors. | SEC. 3. The "Board of Supervisors" of said county, when there are any moneys in said "Sinking Fund," to the amount of five hundred dollars or more, shall give notice by posting in at least three of the most public places of said county, for not less than fifteen nor more than thirty days, of the amount of money in said fund, and that sealed proposals will be received by the County Treasurer up to a day named, for the surrender, for cash to be paid out of said "Sinking Fund," of County Warrants of said county. |
| Surrender of county warrants | |
| Proposals. | |

SEC. 4. All proposals must be directed to the County Treasurer, ^{To be forfeited.} marked, "Sinking Fund," and must be accompanied with County Warrants of said county, to the amount of ten per cent. of the warrants proposed to be surrendered, to be forfeited to said county, in case the party does not comply with the terms of his bid.

SEC. 5. The proposals shall be opened in the presence of the ^{Proposals} County Treasurer and Board of Supervisors, and the Board shall ^{opened.} first accept those proposals offering warrants at the lowest rate and ^{First accepted.} most favorable to the county, and which will secure to the county the purchase and cancellation of the greatest amount of warrants, and so on, always accepting the next best bid for the county. The bids being at equal rates, preference shall first be given to the person ^{Preference.} offering the smallest amount of warrants; the bids being equal and of the same amount of warrants, each shall be accepted "pro rata."

SEC. 6. In no case shall warrants be received or purchased by ^{County as} the county, as herein provided, at a higher rate than par value. ^{purchaser.}

SEC. 7. If, upon the final settlement of the Sheriff, for taxes col- ^{Supervisors} lected during the year, an amount less than five hundred dollars shall ^{to give notice.} remain in said "Sinking Fund," the Board of Supervisors may give notice for proposals for said amount, and proceed as hereinbefore provided.

SEC. 8. This Act shall remain in force until all County Warrants ^{Act to remain} issued for the payment of legal indebtedness of said county, accruing ^{in force.} prior to the first day of July next, shall be paid, and no longer.

CHAPTER CII.

AN ACT

To extend "An Act for the Protection of Game," passed May 1st, 1852, to the Counties of Shasta and Trinity.

[Approved April 17, 1855]

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

SECTION 1. The "Act for the Protection of Game," passed May ^{Act extended.} 1st, one thousand eight hundred and fifty-two, is hereby extended to and made applicable to the Counties of Shasta and Trinity.

CHAPTER CIII.

AN ACT

To Suppress Gaming.

[Approved April 17, 1855.]

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

Gaming banks. **SEC. 1.** Every person who shall open or cause to be opened, any gaming bank or game of chance, the whole or part of which belongs to him, in any house or other place whatsoever, whether the said house or place be owned or usually occupied by said person or not; and likewise every person who shall deal for, or otherwise conduct, or assist in conducting the affairs of such bank or game; and also every person who shall permit such bank or game to be opened in any house under his control, may be prosecuted by indictment by the Grand Jury of the county in which the offense shall have been committed; or before any Justice of the Peace, or Recorder's Court of said county; and on conviction, upon evidence of one or more credible witnesses, shall be fined in a sum not exceeding five hundred dollars, nor less than one hundred dollars for the first offense, and double such amount for each subsequent offense; and in all cases, the house or place, in which such illegal gaming is carried on or held, except it be done without the knowledge of the owner thereof, shall be held liable for the fines imposed on persons for such illegal gaming within the same.

Dealing games.

House owners liable to indictment.

Fine.

First offense.

Subsequent offenses.

House liable.

Owner of gambling houses, &c.

Fine.

First offense.

Subsequent offenses.

SEC. 2. The owner, tenant, or occupant of any house or building, in which money or goods shall have been lost by gaming, with the knowledge or consent of such owner, occupant or tenant, shall on conviction thereof, be fined not exceeding five hundred dollars, nor less than one hundred dollars for the first offense, and double such amount for each subsequent offense.

Notes, &c., won. **SEC. 3.** All notes, bills, bonds, mortgages or other securities or conveyances whatever, in which the whole or any part of the consideration, shall be for any money or goods, won by gaming or playing at cards, dice or any other game whatever, or by betting on the sides or hands of any person gaming, or for re-imbursing or repaying any money knowingly lent or advanced, for any gaming or betting, or lent and advanced at the time and place of such gaming or betting, shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them in good faith and without notice of the illegality of the consideration of such contract or conveyance.

Duty of District Attorneys. **SEC. 4.** It shall be, and is hereby made the duty of all District Attorneys to prosecute all offenses against this Act, and to make quarterly reports to the Courts of Sessions, or Boards of Supervisors of the county in which such prosecution was had, of the names of all persons who shall have been convicted under the pro-

visions of this Act, during the preceding quarter, together with the amount of all fines so imposed and collected from each person so convicted.

SEC. 5. The District Courts, Courts of Sessions, Justices of the District Courts, &c. Peace and Recorder's Courts, in the several counties of this State, shall have full and complete jurisdiction over all cases arising under the provisions of this Act, and it shall be the duty of the Courts of Duty of Courts of Sessions. Duty of Grand Jury. Sessions to give this law in charge, to the Grand Jury, whose duty it shall be to inquire into and present all cases of a violation of this law; *provided*, that nothing in this Act shall be construed to include Proviso. the games of Billiards and Toppins.

SEC. 6. One fourth of all fines collected under the provisions of this Act, shall go to the District Attorney; one-fourth shall be paid into the Treasury of the county where the offense was committed, and the remainder shall be equally divided among the various Orphan Asylums in counties where such Asylums exist, and where there are no such Asylums, shall go into the "General School Fund" of the county. Disposition of Fines.

SEC. 7. An Act entitled "An Act to license gaming," approved March fourteenth, 1851, and an act to amend the third section of an act entitled "an act to license gaming," approved April twentieth, 1851, are hereby repealed. Acts repealed.

SEC. 8. This Act shall take effect and be in force, in thirty days after its passage; *provided*, that no license referred to in section seven of this Act shall be issued after the passage of this Act. Take effect.

CHAPTER CIV.

AN ACT

To create the County of Merced, to define its Boundaries and to provide for its Organization.

[Approved April 19, 1855.]

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

SECTION 1. There shall be formed out of the southwestern portion of Mariposa county a new county to be called Merced. Formed.

SEC. 2. The boundary of Merced county shall be as follows: Beginning at a place on the San Joaquin river known as Converse's Ferry, thence along the main road leading to a place on the Merced river known as Phillips' Upper Ferry, thence in a straight line to the southeast corner of Stanislaus and southwest of Tuolumne counties, thence along the line dividing Mariposa and Stanislaus counties to the most western corner of the same, thence southeastwardly along the western boundary of Mariposa county to the corner of Tulare and, said county Be- Boundaries.

of Mariposa, thence along the dividing line of Tulare and Mariposa counties to the road leading from Converse's Ferry on the San Joaquin river to Visalia in Tulare county, thence in a straight line to the place of beginning.

Seat of Justice.

SEC. 3. The seat of Justice shall be at such place as may be determined by the qualified electors of the county at the election for county officers, as provided by this Act.

Time of election.

SEC. 4. There shall be an election held for county officers, and to determine the county seat in said county of Merced, on the second Monday in May of the present year, eighteen hundred and fifty-five.

Officers to be elected.

SEC. 5. At the election mentioned in the preceding section there shall be chosen a Board of Supervisors consisting of three persons, one County Judge, one County Attorney, one County Clerk who shall be ex-officio County Recorder, one Sheriff, one County Surveyor, one Assessor, one Treasurer, one Coroner and one Public Administrator, also a place to be the seat of Justice.

Seat of Justice chosen.

Commissioners appointed.

SEC. 6. A. Stevenson, Wm. Neal, W. J. Barfield, Charles V. Snelling, John McDermot, Samuel Lovejoy and C. F. Bloodworth are hereby appointed and constituted a Board of Commissioners to designate the election precincts in the said county of Merced for the said election; to appoint the Inspectors and Judges of the several precincts as designated; to receive the returns of election and to issue certificates of election to the persons entitled to the same.

Duties.

Election laws.

SEC. 7. The laws of a general nature now in force regulating elections in this State, shall apply to the election ordered by this Act, except that the above Board of Commissioners herein appointed shall designate the election precincts, appoint the Inspectors and Judges of election, receive the returns of election, issue the several certificates to the persons elected, and declare what place receives the highest number of votes for county seat.

Exception.

Session of Commissioners.

SEC. 8. Said Board of Commissioners shall hold their first session for the transaction of business at the house of James A. Neal & Co., in said county.

Meeting of.

SEC. 9. The said Board of Commissioners shall meet on the Monday two weeks previous to the election. At such meeting said Board shall appoint one of their number President, and one as Clerk. A record of their proceedings shall be kept; the attendance of a majority of the members of the Board shall be necessary for the transaction of business; at the said meeting the Board shall designate the precincts of the county and appoint Inspectors and Judges of such precincts, and give notice at each of the said precincts.

Duties of Record of Proceedings.

Duty of Board.

Returns.

SEC. 10. Sealed returns from the officers of election may be delivered to any member of said Board. The said Board shall meet on the fifth day subsequent to the election at the house of James A. Neal & Co., and the returns shall then be opened and read, and under their direction, and in their presence a tabular statement shall be made out, showing the vote given at each precinct of the county, for each person and for each of the offices to be filled at the election, and also the entire vote given for each person, and in the county for county seat, and for what place or places cast. The statement made out by such Board, shall be signed by its President and Clerk. The place for which the highest number of legal votes shall be found to have been cast, shall be the county seat. The persons having the highest number of legal votes for the several offices to be filled shall be declared elected, and the President shall immediately make out and send or deliver to each person

Meeting of Board.

Duties thereof.

Statement of.

County seat.

Declared elected.

chosen, a certificate of election signed by him as President of the Commissioners, and attested by the Clerk.

SEC. 11. The County Judge shall qualify before the President of the Board, and enter upon the discharge of the duties of his office on the day succeeding the meeting of the Board as provided in the preceding section. The persons elected as county officers as provided in this Act shall qualify before the County Judge within ten days thereafter, and enter upon the discharge of their duties.

SEC. 12. The President of the Board shall transmit without delay a copy of the tabular statement prepared as provided for in section tenth to the Secretary of State. The election returns of the county and a duplicate tabular statement shall be furnished to and retained by the County Judge of the county until the person elect as Clerk of said county has qualified and entered upon his duties, after which they shall be filed in his office.

SEC. 13. The County Judge chosen under this Act shall hold office for four years from the next annual election for members of the Assembly, and until his successor is elected and qualified; the other officers elected under this Act shall hold their respective offices for the term fixed by law, commencing from the next annual election for members of the Assembly.

SEC. 14. The County Judge shall receive for his services such sum annually as shall be determined by the Board of Supervisors, not to exceed one thousand five hundred dollars, to be paid in the manner provided by an Act to fix the compensation of County Judges and Associates of the Court of Sessions, approved May 17th, 1853.

SEC. 15. The county of Merced for representative purposes shall be and remain a portion of Mariposa county as now fixed, until otherwise provided by law.

SEC. 16. The county of Merced for Judicial purposes shall be attached to and form a part of the Thirteenth Judicial District.

SEC. 17. The Board of Supervisors of Merced county shall have power to levy a special tax, not to exceed fifty cents on each one hundred dollars of valuation of the taxable property of said county, to be assessed and collected as other taxes, and the fund arising from said special tax shall be applied solely to the erection of a Jail and Court House for said county.

SEC. 18. The Board of Supervisors of Merced county shall appoint two Commissioners to meet a corresponding number of Commissioners appointed in like manner by Mariposa, for the purpose of ascertaining and settling the amount of indebtedness said county of Merced shall assume and become responsible for. of the debts of said county of Mariposa, and when ascertained and certified to by said Commissioners or a majority of them to their respective counties, the Board of Supervisors of Merced county shall cause to be issued by the County Treasurer in favor of the county of Mariposa the sum so agreed upon payable out of any money that may come into the Treasury of Merced county.

SEC. 19. All township officers chosen at the general election for Mariposa county whose districts by this Act may be included within the present limits of Merced county, shall continue to hold their respective offices for said county of Merced, during the term for which they were elected, and until their successors are elected and qualified.

SEC. 20. The Clerk and Recorder of Mariposa county upon application by any person and payment of the fees, shall furnish certified copies of all deeds or other papers recorded in their offices, wherein the

subject matter of such deed or other papers are situated in Merced county.

Action pending. **How disposed of.** SEC. 21. All actions pending or proceedings in the nature of actions, whether original or on appeal, civil or criminal, that were commenced by a party or parties now residing within the limits of Merced county, shall be disposed of by the tribunals and officers having jurisdiction of the same in Mariposa county upon the organization of said Merced county.

Duty of County Surveyor. SEC. 22. It shall be the duty of the County Surveyor under the instructions and direction of the Board of Supervisors to survey and mark the lines and boundaries of Merced county in accordance with the provisions of this Act, and for said services he shall receive such compensation as may be allowed by law.

Compensation. **Sinking Fund.** **Purpose thereof.** **Duty of Treasurer.** **Receipt.** SEC. 23. Twenty per cent. of all moneys received in the County Treasury of Merced county shall be set apart as a sinking fund to liquidate the debt due from Merced county to Mariposa county, and shall be paid over by the Treasurer of Merced county to the Treasurer of Mariposa county, every three months, and the Treasurer of Merced county shall take his receipt therefor.

CHAPTER CV.

AN ACT

To prohibit any person or persons, Association, Company or Corporation, from exercising the privileges of Banking or creating paper to circulate as money.

[Approved April 19, 1853.]

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

Paper money SECTION 1. If any person or persons, association, company or corporation shall make, issue, or put in circulation, any bill, check, ticket, certificate, promissory note or the paper of any bank, to circulate as money, the said person or persons, association, company or corporation, or the persons forming the same shall, for the first offense, be deemed guilty of a misdemeanor, and for each and every subsequent offense, be deemed guilty of felony, and shall be punished as hereinafter provided.

First offense. **Subsequent offenses** **Punishment for first offense.** **Subsequent offenses.** SEC. 2. Any person or persons who shall upon indictment be convicted of having violated the provisions of this Act, shall be punished for the first offense by imprisonment in the County Jail not more than three months, or by fine not exceeding two thousand dollars, or by both such fine and imprisonment; and for the second and every subsequent offense, shall be punished by imprisonment in the State Prison for a term not less than one year, nor more than five years, at the discretion

of the Court before whom such person or persons shall be tried and convicted.

SEC. 3. It shall be the duty of the District Attorney of each county in the State to prosecute all offenses against this Act, and it shall be the duty of the Judges of the Courts of Sessions to give this law in charge to the Grand Jury, who shall inquire into and present all cases of a violation thereof.

Duty of District Attorney.
Duty of Judges of Courts of Sessions
Grand Jury.

CHAPTER CVI.

AN ACT

Supplementary to the Act entitled "An Act to amend and supplementary to an Act entitled an Act to Incorporate the City of Sacramento, passed March, 1851," approved March 31st, 1855.

[Approved April 19, 1855.]

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

SECTION 1. All moneys accruing to the Treasurer of the city of Sacramento on and after the sixth day of April, in the year eighteen hundred and fifty-five, shall be, and the same are hereby appropriated to the payment of the disbursements and expense accruing on and after that date.

Moneys accruing.
Appropriated.

SEC. 2. The Common Council are hereby authorized to fund all outstanding indebtedness of the city of Sacramento which accrued prior to the sixth day of April, in the year eighteen hundred and fifty-five, by issuing bonds in payment thereof, payable not less than fifteen nor more than twenty years from the date thereof, and bearing interest payable semi-annually, which shall not exceed the rate of seven per centum per annum, to be issued in accordance with the provisions of an ordinance enacted for the purpose.

Outstanding indebtedness.
Bonds.
Limits of payment.
Per centage.
How issued.

SEC. 3. The income and revenue of said city of Sacramento, of every nature and description whatever, shall be, and the same are hereby exempted from attachment, execution and proceedings supplementary to execution ; but the same shall be and remain subject only to disbursements by the Council in accordance with the provisions of the charter.

Income exempted.
Income—how disbursed.

SEC. 4. The Water Works of said city of Sacramento, including the building, machinery and lot whereon the same are situated, as well as the supply pipe purchased by the city and about to arrive, as also the pumping machine and building containing the same, belonging to said city shall be, and the same are hereby exempted from execution.

Water Works.
Supply pipe.
Pumping machine.
Exempt from execution.

SEC. 5. Section sixteen of the Act entitled "An Act to amend and supplementary to an Act entitled an Act to incorporate the City of Sacramento, passed March, 1851," approved March 31st, 1855, is hereby amended, so as to read as follows : From and after the passage

Act of March, '55, amended.

Warrants preferred.

Warrants not paid.

Book of registry.

Warrants redeemed.

Take effect.

of this Act all warrants drawn on the City Treasurer shall be entitled to preference as to payment out of moneys in the Treasury applicable to such warrants, according to the priority of time in which the same may have been presented; and when warrants are presented to the City Treasurer for payment, and the same are not paid for want of funds, the Treasurer shall register such warrants, with the date of their presentation, in a book to be kept by him for that purpose, which book, during office hours, shall be open to public inspection, and upon the receipt of any moneys into the Treasury applicable to their redemption, it shall be the duty of the Treasurer to redeem the warrants in the order of their register.

SEC. 6. This Act shall take effect and be in force from and after its passage.

CHAPTER CVII.

AN ACT

To change the name of Joseph Wilson to Albert Calhoun Joseph Wilson.

[Approved April 19, 1855.]

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

Name changed.

SECTION 1. It shall be lawful for the person heretofore bearing the name of Joseph Wilson, to change said name to Albert Calhoun Joseph Wilson.

CHAPTER CVIII.

AN ACT

Supplementary to and amendatory of "An Act to Incorporate the City of Marysville," passed March 5th, 1855.

[Approved April 19, 1855.]

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

SECTION 1. The boundaries of the city of Marysville shall be as Boundaries. follows: Commencing at high water mark on the southern bank of the Yuba river at a point one mile east of the Public Plaza, and running thence north two miles; thence west to Feather river; thence south, following Feather river to high water mark on the southern bank of the Yuba river; thence east along the southern bank of the Yuba river to the place of beginning.

CHAPTER CIX.

AN ACT

To discharge the Board of Examiners of War Claims from further Duties, and to abolish the same.

[Approved April 23, 1855.]

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

SECTION 1. The Board of Examiners of War Claims, consisting of Date of Secretary of State, the Controller and Treasurer of State, are by this discharge. Act, from and after the first day of August next, discharged from all further duties in connection therewith, and from and after that date said Board shall cease to exist.

SEC. 2. The Board of Examiners of War Claims are hereby re- Final action. quired to examine and take final action on all claims presented to said Board, on or before the last day of July next, and to make a full and Statement of complete statement, in duplicate, of all their acts from the organiza- Acts. tion of the Board, to the time of the close of their duties; the dupli- Duplicate. cate of which shall be laid before the Legislature at its next session, Original. and the original shall be deposited in the office of the Secretary of State.

- Clerk of Board. SEC. 3. To enable the Board of War Claims to comply with the provisions of this Act, they are authorized to employ a Clerk for that purpose, who shall receive as compensation the same rate of pay as the First Clerk in the Secretary of State's office; and all claims not presented for payment before the first day of August next, are hereby declared to be barred.
- Compensation.
- Claims not presented.
- Repealed. SEC. 4. All laws and parts of laws inconsistent with and conflicting with the provisions of this Act, are hereby repealed.

CHAPTER CX.

AN ACT

To amend an Act to regulate the Settlement of Estates of Deceased Persons, passed May 1st, 1851.

[Approved April 23, 1855]

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

- Act of 1851 amended. SECTION 1. Section 20 of an act entitled An Act to regulate the Settlement of the Estates of Deceased Persons, passed May 1st, 1851, is hereby amended so as to read as follows: Section 20.
- Contesting will. any person appears and contests a will, he shall file a statement in writing of the grounds of his opposition; when any issue or issues of fact shall be joined in the Probate Court respecting the competency of the deceased to make a last will and testament or respecting the execution by the deceased, of such last will and testament under restraint or undue influence, or fraudulent representations, or for any other cause affecting the validity of such will, such issue or issues shall, at the request of either of the parties interested, be certified immediately to the District Court of the proper county for trial by jury; or may, by consent of the parties, be tried by the Probate Court. Issue shall be deemed joined by the filing of the grounds of opposition as aforesaid with the Clerk of the Probate Court; such issue or issues of fact shall be made up and tried in the same manner as is or may be provided by law for the trial of issues of fact in other cases; upon determination, of such issue or issues of fact, the jury trying the same shall render a special verdict thereon, and the finding of the jury shall be certified by the District Court to the Probate Court, whereupon the Probate Court shall proceed to admit said will to probate or not, according to the facts found and the law.
- Issues joined.
- To be certified to District Court.
- Tried by Probate Court.
- Issues—how joined
- Manner of trial.
- Special verdict.
- Procedure.
- Section 24 amended. Duty of Court. SEC. 2. Section 24 of said Act is so amended as to read as follows: Section 24. If the Court shall be satisfied, upon the proof taken or from the facts found by the jury, that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind, and not under restraint, undue influence or fraudulent misrepresentation, a certificate of the proof and the facts

found, signed by the Probate Judge, and attested by the seal of the Court, shall be attached to the will.

Sec. 3. Section 52 of said Act is so amended as to read as follows: Sec. 52. Administration of the estate of a person dying intestate shall be granted to some one or more of the persons hereinafter mentioned, and they shall be, respectively, entitled in the following order: First, the surviving husband or wife, or some person as he or she may request to have appointed; Second, the children; Third, the father or mother; Fourth, the brothers; Fifth, the sisters; Sixth, the grandchildren; Seventh, any other of the next of kin who would be entitled to share in the distribution of the estate; Eighth, the Public Administrator; Ninth, creditors; Tenth, any person or persons legally competent, *provided*, that when there was any partnership existing between the intestate at the time of his death, and any other person, the surviving partner shall in no case be appointed administrator of the estate of such intestate.

Section 52 amended Persons dying intestate.
How entitled.
First.
Second.
Third.
Fourth.
Fifth.
Sixth.
Seventh.
Eighth.
Ninth.
Tenth.
Provided.

Sec. 4. Section 88 of said Act is so amended as to read as follows: Section 88. When there shall be a delay in granting letters testamentary or of administration, from any cause, or when such letters shall have been granted irregularly, or no sufficient bond shall have been filed as required by law, or when no application shall have been made for such letters, the Probate Judge shall appoint a special administrator to collect and take charge of the estate of the deceased, in whatever county or counties the same may be found, and to exercise such other powers as may be necessary for the preservation of the estate; or he may direct the Public Administrator of his county to take charge of the estate.

Section 88 amended Letters testamentary or of administration.
Probate Judge to appoint administrator.
Further power of Probate Judge.

Sec. 5. Said Act is hereby amended by an additional section thereto, to read as follows: Section 314. All other issues of fact joined in the Probate Court, shall be disposed of in the same manner as is provided in Section 20 of this Act, for issues joined on application for probate of wills.

Additional section.
Other issues joined.

CHAPTER CXI.

AN ACT

For the Relief of H. B. and C. E. Paine.

[Approved April 22, 1855]

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

SECTION 1. The Controller of State is hereby authorized and required to draw his warrant on the State Treasurer, in favor of H. B. and C. E. Paine, for the sum of one hundred and ninety-seven dollars; and the Treasurer is required to pay the same out of any money in the Treasury not otherwise appropriated.

Warrant.

CHAPTER CXII.

AN ACT

To amend an Act entitled "An Act to create a Board of Supervisors, in the counties of this State, and to define their duties and powers," passed March 20, 1855.

[Approved April 23, 1855.]

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

Section 3
amended.
Supervisors.
Election for.

Shall qualify.

Term of office.

Proviso.

Further
provided.

Further
provided.

SECTION 1. That section third of said Act shall read as follows:—
In each of the counties where no Board of Supervisors now exists, there shall be an election held for Supervisors on the second Monday in April, A. D., eighteen hundred and fifty-five. And the Supervisors elected under this Act shall qualify on or before the first day of the first regular meeting of the Board, as provided in this Act; and shall hold their office until the next general election, and until their successors are elected and qualified, *provided*, that in the counties of Sacramento and Yuba the first election for Supervisors to be held under the provisions of this section, shall be held on the first Monday in April, A. D., eighteen hundred and fifty-five, and *provided further*, that in the county of Klamath, the election be held on the first Monday in May next, and *provided further*, that in the county of San Joaquin, the first election for Supervisors to be held on the same day of the Municipal election of the city of Stockton, next following the passage of this Act.

CHAPTER CXIII.

AN ACT

To establish the boundaries of Amador County, and fix the County Seat thereof.

[Approved April 23, 1855.]

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

Boundaries.

SECTION 1. The following shall be the boundaries of the county of Amador: Beginning in the middle of the Mokelumne river, on the eastern boundary of San Joaquin county, thence up the middle of the

channel of said river, to the junction of the North Fork of the same; thence up the middle of the said North Fork to its source; thence due east to the eastern boundary of the State; thence north-westwardly to the southern boundary of El Dorado County; thence down the middle of the said South Fork of the South Fork to its mouth; thence on an air line to the middle of the Cosumnes river, where said river enters Sacramento County; thence south-eastwardly on the line of Sacramento and San Joaquin counties, to the place of beginning.

SEC. 2. The County Seat of said county shall be at the town of ^{County Seat.} Jackson.

CHAPTER CXIV.

AN ACT

Relating to the safe keeping of the Public Moneys.

[Approved April 23, 1855.]

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

SECTION 1. All the Public Moneys of this State which may be at ^{Fire proof vault.} any time on hand in the Treasury, shall hereafter be kept in the "fire-proof vault" in the building now occupied as the Capitol, in the city of ^{Duty of Superintendent of Public Buildings.} Sacramento; and the Superintendent of Public Buildings, is hereby required to furnish said vault, with a sufficient safe, and he is further required to furnish the room adjoining said vault, in a suitable manner for ^{Treasurer's office.} the office of the Treasurer of State, also a room contiguous thereto for ^{Controller's office.} the office of the Controller of State, and the Treasurer and Controller are hereby required to keep their respective offices in said rooms.

SEC. 2. The Treasurer of State is hereby required to withdraw any ^{Requirement of Treasurer.} and all moneys, belonging to the State, which may be on deposit, or in possession of any other person or persons, Banking House or Houses, Corporation or Corporations whatever, and deposit the same in said ^{Public moneys.} vault, and none of the Public Moneys shall hereafter be deposited with any Individual, Copartnership, or Corporation, but shall be kept in said vault, for the use of the State.

CHAPTER CXV.

AN ACT

Concerning the Organization of the Militia.

[Approved April 25, 1855.]

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

Citizens subject to military duty.

SECTION 1. All free, able-bodied white citizens, between the ages of eighteen and forty-five years, residing in this State, and not exempt by law, shall be subject to military duty, and shall be enrolled as hereinafter directed.

Division of Companies.

SEC. 2. The enrolled militia and volunteer and independent companies of this State, shall be organized into six divisions, and twelve brigades, as follows, viz. : The Counties of San Diego, San Bernardino, Los Angeles, Santa Barbara, San Luis Obispo and Monterey, shall compose the First Division ; the Counties of Santa Cruz, Santa Clara, San Francisco, Alameda and Contra Costa, shall compose the Second Division ; the Counties of San Joaquin, Mariposa, Tulare, Tuolumne and Calaveras, shall compose the Third Division ; the Counties of Amador, El Dorado, Sacramento, Placer, Nevada and Sierra, shall compose the Fourth Division ; the Counties of Yuba, Sutter, Yolo, Solano, Napa, Sonoma, Marin and Mendocino, shall compose the Fifth Division ; the Counties of Butte, Plumas, Colusi, Shasta, Siskiyou, Trinity, Humboldt and Klamath, shall compose the Sixth Division. The Counties of San Diego, San Bernardino and Los Angeles, shall compose the First Brigade, First Division ; the Counties of Santa Barbara, San Luis Obispo and Monterey, shall compose the Second Brigade, First Division ; the Counties of Santa Cruz, Santa Clara, Alameda and Contra Costa, shall compose the First Brigade, Second Division ; the County of San Francisco shall compose the Second Brigade, Second Division ; the Counties of San Joaquin, Tulare and Mariposa, shall compose the First Brigade, Third Division ; the counties of Tuolumne and Calaveras shall compose the Second Brigade, Third Division ; the counties of Amador, El Dorado and Sacramento shall compose the First Brigade, Fourth Division ; the Counties of Placer, Nevada and Sierra, shall compose the Second Brigade, Fourth Division ; the Counties of Yuba, Sutter and Yolo, shall compose the First Brigade, Fifth Division ; the Counties of Solano, Napa, Sonoma, Marin and Mendocino, shall compose the Second Brigade, Fifth Division ; the Counties of Butte, Plumas, Colusi and Shasta, shall compose the First Brigade, Sixth Division ; the Counties of Siskiyou, Trinity, Humboldt and Klamath, shall compose the Second Brigade, Sixth Division.

First Division.

Second.

Third.

Fourth.

Fifth.

Sixth.]

Brigades of Division.

New counties.

SEC. 3. Any and all new counties which may hereafter be organized in this State, shall be attached to the respective Brigade and Division in which the larger portion of said new county is now located.

Appointments of Governor.

SEC. 4. The Governor of this State shall appoint, after the passage of this Act, six Major-Generals, and twelve Brigadier-Generals, who shall be residents of the respective Divisions and Brigades

created by this Act, and who shall hold their office for the term of four years, and until their successors are elected, or appointed and qualified. Term of office.

SEC. 5. The Commander-in-Chief may nominate and appoint an Aid-de-Camp for each and every Brigade, who shall rank respectively as Colonels of Cavalry, and who shall continue in office for the same term of time as the Commander-in-Chief by whom they were appointed, or at his pleasure. Appointments of Commander-in-Chief. Rank. Term of office.

SEC. 6. The Legislature shall elect, by joint-ballot, one Quarter-Master-General, who shall perform the duties of Adjutant-General, and shall be ex-officio Inspector-General, and shall rank as Brigadier-General, and who shall hold his office for four years, and until his successor is elected and qualified. The first election shall take place on or after the first day of April, eighteen hundred and fifty-eight, when the term of the present incumbent will expire. Adjutant-General. Duties. Term of office. First election.

SEC. 7. It shall be the duty of the Quarter-Master and Adjutant-General to carefully guard, and provide a suitable place for the preservation of all arms, accoutrements, ammunition, ordnance stores and military effects granted by the United States to the State of California, or which may be purchased by this State, or in any other manner become the property of the State; also to receive and keep all reports and returns made to him, in accordance with the provisions of this Act; he shall report to the Governor, on the fifteenth day of December, annually, to be laid before the Legislature: first, an account of all arms, ordnance stores and military effects of every description, which may have come into his possession since his last annual report, how, where and from what source; second, an account of all articles issued or expended, to whom issued, or how expended, and by whose order; third, a statement of the present condition of all effects in his possession; fourth, how much money has been expended for the care, repair, preservation and transportation of arms or other effects, belonging to the State, since his last annual report; fifth, the number, strength and condition of the Volunteer and Independent companies duly organized in this State; sixth, the strength of the enrolled Militia of each and every Brigade and Division. Duty of Quartermaster. To report to Governor.

SEC. 8. He shall make and transmit an annual return of the Militia of this State, pursuant to the requirements of the Act of Congress of March second, eighteen hundred and three, to the President of the United States, a copy of which, duly certified, he shall lay before the Commander-in-Chief of this State. Further duty.

SEC. 9. He shall issue to the commanding officer of any Volunteer or Independent company, or to any military officer, on a proper requisition, approved by the Governor, such arms, accoutrements, ammunition or other military effects in his possession, as may be exactly designated in such requisition, taking such security therefor as is hereinafter designated, and shall perform all other duties appertaining to his office, or which are enjoined on him by law. To issue arms. Security for.

SEC. 10. He shall give bonds to the people of the State of California, with good and sufficient securities, to be approved by the Governor, in the sum of twenty-five thousand dollars, conditioned that he will faithfully perform all the duties enjoined on him by law. He shall reside at the Seat of Government, and shall keep his office open for the transaction of business every day, (Sundays excepted,) from the hours of eleven o'clock, A. M. to three o'clock, P. M. His bonds. Residence. Office hours.

SEC. 11. He shall receive a salary of three thousand dollars annually, to be paid out of moneys appropriated for that purpose. Salary.

- Expiration of term.** SEC. 12. He shall turn over, at the expiration of his term of office, to his successor, in good order, all ordnance, and ordnance stores, and all reports, returns, bonds, money and other effects belonging to his office.
- Commissions.** SEC. 13. Except the Commander-in-Chief, all the officers hereby created shall be commissioned by the Governor, attested by the Quarter-Master and Adjutant-General, and shall take the oath of office prescribed by the Constitution, before some officer authorized by law to administer oaths; a copy of which shall be endorsed on each commission, and a notice of the execution of said oath shall be transmitted to the Quarter-Master and Adjutant-General, by the officer administering the same.
- Oath of office**
- Assessor to enroll.** SEC. 14. The County Assessor of each and every county in this State shall at the same time in each year, when he prepares a roll containing the names of the taxable inhabitants of his county, enroll all persons resident of his county, who are not exempt by law, and who are not members of any Volunteer or Independent Company, upon a separate list; and on or before the first Monday of September in each year, shall transmit a copy of said list to the Brigadier-General of the Brigade to which his county belongs; certified upon oath or affirmation, that the said list is a full and complete return of the citizens of his county entitled to do military duty, and shall deposit the original list in the office of the Clerk of his county.
- Certified copy.**
- Original list. Brigade roll.** SEC. 15. It shall be the duty of the respective Brigadier-Generals, elected [appointed] under this Act, to prepare a military roll from the list or lists made up by the Assessors of the county or counties, composing his Brigade, and forward the original list to the office of the Quarter-Master and Adjutant-General, and a copy of the same duly certified to the Major-General of his Division, on or before the first day of October of each year, and keep an additional copy in his possession; and he shall perform such other duties as the laws of the State may require.
- Copy.**
- Duty of Major-General.** SEC. 16. It shall be the duty of the Major-General of each Division established under this Act, to prepare a muster-roll of the Militia of his Division, arranged in alphabetical order, and file the same in his office.
- In case of war.** SEC. 17. In case of war, insurrection or rebellion, or the resistance of the execution of the laws of this State, or upon the call or requisition of the President of the United States, or upon the call of any officer of the United States Army, commanding a Division, Department or District, the Commander-in-Chief is authorized to call for such portion of the enrolled Militia of this State, by an order directed to any or all of the Major or Brigadier-Generals of Militia, as he in his discretion may deem necessary; and also to call upon any or all of the Volunteer or Independent Companies of the State, by an order directed to the commanding officer of each of said companies as he may decide to call into service, mentioning in each order the time and place of rendezvous, and the officer to whom they shall report.
- Duty of Commander-in-Chief.**
- Independent Companies.**
- Order to be published.** SEC. 18. Whenever such order shall be issued by the Commander-in-Chief, the officer to whom the same shall be directed, shall immediately cause said order to be published in the newspapers of the county or counties from which said troops are to be drawn, or in some other manner he shall give publicity to the order, and unless the requisite number of men be supplied promptly by the volunteering of enrolled

Militia, or of persons subject under this Act to military duty, the said officer shall forthwith proceed to draft from the enrolled Militia of his Division or Brigade, as the case may be, the number of men called for by the said order of the Commander-in-Chief; he shall direct the persons so volunteering or drafted to rendezvous at some convenient point, or as directed in the original order; he shall superintend, either in person or by proxy, the election of company, battalion and regimental officers, as provided in the nineteenth section of this Act.

Draft from militia.

Election of officers.

SEC. 19. Whenever the Commander-in-Chief calls into service any portion of the enrolled Militia of this State, the company, battalion and regimental officers of the same, shall be elected by ballot or division of the persons so called into service, a majority of the whole number being necessary to a choice; and the officers so elected shall be commissioned by the Commander-in-Chief; the same to be held until the said forces are disbanded by the order of the Commander-in-Chief; volunteer forces so called out shall continue their original organization.

How elected.

Duration of

SEC. 20. Any person when ordered out by the Commander-in-Chief, as provided by the foregoing sections, who shall refuse to rendezvous and organize in person, or by a qualified substitute, shall be subject to a fine not exceeding five hundred dollars, to be recovered by an action brought by the District Attorney, upon the certificate given him by the officer to whom the order calling men into service was issued, before any court of competent jurisdiction in the county from which said person was drafted.

Failure to appear.

Fine.

How recovered.

SEC. 21. A company shall be composed of not less than forty, nor more than eighty privates, and the number of officers and musicians as required in the regular service. Battalions and Regiments shall be of the same standard as established in the United States Army.

Composition of a company.

Battalions and regiments.

SEC. 22. All troops called into service after the passage of this Act to repel invasions, or quell insurrections, or for any other purpose, requiring continued service for the space of more than one week, shall receive the pay of the United States troops serving in California, with ten per cent. on the same added thereto.

Term of service and pay.

VOLUNTEERS OR INDEPENDENT COMPANIES.

SEC. 23. Whenever a sufficient number of persons, by the provisions of this Act, citizens of any county of this State, subject to military duty, shall subscribe to a call for the organization of a volunteer company, the County Judge of said county upon due application of the persons who have subscribed as above, shall appoint some suitable person, resident of the county, to open a book, in which he shall enter the names of the persons so volunteering, and shall fix a time and place of meeting for the purpose of organization, by giving ten days' notice thereof by publication in some newspaper, or by posting notices in at least three public places in the county.

Organization of independent companies.

Duty of County Judge.

SEC. 24. The person so appointed shall preside at said meeting and organize the same; he shall superintend the election of officers of said company, which election shall be by ballot; he shall make out, after said election shall have been determined, certificates of election of the officers so elected, and transmit a certified copy of the proceedings of said meeting, together with a certificate of his appointment, and a copy of the notice of said meeting of organization to the Quarter-Master and Adjutant-General of this State.

Duty of person appointed.

Equipment
of companies.

SEC. 25. The volunteer or independent companies shall be armed and equipped in the same manner that similar corps are in the army of the United States, and shall consist of the following officers, non-commissioned officers and privates, viz : To each company of cavalry, one Captain, one 1st and two 2d Lieutenants, four Sergeants, four Corporals, one Saddler, one Farrier, one Trumpeter, and not less than forty, nor more than eighty Privates ; to other companies, there shall be one Captain, one 1st and two 2d Lieutenants, four Sergeants, four Corporals, one Drummer, one Fifer, and not less than forty, nor more than eighty Privates, excepting light batteries, who shall be allowed one hundred active members each, and such officers as are allowed in the United States service.

Officers and
privates.

Exception.

Government
of companies.

SEC. 26. Volunteer companies may adopt a constitution, and form by-laws, rules and regulations, not inconsistent with the Constitution of the United States, or of this State, for the government of their members, and for their improvement in military science. It shall be the duty of the Acting Orderly-Sergeant of the company to keep a perfect and complete record of the constitution, by-laws, rules and regulations of his company, which shall be signed by the Captain, and countersigned by the Orderly-Sergeant ; and said record shall at all times be subject to the inspection of any member of the company, and all military officers or persons interested therein.

Duty of
Orderly Sergeant.

Organization.

SEC. 27. When any volunteer or independent company of cavalry, artillery, infantry or riflemen, shall become organized according to law, the commanding officer of said company may petition the Commander-in-Chief to furnish him for the use of his company, with such arms and accoutrements as may be required. He shall also forward to the Quarter-Master and Adjutant-General, a muster-roll of his company, setting forth the county, brigade and division to which his company belongs. He shall file a bond with the Quarter-Master and Adjutant-General, to the people of the State of California, in the penal sum of double the value of the arms, accoutrements, etc., so petitioned for, conditioned that he will safely keep, have in readiness for use, and return the same, if at any time required so to do, which bond shall be duly approved as to the sufficiency of the security by the County Judge of the county in which said company shall be organized.

Arms.

Bond.

Condition.

Bond approved.

Duty of Com-
mander-in-chief.

SEC. 28. The Commander-in-Chief, upon application being made to him as aforesaid, shall direct the Quarter-Master and Adjutant-General to issue such arms, accoutrements, appendages and ammunition, as are designated in the requisition, and to take receipts therefor, signed by the commanding officer of the company.

Receipt for arms.

Muster rolls.

SEC. 29. It shall be the duty of each and every commanding officer of any volunteer or independent company in this State, on or before the first days of May and November of each year, to make out duplicate muster-rolls, setting forth the names and number of the members of his company, the officers in the order of their rank, and the privates in alphabetical order ; a copy of which, duly certified, he shall transmit to the Quarter-Master and Adjutant-General, and file the original in the office of the County Clerk of his county ; he shall, also, at the time of making out such muster-rolls, report the number and condition of the ordnance stores in his possession.

Object of roll.

Rank.

SEC. 30. All commissioned officers of volunteer or independent companies, shall take rank according to the date of their commissions ;

and when two of the same grade be on an equal date, then their rank shall be determined by lot. Officers of volunteer or independent companies shall in all cases be deemed of superior rank to officers of the enrolled militia of the same grade, irrespective of the date of their commissions. Rank determined by lot.

SEC. 31. The Governor of the State shall be Commander in Chief of the Militia. Commander-in-chief.

SEC. 32. The Commander in Chief shall appoint a general Court Martial for the trial of all officers above the rank of field officers; the Major Generals, each in his own division, may appoint a general Court Martial for the trial of all field officers; the Brigadier Generals or commandants of regiments, each in his own brigade or regiment, may appoint a general Court Martial for the trial of captains and all commissioned officers under that rank; it shall be the duty of the officers appointing Courts Martial to approve or disapprove of the sentences of such Courts Martial, or to mitigate the punishment, or pardon the person or persons convicted, excepting when the offense is of a personal nature, in which case the sentence of the Courts Martial shall be conclusive; Courts Martial established under this Act, shall be organized in like manner, and be subject to the rules and regulations governing Courts Martial in the United States Army. Court Martial. Power of Major General. Power of Brigadier General. Court Martials.

SEC. 33. The rules of discipline of the Militia of this State shall be the same at all times as those established by Congress, for disciplining the regular troops of the United States. Discipline.

SEC. 34. Every free white male inhabitant of this State, between the ages of eighteen and forty-five, not members of any volunteer company, shall be subject to pay an annual tax of twenty-five cents each for the support of the Volunteer Militia of this State. Militia tax.

SEC. 35. It shall be the duty of the Assessor of each county annually, at the time of assessing taxable property, to assess each and every person designated in the preceding section, the sum of twenty-five cents, which said sum shall be collected and returned in the same manner as other taxes are collected and returned. He shall be allowed for services required by this Act the sum of six cents for each and every person enrolled and assessed, to be paid by the Board of Supervisors of his county, upon the presentation of his account for the same duly certified by the Clerk and Treasurer of his county. He shall have power to question under oath, any person whom he may believe liable to do military duty, but who denies the same, and if any person refuses to be sworn, the Assessor shall enroll his name and assess him in the same manner as though he shall have admitted his liability. Assessment. Compensation. How paid. Power of Assessor. Refusing to be sworn.

SEC. 36. If any Assessor shall neglect or refuse to perform any of the duties required of him by this Act, he shall forfeit and pay the sum of not less than fifty nor more than five hundred dollars, to be recovered in the name of the Brigadier General of the brigade in which the said Assessor shall reside; and if any Assessor shall willfully refuse or neglect to perform such duties as are hereby required, he shall be deemed guilty of a misdemeanor. Penalty. Fine—how recovered. Further liability.

SEC. 37. If any person shall neglect or refuse to pay the commutation tax as herein prescribed, and the Collector shall be unable to collect the same, it shall be the duty of the Collector to return the names of all such persons to the County Assessors, which returns shall be delivered to his successor in office, and the delinquent amount assessed in addition to the annual tax on the succeeding year. Refusal to pay tax.

- Sinking Fund.** SEC. 38. Upon the collection and return of the moneys collected by virtue of this Act, into the respective County Treasuries of this State, the County Treasurers thereof shall pay over the same to the Treasurer of State, in the same manner as required by law to pay over any and all moneys which shall come into their hands as County Treasurers for the use and benefit of the State; and the same shall be set apart and denominated the "Military Fund" of the State of California.
- Compensation of Collector.** SEC. 39. The Collector shall receive upon the collections made under the provisions of this Act ten per centum of the amount collected; the same to be deducted at the time of settlement with the County Treasurer.

BOARD OF MILITARY AUDITORS.

- Board of Military Auditors.** SEC. 40. The Commander in Chief, the Quarter-Master and Adjutant-General, and the Controller of State, shall constitute a State Board of Military Auditors. The Commander in Chief shall be President, and the Quarter-Master and Adjutant-General shall be Secretary of the said Board.
- Seal of Board.** SEC. 41. The Board of Military Auditors shall procure a seal, an impression of which shall be deposited by the Secretary of the Board, in the office of the State Treasurer; and attached to all orders drawn upon the Military Fund.
- Money—how paid.** SEC. 42. No money shall be paid out of the Military Fund of this State by the State Treasurer, except upon the order of the Board of Military Auditors, as provided in the forty-first section of this Act; said order shall specify, on its face, the objects for which such money is paid, and to whom, and the amount duly entered in a book to be kept by the Secretary of said Board of Military Auditors.
- Expenses** SEC. 43. It shall be the duty of said Board of Military Auditors to audit and pay all reasonable expenses incurred by volunteer companies in the service of this State, and officers attached to the same, and all other claims required under the provisions of this Act; and the Treasurer of State is hereby required to pay the same out of any moneys in the Military Fund.
- How paid** SEC. 44. The Commander in Chief shall order a public parade of all the volunteer companies of this State, on at least two days of each year; such parade to be held within the limits of the brigade to which the companies belong respectively; such order shall be issued to commandants of companies, battalions or regiments, through the Brigadier Generals of the respective brigades of this State. The public parades, as directed by this Act, shall be reviewed by the Commander in Chief, or in his absence, by the Major General of the division, and the Quarter-Master and Adjutant-General of the State; or in the absence of all these, then by the officer holding the highest rank present.
- Inspector General.** SEC. 45. It shall be the duty of the Inspector General to attend each and every public parade of the volunteer troops of this State, as directed by this Act, unless otherwise officially employed; and make a minute inspection of the dress and general appearance of the field and commissioned staff, the arms, accoutrements and dress of each soldier. In the absence of the Inspector General the inspection shall be conducted by the Brigade Inspector to which said company

or companies belong, who shall report the result of the inspection to the Inspector General within twenty days subsequent to such parade. The inspection of troops, as provided for in this section, shall take place immediately after the same have been reviewed. The Inspector General shall report annually, on the fifteenth day of December, the result of the inspection of each and every company, battalion, regiment or brigade, of volunteer militia in this State, setting forth the condition of the arms, accoutrements and dress of the officers and soldiers attached thereto.

SEC. 46. All active members of uniformed volunteer companies of this State, mustered into service of the State, under the provisions of the laws thereof, shall be exempt from jury duty.

SEC. 47. An Act concerning the organization of the militia, passed April tenth, eighteen hundred and fifty; and an Act concerning volunteer and independent companies, passed April fourth, eighteen hundred and fifty; and an Act authorizing the Governor to call out troops to defend our frontier, and providing for their pay and compensation, passed March seventeenth, eighteen hundred and fifty one; and an Act concerning the organization of the Militia, passed May first, eighteen hundred and fifty-two, and all other Acts or parts of Acts conflicting with this Act, are hereby repealed; provided, that no claim or right that may have accrued under the Act authorizing the Governor to call out troops to defend our frontier, and providing for their pay and compensation, be affected by this repeal.

CHAPTER CXVI.

AN ACT

To Legalize a Certified copy of Book "A" of Records of Sacramento County.

[Approved April 25, 1855.]

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

SECTION 1. From and after the last day of March, A. D. one thousand eight hundred and fifty-five, the copy of book "A" of records used by Henry A. Schoolcraft, which copy was on the first day of January, A. D. one thousand eight hundred and fifty-five, by John L. Craig, County Recorder of Sacramento county, under his seal of office certified to be a full, true and correct copy of such book shall be deemed a legal record; and all instruments therein and certified copies therefrom, shall have the same force and effect as other records and copies of records of said office, recorded on the first day of June, one thousand eight hundred and fifty-three, at twelve o'clock M., and subsequent thereto.

CHAPTER CXVII.

AN ACT

To change the name of Edwin Clark Patt to Edwin Patt Clark.

[Approved April 25, 1855.]

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

Name changed. SECTION 1. That the name of Edwin Clark Patt be and the same is hereby changed to that of Edwin Patt Clark.

CHAPTER CXVIII.

AN ACT

To extend the time of commencing the Construction of Certain Railroads herein named.

[Approved April 25, 1855.]

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

Time extended. The Marysville and Benicia National Rail Road Company, incorporated under the provisions of the general Act to provide for the incorporation of Rail Road Companies, passed April 28th, 1851, and the Pacific and Atlantic Rail Road Company, incorporated under the provisions of the general Act to provide for the incorporation of Rail Road Companies, passed April 22d, 1853, are hereby authorized to extend the time, and the time is hereby extended, for commencing the construction of their respective Rail roads, and expending thereon five per cent. of the respective amounts of their capital stock subscribed, for one year from the passage of this Act, without rendering void their respective acts of incorporation as required by section forty-one of said Act, passed April 22d, 1853, and by section forty-five of the same Act; and by section thirty of said Act, passed April 28th, 1851.

CHAPTER CXIX.

AN ACT

To protect Owners of Growing Crops, Buildings and other Improvements in the Mining Districts of this State.

[Approved April 25, 1855.]

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

SECTION 1. No person shall for mining purposes, destroy or injure any growing crops of grain or garden vegetables growing upon the mineral lands of this State, nor undermine or injure any house, building improvement, or fruit trees, standing upon mineral lands and the property of another, except as hereinafter provided. Crops not to be injured.

SEC. 2. Whenever any person, for mining purposes, shall desire to occupy or use any mineral lands of this State, then occupied by such growing crops of grain, garden vegetables, fruit trees, houses, buildings or other improvements, property of another, such person shall first give bond to the owner of the growing crop, building, fruit trees or other improvement, to be approved by a Justice of the Peace of the township, with two or more sufficient sureties, in a sum to be fixed by three disinterested citizens, householders of the township, one to be selected by the obligor, one by the obligee, and one by a Justice of the Peace of the township, conditional that the obligor shall pay to the obligee any and all damages which said obligee may sustain in consequence of the destruction by the obligor, or those in his employ, of the growing crops, fruit trees, improvements or buildings of the obligee ; *provided*, that the word improvements in this Act shall be construed to mean any superstructure on said farm, ranch or garden, and nothing more. Occupy Mineral Lands, Proviso.

SEC. 3. If any person or persons shall violate the provisions of the first and second sections of this Act, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined in a sum not exceeding two hundred dollars, nor less than fifty dollars, or by imprisonment in the County Jail of said county not exceeding three months, either or both, at the discretion of the Court ; *provided*, nothing in this Act shall prevent miners from working any mineral lands in the State, after the growing crops on the same are harvested. Penalty, Proviso.

CHAPTER CXX.

AN ACT

To authorize the County Auditor of Nevada County to issue certain Bonds.

[Approved April 25, 1855.]

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

| | |
|-----------------------------|---|
| Bonds issued. | SECTION 1. The County Auditor of Nevada county is hereby authorized, upon the order of the Board of Supervisors of said county, to issue the bonds of said county not exceeding thirty thousand dollars in the aggregate, in the manner hereinafter provided, for the purpose of aiding said county in the erection of public buildings. |
| Purpose of bonds. | |
| Time of issue. | SEC. 2. Said bonds may be issued at such times in the opinion of said Board of Supervisors as may be required for the construction and completion of said county buildings, of the denomination of five hundred, and one thousand dollars. They shall be issued by the County Auditor upon the order of the Board of Supervisors and shall be countersigned by the Treasurer, and shall have the seal of the county attached thereto ; <i>provided</i> , that none of said bonds shall be made payable after the year eighteen hundred and sixty. |
| Denomination. | |
| How issued. | |
| Countersigned. | |
| Proviso. | |
| Interest. | SEC. 3. Said bonds may bear a rate of interest not exceeding |
| When payable | twelve per cent. per annum, payable semi-annually at the county seat of said county. When issued, said bonds may be sold or otherwise |
| Bonds sold. * | negotiated by the Board of Supervisors or some authorized agent appointed by said Board for that purpose, the proceeds of which bonds shall only be used and applied for the purpose of erecting and completing said county buildings ; but none of said bonds shall be |
| Proceeds applied. | sold at a discount of more than five per cent. When said bonds are |
| Discount. | so disposed of, the county of Nevada shall become liable for the pay- |
| Liability of Nevada county. | ment of the principal and interest of said bonds according to their face. |
| Bonds made payable. | SEC. 4. Said bonds shall be made payable out of the " <i>County Building Fund</i> ," but if at any time when the interest or principal of said bonds shall become due, and there is not a sum sufficient in said |
| Deficiency of fund. | " <i>County Building Fund</i> " to pay the same, then the Board of Supervisors may appropriate a sufficient sum out of the general fund of said county to pay said interest or principal. |
| Special tax. | SEC. 5. The Board of Supervisors of said county is hereby authorized to levy and collect a special tax not to exceed one-fourth of one per cent. on the taxable property of said county for the purpose of carrying out the provisions of this Act, and the said tax, when paid into the treasury, shall be kept separate from other funds, and is hereby denominated the " <i>County Building Fund</i> ." Should any of said fund remain in the Treasury after the payment of said bonds hereby authorized to be issued, the same shall be turned into the |
| Denomination of Tax. | general fund. |
| Surplus Fund. | |

CHAPTER CXXI.

AN ACT

Making Appropriations to defray the ordinary Civil Expenses of the Government of this State, from the first day of February, A. D. 1855, to the first day of February, A. D. 1856.

[Approved April 27, 1855.]

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

SECTION 1. That the following sums be and the same are hereby Appropriations. appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, and to defray the civil expenses of the Government of this State from the first day of February, A. D. eighteen hundred and fifty-five to the first day of February, eighteen hundred and fifty-six : For compensation of the Governor of For Governor. this State, ten thousand dollars. For compensation of the Controller of State, four thousand five hundred dollars. For compensation of the Controller. Treasurer of State, four thousand five hundred dollars. For compensation of the Secretary of State, three thousand five hundred dollars. Treasurer Secretary of State. For compensation of the Superintendent of Public Instruction, four Superintendent of Public Instruction. thousand five hundred dollars. For compensation of the Attorney-Gen'l. Attorney Gen'l. General, two thousand dollars. For compensation of the Surveyor-Gen'l. Surveyor Gen'l. General, two thousand dollars. For compensation of the Quartermaster-General, two thousand dollars. For compensation of the Quartermaster-General. Private Secretary of the Governor, twenty-five hundred dollars. Private Sec'y to Governor. For compensation of the Clerks in the office of the Controller of State, Controller's Clerks. nine thousand seven hundred and twenty dollars. For compensation of the Clerks in the office of the Treasurer of State, six thousand four hundred and eighty dollars. Treasurer's Clerks. For compensation of Clerks in the office of the Secretary of State, nine thousand seven hundred and twenty Sec'y of State's Clerks. dollars. For contingent expenses of the Governor's office, fifteen Contingent expenses. hundred dollars. For contingent expenses of the Controller of State's office, four thousand dollars. For contingent expenses of the Treasurer of State's office, three thousand dollars. For contingent expenses of the Secretary of State's office, three thousand dollars. For contingent expenses of the office of Superintendent of Public Instruction, one thousand dollars. For contingent expenses of the Surveyor-General's office, two thousand dollars. For contingent expenses of the Quartermaster-General's office, one thousand dollars. For indexing, etc. indexing and marginal noting laws and journals, three thousand dollars. For copying laws and journals, twelve hundred dollars. For contingent expenses of State Library, two thousand five hundred dollars, State Library. For rent of an armory and for cleaning, repairing and transportation of State arms, one thousand dollars. For contingent expenses of the Attorney-General's office, twelve hundred dollars. For special contingent fund of the Executive department of State, to be used at the discretion of the Governor, five thousand dollars. For compensation Governor's special fund.

Supreme Court Justices. of the Justices of the Supreme Court, twenty-eight thousand dollars. For compensation of Judges of the District Courts, sixty-four thousand dollars. For contingent expenses of the Supreme Court, twelve thousand dollars. For compensation and mileage of the Lieutenant-Governor, sixteen hundred dollars. For compensation and mileage of Senators, eighteen thousand five hundred dollars. For compensation and mileage of Assemblymen, forty-seven thousand dollars. For stationery, fuel, lights, etc., for the Legislature, fifteen thousand dollars. Stationery. For compensation of Officers, Clerks, Porters and Pages of the Senate, fourteen thousand dollars. For compensation of the Officers, Clerks, Porters and Pages of the Assembly, seventeen thousand dollars. Officers, etc. of Senate. For contingent expenses of the Senate, eight thousand five hundred dollars. Of Assembly. For contingent expenses of the Assembly, fifteen thousand dollars. Expenses of Legislature. For the support of the Insane Asylum, fifty thousand dollars. For salaries of the resident Superintendent Physician and Visiting Physician of the Insane Asylum, eight thousand dollars. For transportation of prisoners, twenty-five thousand dollars. For distributing laws and journals of eighteen hundred and fifty-five, fifteen hundred dollars. For translating laws, Executive and Legislative documents, four thousand dollars. For the purchase of paper for State Printer, five thousand dollars. For compensation of State Printer, fifty-five thousand dollars. For compensation of members and Secretary of the Board of State Land Commissioners, six thousand five hundred dollars, payable out of the proceeds of sales made by said Board. For compensation of John B. Trask, State Geologist, the sum of five thousand dollars. For compensation of the Clerk of the Board of Examiners of War Claims, nine hundred dollars. For prosecuting delinquents, by order of the Controller of State, five (5) thousand dollars. For the payment of the rent of the State offices, ten (10) thousand dollars. For fitting up the Treasurer's office and purchasing a safe, two thousand five hundred dollars.

State printing. State Land Commissioners. J. B. Trask. War Claims Prosecutions. Rents. Treasurer's office. Expenditure of contingent funds

SEC. 2. It is hereby provided, that all officers to whom contingent expenses are allowed under this Act, shall, at the expiration of the time for which they are made, make a statement to the Legislature, verified under oath or affirmation, of the manner in which the various contingent funds allowed them have been expended, specifying item by item; and all officers, as above recited, going out of office previous to the expiration of the year for which contingent expenses are allowed them, shall make a statement as above provided, up to the time of their going out of office.

CHAPTER CXXII.

AN ACT

Amendatory of and supplementary to an Act passed April 16th, 1855, entitled an Act to amend an Act entitled an Act amendatory of and supplementary to an Act entitled an Act concerning Courts of Justice of this State, and Judicial Officers, passed May 15th, 1854.

[Approved April 26, 1855.]

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

SECTION 1. Section second of an Act passed April sixteenth, eighteen hundred and fifty-five, entitled "An Act to amend an Act entitled an Act amendatory of and supplementary to an Act entitled an Act concerning Courts of Justice of this State and Judicial Officers," passed May fifteenth, eighteen hundred and fifty four, is hereby repealed. ^{Section 2 repealed.}

SEC. 2. It shall be the duty of the Governor, prior to the "general election" for the year eighteen hundred and fifty-five, to issue his proclamation as by law in other cases provided, for the election of a District Judge in each of the Thirteenth, Fourteenth and Fifteenth Judicial Districts. ^{Election of Judges.}

SEC. 3. The Act described in the first section of this Act shall be in force from and after the first day of August, A. D. eighteen hundred and fifty-five. ^{Take effect.}

CHAPTER CXXIII.

AN ACT

For the Relief of John F. Hayes.

[Approved April 27, 1855.]

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

SECTION 1. The Controller of this State is hereby authorized and requested to draw his warrant on the State Treasurer in favor of John F. Hayes, for the sum of three hundred and sixty dollars, (\$360) and the Treasurer is required to pay the same. ^{Warrant.}

SEC. 2. The sum of three hundred and sixty dollars is hereby appropriated, out of any moneys in the General Fund not otherwise appropriated, for the purpose contemplated in the preceding section. ^{Appropriation.}

CHAPTER CXXIV.

AN ACT

To fix the compensation of the County Judges of Siskiyou, Trinity and Klamath, and to repeal, in part, the first section of the Act entitled "An Act to fix the Compensation of County Judges and Associate Justices of the Court of Sessions," passed May the 17th, 1853.

[Approved April 27, 1855.]

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

- Pay of Judges.** SECTION 1. The County Judges of Siskiyou, Trinity and Klamath counties shall receive each for their services annually, the sum of three thousand dollars.
- Repealing.** SEC. 2. The first section of an Act to fix the compensation of County Judges and Associate Justices of the Court of Sessions, passed May seventeenth, eighteen hundred and fifty-three, is hereby repealed, so far as the provisions of said section extend to the counties of Siskiyou, Trinity and Klamath.
- Take effect.** SEC. 3. This Act to take effect and be in force from and after the commencement of the next ensuing term of said officers.

CHAPTER CXXV.

AN ACT

To amend an Act entitled an Act dividing the State into Counties and establishing the Seats of Justice therein, passed April 25th, 1851.

[Approved April 27, 1855.]

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

Section 24 amended.

Boundaries of Sonoma county.

SECTION 1. The twenty-fourth section of an Act entitled an Act dividing the State into Counties and establishing the Seats of Justice therein, passed April 25th, 1851, is hereby amended, so as to read as follows: Sonoma county, beginning at a point in the Pacific Ocean opposite to and three miles from a point on the coast one mile northwesterly from Fort Ross, and running thence in a direct line to

the northwest corner of Napa county; thence southerly along the Napa county boundary in the Mayacamas mountains to the westerly branch of Guichica creek; thence southerly along said county boundary to its initial point in the mouth of Guichica creek; thence in a direct line to the northwest corner of Contra Costa county in San Pablo bay; thence down the middle of said bay to the northeast corner of Marin county; thence following the boundary of Marin county to Petaluma creek; thence up the centre of said creek to the mouth of San Antonio creek; thence up the centre of said creek to its head; thence in a direct line to the head of the Estero Americano; thence following the centre of said Estero to its mouth; thence in a direct line three miles to a point in the Pacific Ocean opposite to the mouth of said Estero; thence northerly to the place of beginning. The Seat of Justice shall be at Santa Rosa.

Seat of Justice.

CHAPTER CXXVI.

AN ACT

Amendatory of an Act entitled an Act concerning County Judges, passed April 4th, 1854.

[Approved April 27, 1855.]

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

SECTION 1. Section second of an Act concerning County Judges, passed April fourth, eighteen hundred and fifty-four, is amended so as to read as follows: Section second. No County Warrant shall be issued in payment, or part payment, of his salary, nor shall any portion of his salary be paid to any County Judge who does not reside at the County Seat of the County of which he is the acting County Judge; *provided*, that the provisions of this Act shall not extend to the Counties of Sacramento, Plumas, Sutter, Alameda, Contra Costa, Tulare, Yolo, Yuba, San Diego and Colusi.

Section 2 amended.

Residence.

Provide.

CHAPTER CXXVII.

AN ACT

Amendatory of and supplemental to an Act entitled "An Act concerning Crimes and Punishments," passed April 16th, 1850.

[Approved April 27, 1855.]

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

Section 40
amended.

Duelling
Killing
antagonist.

SECTION. 1. Section forty of an Act entitled "An Act concerning Crimes and Punishments," passed April sixteenth, eighteen hundred and fifty, is hereby amended so as to read as follows : Section forty. If any person shall, by previous appointment or agreement, fight a duel with a rifle, shot-gun, pistol, bowie-knife, dirk, small-sword, back-sword or other dangerous weapon, and in so doing shall kill his antagonist, or any person or persons, or shall inflict such wound as that the party or parties injured shall die thereof within one year thereafter, every such offender shall be punished, upon conviction thereof, by imprisonment in the State Prison for any term not exceeding seven years nor less than one year.

Liabie for debt.

Estate of
deceased.

rosecution.

SEC. 2. If any duel shall be fought, contrary to the provisions of this Act, or if any person shall be guilty of fighting, in any incorporate town or city, or any other town or public place in this State, and the parties or either of them, shall use any dangerous weapon, contrary to the provisions of this Act, and either of the parties combatant shall be killed, or shall die within one year of any wound received in any such duel or fight, the party surviving shall be, and is hereby held chargeable with the payment of the debts of his antagonist, so killed by him, and the estate of the party so killed shall be exonerated from the payment of such debts, until the surviving party shall be duly prosecuted to insolvency, and the person or persons to whom the combatant so killed in such duel or fight shall be indebted, may prosecute to judgment and execution any action of debt or assumpsit, against such surviving party, which such person could have maintained against such party so killed, and in his declaration it shall be sufficient to set forth in substance the description of the judgment, bill, bond, note, assumpsit or account, by which the deceased in his lifetime was indebted to the plaintiff, and to aver that the defendant and deceased had fought a duel contrary to the provisions of this Act, or had fought in an incorporated city or town, or other town or public place in this State, and had in such fight used a rifle, shot-gun, pistol, bowie-knife, dirk, small-sword, back-sword or other dangerous weapon, contrary to the meaning and intent of this Act, and that in such duel or fight the defendant had unlawfully killed the deceased, or had given the deceased in said duel or fight a mortal wound, of which within one year the deceased had died, and that in consideration of which the defendant had become bound to pay to the plaintiff the amount of money mentioned in such judgment, bill, bond, note, assumpsit or account, and upon proving the same, the said plaintiff

shall have verdict, judgment and execution against the defendant ^{Verdict.} which shall appear to have been justly due and owing from the deceased to the plaintiff at the time of the commencement of such suit, any law, usage or custom to the contrary notwithstanding ; *provided*, also, that any conveyance of, or lien upon property, executed with the intention of avoiding the provisions of this Act, shall be deemed and held null and void. ^{Proviso.}

SEC. 3. If any duel shall be fought contrary to the provisions of this Act, and either of the combatants shall be maimed or wounded, the charges incurred by such maimed or wounded combatant, together with those for the support and maintenance of his family during his sickness, shall be regarded as debts to be recovered, as provided in section second of this Act. And if the party shall die within one year of any wound received in any such duel or fight, the party surviving shall pay to the heir or heirs of such deceased, the sum of ten thousand dollars, to be recovered as provided in section second, for the recovery of the debts of the deceased. ^{Charges incurred.} ^{In case of death.}

SEC. 4. Any and every person who shall be present at the time of fighting any duel with deadly weapons, either as second, aid, surgeon or spectator, or who shall advise or give assistance to such duel, shall be a competent witness against any person offending against any of the provisions of this Act, and may be compelled to appear and give evidence before any Justice of the Peace, Grand Jury or Court, in the same manner as other witnesses ; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. ^{Witnesses.}

SEC. 5. Sections forty-one and forty-two of an act entitled An Act concerning Crimes and Punishments, passed April eighteenth, eighteen hundred and fifty, are hereby repealed. ^{Repeal.}

CHAPTER CXXVIII.

AN ACT

Supplementary to and explanatory of an Act entitled an Act to prohibit Lotteries, Raffles, Gift Enterprises and other Schemes of a like Character, passed April 10th, 1855.

[Approved April 27, 1855.]

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

SECTION 1. The Act entitled An Act to prohibit Lotteries, Raffles, Gift Enterprises and other Schemes of a like character, passed April tenth, eighteen hundred and fifty-five, shall not be construed or held to prohibit or render unlawful the scheme or plan now proposed and maturing for the distribution of the property known as "Hock ^{Hock Farm scheme.}

Farm," by sub-divisions, called the "Relief Fund of General John A. Sutter;" nor any lottery, raffle, gift enterprise or other schemes aforesaid, within the purview of said last mentioned Act, which was commenced and in part advanced before the passage thereof.

CHAPTER CXXIX.

AN ACT

Concerning Lawful Fences.

[Approved April 27, 1855.]

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

Lawful fences.
Wire fence.

SECTION 1. Lawful fences are described as follows, viz. : First. Wire Fence shall be made of post, not less than twelve inches in circumference, set in the ground not less than eighteen inches, and not more than eight feet apart, with not less than three horizontal wires, each one-fourth of an inch in diameter—the first one shall be eighteen inches from the ground, the other two above this one, at intervals of one foot between each, all well stretched and securely fastened from one post to another, with one rail, slat, pole or plank, of suitable size and strength, securely fastened to the post not less than four a half feet from the ground. Second. Post and Rail Fence shall be made of post of the same size and at the same distance apart, and the same depth in the ground as above, with three rails, slats or planks, of suitable size and strength, the top one to be four feet and a half from the ground, the other two at equal distances between the first, and the ground all securely fastened to the post. Third. Picket Fence shall be the same height as above, made of pickets, each not less than six inches in circumference, not more than six inches apart, driven in the ground not less than ten inches, all well secured at the top by slats or caps. Fourth. Ditch and Pole Fence shall be made of a ditch not less than four feet wide on top, and three feet deep, embankment thrown upon the inside of the ditch, with substantial posts set in the embankment not more than eight feet apart, and a plank, pole, rail or slat securely fastened to said posts, at least five feet high from the bottom of the ditch. Fifth. Pole Fence shall be four and a half feet high, with stakes not less than three inches in diameter, set in the ground not less than eighteen inches, and where the stakes are placed seven feet apart, there shall be not less than six horizontal poles well secured to the stakes ; if the stakes are six feet apart, five poles ; if three or four feet, four poles ; if two feet apart, three poles, and the stakes need not be less than two inches in diameter ; if one foot apart, one pole, and stakes need not be more than two inches in

Post and rail
fence.

Picket fence.

Ditch and pole
fence.

Pole fence.

diameter. The above is a lawful fence so long as the stakes and poles are securely fastened and in a fair state of preservation. Hedge Hedge fence. Fence shall be considered lawful when, by reliable evidence it shall be proved equal in strength, and as well suited to the protection of enclosed lands as any one of the fences described in other subdivisions of this section. Sixth. Brush Fence shall be four and a half feet high, Brush fence. and at least twelve inches wide, with stakes not less than two inches in diameter, set in the ground not less than eighteen inches, one on each side, every third foot tied together at the top, with one horizontal pole tied to the outside stake five feet from the ground.

SEC. 2. Any fence which, by reliable evidence, shall be declared Other fences in certain counties. as strong, substantial and as well suited to the protection of enclosures as either of the above described, shall be a lawful fence in all the counties of this State, except Sonoma, Napa, El Dorado and Marin.

SEC. 3. In each of the counties named in the preceding section of Lawful fences in certain counties. this Act, the following described shall be a lawful fence, viz.: First. Post and Rail Fence shall be made of post not less than four by six inches, set in the ground not less than two feet, with rails not less than three inches thick, placed not more than five inches apart, for the first three feet, and after that not more than eight inches apart, the fence to be not less than five feet high. Second. Worm Fence Worm. shall be five feet high, with additional stakes and riders, no greater space to intervene between the rails than in a post and rail fence. Third. Post and Slat Fence shall be of the same height and with the Post and slat. same space between the slats as above, in this section, the post shall not be less than twelve inches in circumference, and not less than two feet in the ground, the slats to be not less than one and a half inches thick, all well fastened to the post with twelve-penny nails. Fourth. Paling Fence shall be of the same height, and the post of the same Paling. size, and set in the ground the same depth, as in a post and rail fence, with post not more than ten feet apart. Fifth. Ditch Fence shall be Ditch. four feet wide at the top, and three feet deep, with post set in the embankment not over seven feet apart, with three slats not less than four inches wide, and one and a half inches thick, all securely fastened to the post. Or—

SEC. 4. Any fence which, by reliable evidence, shall be declared Other lawful fences. as strong, substantial, and as well calculated to protect enclosures as either of those described in the third section of this Act, shall be a lawful fence in each of the counties named in the second section of this Act.

SEC. 5. When a fence shall hereafter be erected by any person on Expense of fence. the line of his land, or that which he may have a lease for one or more years, and the person owning the land adjoining thereto, or holding a lease on the same for one or more years, shall make or cause to be made, an enclosure on the opposite side of such fence, so that such fence may answer the purpose of enclosing his ground also, such person shall pay the owner of such fence already erected one half the value of so much thereof as serves as a partition fence between them.

SEC. 6. When two or more persons own land adjoining, which is Partition fence. enclosed by one fence, and it becomes necessary for the protection of the rights and interests of one party that a partition fence should be made between them, the other or others, when notified of such fact, Party building shall proceed to erect or cause to be erected one half of such parti-

tion fence, said fence to be erected on, or as near as practicable, the line of said land, and if, after notice is given by either party, and a reasonable length of time has elapsed, and the other party persist in refusing to erect or cause to be erected, one half of such fence, the party giving notice may proceed to erect, or cause to be erected, the entire partition fence, and collect by law one half the cost of such fence from the other party.

Fences to be on line.

SEC. 7. All partition fences separating adjoining enclosures, shall stand upon the line, and any person or persons when erecting a partition fence, and refusing to place it on the line dividing such lands, or to remove it to such line when erected otherwise than thereon, shall subject himself to one half the cost of its removal and erection in the right place.

Penalty.

Duty of owners.

SEC. 8. The respective owners or lessees of lands which now are, or hereafter may be enclosed with fences, shall keep up and maintain in good repair all partition fences between their own and the next adjoining enclosures, in equal shares, so long as doth parties continue to occupy or improve the same.

Counties excepted.

SEC. 9. Nothing in this Act shall be so construed as to apply to the counties of Butte, Amador, Tuolumne, Calaveras, San Diego, Nevada, San Bernardino, Colusi, Placer, Santa Barbara, Yuba, Trinity, Shasta, Klamath and Siskiyou, and said counties are hereby excepted and excluded from the provisions of this Act.

Repeal, with exception.

SEC. 10. An Act entitled An Act concerning lawful fences, &c., passed March thirtieth, eighteen hundred and fifty, is hereby repealed, except as far as the counties exempt from the provisions of this Act are concerned.

CHAPTER CXXX.

AN ACT

For securing Liens of Mechanics and others.

[Approved April 27, 1855]

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

Lien, &c.

SECTION 1. All artisans, builders, mechanics, lumber merchants, and all other persons performing labor or furnishing materials for the construction or repairing of any building, wharf or other superstructure, shall have a lien on such building, wharf or superstructure, for the work and labor done, or materials furnished by each, respectively.

Improvement on lot.

SEC. 2. When any person shall make an express contract in writing with the owner of any lot or lots, in any incorporated city or town, to grade or improve the same, or the street in front of and ad-

joining the same, and shall go on and complete the said grading or improving of said lot, (or the street adjoining to the same) it shall be considered as an improvement upon said lot or lots, and the same provisions of this Act shall apply thereto as would apply if it were a building erected on the said lot or lots.

SEC. 3. Every person wishing to avail himself of the benefits of this Act, shall file in the Recorder's office of the county in which such building, wharf or superstructure is situated, within sixty days after the labor is completed, or the materials furnished, a just and true account of the demand due him, after deducting all proper credits and assets, and shall verify said account by his own oath or the oath of some other person, and shall also file at the same time a correct description of the property to be charged with said lien. If such lien is claimed by a sub-contractor, journeyman or laborer, the account aforesaid shall be filed within thirty days after the work was done, or the materials furnished by him; and within five days after filing such account as aforesaid, he shall serve a copy thereof on the owner or owners of such building, wharf or superstructure, or the agent of such owner, if the latter reside out of the county in which such building, wharf or superstructure is situate. If such owner do not reside within the county, and have no agent therein, service of the copy aforesaid may be made by posting the same in a conspicuous place on the building, wharf or superstructure to be charged with said lien. But nothing in this Act shall be so construed as to make the owner of any property improved liable for more than he has contracted to pay.

SEC. 4. On being served with a notice by a sub-contractor, journeyman or laborer, as provided in the last preceding section, the owner of such building, wharf or superstructure may withhold from the contractor, out of the first moneys to become due to him under the contract, a sufficient sum to cover the lien claimed by such sub-contractor, until the validity thereof shall be ascertained by a proper legal proceeding, if the same be contested; and if so established, the amount thereof shall be a valid offset to that extent, in favor of the owner against the contractor.

SEC. 5. The land upon which any building or superstructure shall be erected, together with such convenient space around the same, as may be required for the convenient use and occupation of the premises, not to exceed five hundred square feet, shall also be subject to the liens created by this Act, if at the time the work and labor was done, or the materials furnished, the said land belonged to the person who caused said building or superstructure to be erected; but if such person owned less than a fee-simple estate, in said land, then only his interest therein shall be subject to said lien, and the liens created by this Act shall be preferred to every other lien or incumbrance which shall have attached upon the said property subsequent to the time at which the work was commenced or the materials furnished, but nothing herein contained shall be construed as impairing any valid incumbrance upon the said land, duly made and recorded before such work was commenced or materials furnished.

SEC. 6. The account required to be filed by the second section of this Act, shall specify that it is the intention of the holder thereof to claim a lien upon the premises sought to be charged therewith, and it shall be the duty of the Recorder to file and record such notice

Duty of person wishing to have benefit of this Act.

Owner of property.

Privilege of owner.

Land built upon Limits of said land.

Persons owning less than a fee-simple. Preferred liens. Proviso.

Specification.

Recorder's duty

and account in a separate book provided for that purpose; and from the time of such filing all persons shall be deemed to have notice thereof.

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| Limit of such lien. | SEC. 7. No such lien shall bind any building, wharf or superstructure for a longer period than six months after filing the same, unless suit be brought in a proper court within that time to enforce the same; or, if a credit be given, then six months after the expiration of the credit. The party having the lien and giving credit shall make an entry on the margin of the record where the notice of the lien is recorded, stating the length of time the credit is given, and shall sign the same in the Recorder's presence, who shall witness it, but no lien shall be continued in force for a longer term than one year from the time the work is completed or the materials furnished, by any agreement to give credit. |
| Duty of party having lien. | |
| Lien to continue in force. | |
| How enforced. | SEC. 8. The said liens may be enforced by suit in any court of competent jurisdiction, setting forth in the complaint the particulars of such demand, with a description of the premises sought to be charged with said lien; and at the time of filing the complaint and issuing summons, the plaintiff shall make publication for at least twenty days in some newspaper printed in the county, if any be printed therein, and if no newspaper be printed therein, then in some newspaper having general circulation in such county, notifying all persons holding or claiming liens under the provisions of this Act, on said premises, to be and appear in said court on a day specified therein, and during a regular term of such court, and to exhibit then and there the proofs of said liens. On a day appointed, the court shall proceed to hear and determine the said claims in a summary way, or may refer the same to a referee, or in the discretion of the court, to a jury to ascertain and report upon said liens, and the amount justly due thereon; and all liens not so exhibited and proved, shall be deemed to be waived in favor of those which are so exhibited; on ascertaining the whole amount of liens with which the said premises are justly chargeable as hereinbefore provided, the court shall cause said premises to be sold in satisfaction of said liens and the costs of suit, in the same manner that other property is sold under executions, and if the proceeds of such sale shall not be sufficient to satisfy the whole of such liens established as aforesaid, then the same shall be apportioned according to the respective rights of the several parties; provided, that no sale of the premises shall be ordered to satisfy the lien of the plaintiff, until after the expiration of the time required for the appearance of other claimants of liens upon the same premises. |
| Duty of Plaintiff. | |
| Duty of Court. | |
| Liens waived. | |
| Premises sold. | |
| Proceeds of sale | |
| How apportioned. / Provision. | |
| Claims not affected. | SEC. 9. Nothing herein contained shall be construed to take away or affect in any manner any action which any such contractor, laborer, sub-contractor or other person performing labor or furnishing materials for such building, wharf or superstructure would otherwise have against his employer. |
| Satisfaction. | SEC. 10. The holder of such lien filed as aforesaid, on payment thereof, shall enter satisfaction of the same of record, at the request of any one interested in the property charged with the lien, within ten days after such request, on the payment of the cost of such entry; and on failure to enter such satisfaction, shall forfeit and pay to the party aggrieved the sum of fifty dollars per day until such satisfac- |
| Penalty. | |

tion shall be entered, to be recovered in the same manner as other debts are recovered.

SEC. 11. Any mechanic or artisan who shall make, alter or repair any article of personal property, at the request of the owner or legal possessor of such property, shall have a lien on such property so made, altered or repaired, for his just and reasonable charges for his work done and materials furnished, and may hold and retain possession of the same until such just and reasonable charges shall be paid, and if not paid for within the space of six months after the work shall have been done, such mechanic or artisan may proceed to sell the property by him so made, altered or repaired, at public auction, by giving three weeks' public notice of such sale, by advertisement, in some newspaper published in the county in which the work may be done, or if there be no such newspaper, then by posting up notices of such sale in three of the most public places in the town where such work was done, and the proceeds of said sale shall be applied—first, to the discharge of such lien and costs and expenses of keeping and selling such property, and the remainder, if any, shall be paid over to the owner thereof.

SEC. 12. Nothing contained in this Act shall be deemed to apply to or affect any lien heretofore acquired; and an Act entitled an Act to provide for the Lien of Mechanics and others, passed April twelfth, eighteen hundred and fifty, is hereby repealed.

SEC. 13. This Act shall take effect and be in force on and after the first day of July next.

CHAPTER CXXXI.

AN ACT

To amend "An Act to Regulate Elections," passed March 23d, 1850.

[Approved April 27, 1855.]

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

Section 5
amended.
Proclamation.

SECTION 1. Section fifth of said Act is amended, so as to read as follows : Section 5. It shall be the duty of the Governor, at least thirty days before any general election, to issue his proclamation, designating the offices to be filled at such election, and to transmit a copy thereof to the Board of Supervisors of each county of the State.

Section 6
amended.
Duty of
Supervisors.

SEC. 2. Section sixth of said Act is amended, so as to read as follows : Section 6. It shall be the duty of the Board of Supervisors to give at least ten days' notice thereof, by posting or causing to be posted up at each place of holding elections in their county, a copy of such proclamation, and to insert the same in some newspaper published in the county, if any be published therein.

Section 8
amended.
Special elections.

SEC. 3. Section eight of said Act is amended, so as to read as follows : Section 8. Whenever a special election is necessary to fill a vacancy in any office which is to be filled by the vote of the qualified electors of the State or of the district, the Governor shall issue his proclamation ordering such election, in like manner as is provided in regard to general elections, and designating also the time at which it is to be held; and the Board of Supervisors of each county in which such election is to be held, shall give notice thereof, as required in the sixth section of this Act.

Notice.

Section 9
amended.

SEC. 4. Section ninth of said Act is amended, so as to read as follows : Section 9. Whenever a special election is necessary to fill a vacancy in any county or township office, the Board of Supervisors shall issue an order for such election, designating the office to be filled and the time of holding the election, and shall publish the same in the manner required by the sixth section of this Act.

Order for
Special elections.
Publication.

Section 15
amended.
Precincts.

SEC. 5. Section fifteenth of said Act is amended, so as to read as follows : Section 15. There shall be a precinct for holding elections in each township designated by the Board of Supervisors, if the convenience of the people require it, may create additional precincts in any township where there are thirty or more resident voters; *provided*, there shall not be more than one precinct in each Ward of a city; *and provided further*, that, except within a city, no two election precincts shall be nearer than one mile.

Proviso.

Further proviso.

Section 16
amended.
Judges and
Inspectors.

SEC. 6. Section sixteenth of said Act is amended, so as to read as follows : Section 16. When an election is ordered, the Board of Supervisors shall appoint, for each precinct, from the qualified electors of the township in which such precinct lies, one Inspector and two Judges, who shall constitute a Board of Judges of Election. In case said Board be not appointed for any precinct by the Board of

Supervisors as specified in this section, the electors present on the morning of the day of election, at the place where the polls were opened on the day of the last previous "general election," may appoint a Board of Judges for such precinct. Judges not appointed.

SEC. 7. Section thirty-eight of said Act is amended, so as to read as follows: Section 38. On the tenth day after the day of each election, or as soon as he shall have received the returns from each precinct of the county or township if he receive them within that time, the County Clerk shall proceed to estimate the vote of the county or township; a statement of which shall be drawn up and signed by him. The statement shall contain the names of the persons voted for; the office to fill which each person was voted for; the number of votes given at each precinct to each of such persons, and the number of votes given to each in the county, and the same shall be filed, together with the returns from each precinct in the office of the County Clerk. Section 38 amended. Duty of County Clerk. Statement. When filed.

SEC. 8. Section fifty-ninth of said Act is amended, so as to read as follows: Section 59. Upon such statement being filed, it shall be the duty of the County Clerk to inform the Judge of the County Court, who shall give notice and order a special term of said Court to be held at the Court House of the proper county, on some day to be named by him, not less than ten nor more than twenty days from the date of such notice, to hear and determine such contested election. Section 59 amended. Contested elections.

SEC. 9. Section sixty-first of said Act is amended, so as to read as follows: Section 61. The said Clerk shall issue subpoenas for witnesses in such contested election, at the request of either party, which shall be served by the Sheriff as other subpoenas, and the County Court shall have full power to issue attachments to compel the attendance of witnesses, who shall have been duly subpoenaed to attend, if they fail to do so. Section 61 amended. Subpoenas, &c. Power of Court.

SEC. 10. Section sixty-ninth of said Act is amended, so as to read as follows: Section 69. Either party feeling himself aggrieved by the judgment of said Court may appeal therefrom to the Supreme Court, as in other cases of appeal thereto from the County Court. Section 69 amended. Appeal.

SEC. 11. Section seventy-third of said Act is amended, so as to read as follows: Section 73. Whenever an election shall be annulled and set aside by the judgment of the County Court, when no appeal has been taken thereupon within ten days, such certificate or commission, if any has been issued, shall be thereby rendered void, and the office become vacant. Section 73 amended. Annulled election. Commission void.

SEC. 12. Section seventy fourth of said Act is amended, so as to read as follows: Section 74. In case of any contest in regard to any election to fill the office of County Judge, such contest shall be tried in like manner, by the Board of Supervisors of said County. Section 74 amended. Contested election of County Judge.

SEC. 13. Sections seventy, seventy-one and seventy-two of said Act are hereby repealed. Repeal.

CHAPTER CXXXII.

AN ACT

To amend an Act entitled an Act to provide for the Construction of a Canal from Tulare Lake to the waters of the San Joaquin, approved May 12th, 1853.

[Approved April 27, 1855.]

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

Time limited.

SECTION 1. Section three of an Act entitled an Act to provide for the construction of a Canal from Tulare Lake to the waters of the San Joaquin, approved May twelfth, eighteen hundred and fifty-three, is hereby amended, so as to read as follows : The said grantees shall construct and put in operation the said canal prior to the first day of January, A. D. one thousand eight hundred and fifty-nine.

CHAPTER CXXXIII.

AN ACT

Supplemental to, and amendatory of an act entitled "An Act to provide for the Settlement of the Affairs of the State Marine Hospital, at San Francisco, and to dispose of the property belonging to the same," passed April 16, 1855.

[Approved April 27, 1855.]

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

Time extended.

SECTION 1. Section first of an Act entitled "An Act to provide for the settlement of the affairs of the State Marine Hospital at San Francisco, and to dispose of the property belonging to the same," passed April sixteenth, eighteen hundred and fifty-five, is hereby amended and construed so as to extend the time mentioned in said section from the first day of May next to the first day of June next.

CHAPTER CXXXIV.

AN ACT

To repeal an Act entitled An Act to regulate Rodeas, passed April 30th, 1851, so far as the same relates to Tulare County.

[Approved April 27, 1855]

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

SECTION 1. The Act entitled an Act to Regulate Rodeas, passed April thirtieth, eighteen hundred and fifty-one, is hereby repealed, so far as the same relates to Tulare county. Repeal.

CHAPTER CXXXV.

AN ACT

For the Relief of Jesse Sawyer.

[Approved April 27, 1855.]

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

SECTION 1. The Controller of State is hereby authorized to draw his warrant on the Treasurer of State in favor of Jesse Sawyer, for the sum of eight hundred and forty-five dollars and sixty cents for his services in transporting express matter for various departments of the State Government upon the requisition of the various departments while at Benicia; and the same is hereby appropriated out of any money in the General Fund not otherwise appropriated. Warrant. Appropriation.

SEC. 2. This Act to take effect on and after its passage. Take effect.

CHAPTER CXXXVI.

AN ACT

To change the Time of holding the County Court, and Court of Sessions of the County of Calaveras, and to change the manner of Summoning a Jury for the County Court of said County.

[Approved April 27, 1855.]

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

- Time changed.** SECTION 1. The terms of the County Court and Court of Sessions of Calaveras county shall hereafter be held at the same time, on the second Mondays of January, March, May, July, September and November of each year, and shall continue until all the business of said Courts shall be disposed of.
- Continuance.**
- Jury.** SEC. 2. The trial jury summoned for the Court of Session of said county shall be the trial jury for the County Court therein.
- Repeal.** SEC. 3. All statutes and parts of statutes conflicting with the provisions of this Act, shall be and the same is [are] hereby repealed.

CHAPTER CXXXVII.

AN ACT

To Separate the office of Collector of Taxes, from the office of Sheriff in the County of Yuba.

[Approved April 27, 1855]

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

- Collector and Sheriff.** SECTION 1. From and after the first Monday of October next, the office of Collector of Taxes, in the County of Yuba, shall be separate from the office of Sheriff.
- Election of Collector.** SEC. 2. At the next General Election, there shall be elected in said county, a Collector of Taxes, who shall enter upon the duties of his office, on the first Monday of October next, and shall hold such office for two years, and until his successor shall have been elected and qualified.
- Term of office.**
- Liabilities of Sheriff.** SEC. 3. All duties and liabilities heretofore imposed upon the Sheriff of said county, as Collector of Taxes, shall attach to the

office hereby created, and the Collector of Taxes elected under the provisions of this act, shall give such bond or bonds as now by law are required to be given by the Sheriff, as Collector of Taxes and Foreign Licenses, to be approved in the same manner. Bond of Collector.

SEC. 4. The Collector of Taxes elected under the provisions of this Act, shall collect all State and County taxes, all Foreign License taxes, all kinds of public dues which under existing laws are now collected by the Sheriff and Treasurer, and shall receive for his services the same compensation which is now allowed to the Sheriff and Treasurer. Taxes. Compensation.

SEC. 5. All Acts and parts of Acts inconsistent with the provisions of this Act, so far as the same relates to the county of Yuba, are hereby repealed. Acts repealed.

CHAPTER CXXXVIII.

AN ACT

To provide for the Ascertainment of the Indebtedness of Calaveras County, prior to the organization of Amador County; and to provide for the Payment of that portion due from Amador County to the County of Calaveras.

[Approved April 27, 1855.]

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

SECTION 1. Henry M. Sturgis and Alex. H. Putney, on the part of Calaveras County; and James F. Hubbard and Samuel Davis, on the part of Amador County, are hereby appointed Commissioners to ascertain the indebtedness of Calaveras County, at the time of the organization of Amador County, and to determine the amount of said indebtedness to be paid by Amador County to the County of Calaveras. Commissioners appointed.

SEC. 2. All persons holding orders or warrants upon the Treasurer of Calaveras County, issued prior to the time of the organization of Amador County, or bonds of said Calaveras County, issued in pursuance of an Act, entitled "An Act to fund the debt of Calaveras County, and provide for the payment thereof," approved May third, A. D., eighteen hundred and fifty-two, shall present the same to the Auditor of Calaveras County for registry, on or before the first day of July, A. D., eighteen hundred and fifty-five; and in case any such person or persons shall fail to present his or their claim, or evidence of indebtedness for registry, the person or persons so failing, shall forever thereafter be barred and precluded from enforcing the payment of any such order, warrant or bond, of which he or they may be the holder. Registry of warrants.

Warrants cancelled.

der or holders as aforesaid ; and all such bonds, warrants and orders shall be deemed cancelled.

Auditor to register.

SEC. 3. The Auditor of Calaveras County upon the presentation to him for registry, of any order, warrant or bond, contemplated in the second section of this Act, shall make a fair and accurate registry thereof in a book to be prepared and kept by him for that purpose, showing the number, date and amount of said order, warrant or bond ; to whom the same was issued, the name of the person or persons holding the same at the time of such registry ; the amount or amounts, if any there be, endorsed thereon as paid upon the same, with the date of said endorsement ; and in case of an order or warrant, the date of its presentation to the County Treasurer for payment ; *provided*, said date be endorsed thereon.

Proviso.

Auditor to publish.

SEC. 4. Notice of the provisions of the second section of this Act, shall be given by the Auditor of Calaveras County, by publication of the same in the "Calaveras Chronicle," "Amador Sentinel," daily edition of the "Sacramento Union," "Placer Times and Transcript," and "San Joaquin Republican," continuously from ten days after the passage of this Act, until the time hereinafter appointed for the meeting of said Commissioners.

Time of publication.

Meeting of Commissioners.

SEC. 5. The Commissioners above named shall meet at the seat of Justice of Calaveras County, on the first Monday of July, A. D., (1855) eighteen hundred and fifty-five, and enter upon the discharge of their said duties, and shall first proceed to ascertain the indebtedness of Calaveras County, prior to the organization of Amador County ; and when the amount of indebtedness is so ascertained, they shall determine the amount justly chargeable to Amador County, by the assessment of taxable property made by the Assessor of Calaveras County, and his deputies, for the year one thousand eight hundred and fifty-four, (1854) prior to the organization of Amador County. The amount to be paid by the said County of Amador, to bear the same proportion to the whole of said estimated indebtedness of Calaveras County, which had accrued and was unpaid at the time of the organization of Amador County, as the assessment roll of the County of Amador for that year as aforesaid, bears to the whole amount of assessment of both counties for the same year.

Indebtedness.

Amount chargeable.

Proportion.

Vacancy.

SEC. 6. Should any vacancy occur in said Commission by death, resignation or otherwise, the Board of Supervisors of the county in whose representation such vacancy shall occur, shall have power to fill such vacancy by appointment.

Registry of claims.

SEC. 7. Said Commissioners shall have power to review the registry of claims against said county of Calaveras prepared and kept by the Auditor thereof, as hereinbefore provided ; and to determine the correctness of the same ; and shall have the further power to ascertain the existence and value of any moneys, property, real or personal, belonging to Calaveras County, at the time of the meeting of the Commissioners appointed under the law passed May eleventh, eighteen hundred and fifty-four, providing for the organization of Amador County, and shall take the same into consideration, and the value thereof into account in apportioning said property between said counties, and determining the amount justly chargeable to Amador County.

Further power of Commissioners.

SEC. 8. Power is hereby conferred upon said Commissioners to compel the attendance of such witnesses, and the production of such books and papers before them, as they may require, in the exercise of

either and any of the powers conferred upon them in the seventh section of this Act. And it shall be the duty of the Sheriffs of Calaveras and Amador Counties to execute the same in their respective counties when so ordered, and shall be allowed for said service the same fees as are allowed for similar services in civil cases; and all witnesses attending before said Commissioners, by their order, shall be entitled to the same compensation and mileage as are allowed to witnesses in civil cases; *provided*, no witness shall be excused from attendance at the time and place mentioned in said order or subpoena, by failure of the officer making service thereof, to tender his fees in advance.

Sec. 9. The Board of Supervisors of Amador County, are hereby authorized and required to assess a special tax of thirty cents on the hundred dollars on all taxable property of said county, to create a "Sinking Fund" for the liquidation of said debt; said tax to be collected at the time, and in the same manner as other county taxes; and said Supervisors are required to set apart from the "General Funds," of said county, a sum, which, added to the "Special Fund," shall be equal in amount to the one half of the entire "General Fund" of said county; which "Fund" the Treasurer of Amador County, is required to set apart and reserve for the payment of said indebtedness of Amador County to Calaveras County, when ascertained in the manner above prescribed; which said "Fund" shall be appropriated to no other purpose than the extinguishment of said indebtedness: and the creation of which said "Fund" shall continue until said indebtedness be declared, and until an amount equal to said indebtedness shall be set apart and reserved by said Treasurer as aforesaid.

Sec. 10. When the amount of said indebtedness of Amador County to Calaveras County, shall have been determined by said Commissioners, they shall certify the same to the Auditor of said County of Amador, who, immediately on the receipt of such certificate, shall draw his warrant or order on the Treasurer of said County of Amador, in favor of the said County of Calaveras, for the amount of said indebtedness, as certified by said Commissioners; which warrant or order shall state upon its face, that it is for the indebtedness due from the County of Amador to the County of Calaveras, as determined by the Commissioners appointed by and under the provisions of this Act; and which said warrant or order, shall be delivered by said Auditor to the Treasurer of Calaveras County; and shall be paid by the Treasurer of Amador County out of the fund or moneys required to be set apart and reserved according to the ninth section of this Act.

Sec. 11. Should the Commissioners before designated, be unable to agree, in the discharge of the duties imposed by the provisions of this Act, they are hereby required and empowered to appoint a fifth Commissioner, which Commissioner, so appointed shall be a member of said Board of Commissioners, and a majority of said Commissioners shall constitute a quorum for the transaction of business, and the acts and doings of a majority of said Commissioners, shall be deemed the acts and doings of the whole Board of said Commissioners; and if said Commissioners should fail, neglect or refuse to appoint the fifth Commissioner as provided in this section, it shall be the duty of the District Judge of the Fifth Judicial District, to appoint said fifth Commissioner.

Sheriff's duty.

Sheriff's compensation.

Witnesses' compensation.

Proviso.

Special tax for Sinking Fund.

Time to collect.

General Fund.

How appropriated.

Continuance.

Indebtedness to be certified.

Warrant.

Statement.

To whom delivered.

Fifth Commissioner.

Quorum.

Duty of District Sndgo.

Compensation.

SEC. 12. The per-diem compensation of said Commissioners shall be fixed and paid by the respective counties to which they belong.

Repeal.

SEC. 13. So much of an Act granting to the Electors of Calaveras County the privilege to vote for or against a division of said county, and to organize the County of Amador, passed May eleventh, eighteen hundred and fifty-four, as conflicts with the provisions of this Act is hereby repealed.

CHAPTER CXXXIX.

AN ACT

To provide for the Disposal of Lots in the Towns and Villages, on the Public Lands in the County of Humbolt.

[Approved April 27, 1855.]

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

Lands to be entered.

SECTION 1. The Public Lands not being mineral lands, occupied as towns and villages in the county of Humbolt, at any time after the passage of this Act, shall be entered at the proper Land office, by the corporate authorities of any such town, if the same be incorporated, and if not incorporated, by the Board of Supervisors, of Humbolt county, in trust for the several use and benefit of the occupants of such town, according to their respective interests, in accordance with the provisions of an Act of Congress entitled "An Act for the relief of citizens of towns upon the Public Lands of the United States, under certain circumstances" approved May twenty-third, eighteen hundred and forty-four, as amended by an Act entitled "An Act to provide for the survey of the Public Lands in California, the granting of pre-emption rights thereon, and for other purposes," approved March third, eighteen hundred and fifty-three.

By whom.

Under what Acts.

Duty of Surveyor.

SEC. 2. It is hereby made the duty of the County Surveyor of said county, when called upon by the Board of Supervisors or corporate authorities, as the case may be, and under his or their direction, to proceed to lay out such town lots in said county, numbering the lots and blocks in such town conforming as far as possible, to the original plan thereof, and reserving for the public use, ornament and health, as many lots or blocks as may be deemed necessary for such purposes; and it shall also be the duty of the County Surveyor, to make or cause to be made, two maps or plats of each of the towns in said county, surveyed by him as aforesaid, one to be deposited with the Board of Supervisors, or corporate authorities of the town, for the use of the town, and one with the County Recorder of said county.

SEC. 3. Immediately after the entry of the lands, at the proper

Land office, as provided by the first section of this Act, the Board of Supervisors, or corporate authorities, as the case may be, shall cause notice to be put in the newspapers published in said county, or if none be published therein, then in a newspaper published most convenient thereto, to be inserted once a week for the term of three months; requiring every claimant or claimants of any town lot or lots, or parcel of land, to file in the office of the County Clerk, of said county, in case the town is unincorporated, or with the corporate authorities thereof, if the town be incorporated, within three months from the date of the first publication of the notice, a statement of his or their claim, describing particular [particularly] the lot or lots, or parcels of land, setting forth the grounds upon which it is founded, and within sixty days after the expiration of the notice as aforesaid, proof of such claim and payment of the price fixed on the lot or lots, or parcel of lands claimed as hereinafter provided must be made, and no claim shall be filed, or any proof shall be permitted to be made, after the terms respectively prescribed in this section.

SEC. 4. The expenses incurred in entering and surveying the lands as provided in this Act, and the amount required to be paid for said land, at the proper Land Office, shall be by the said Board of Supervisors, in case the town be unincorporated, and by the proper corporate authorities of the town, if the same be incorporated, assessed and apportioned with equality, upon all the lots or parcels of land in said town, and no claim shall be allowed, or certificate awarded to any claimant or claimants, unless payment be made if required of the proportion due from such claimant or claimants.

SEC. 5. The evidence required to establish any claim, to any lot or lots, or parcels of land in any town in said county, under the provisions of this Act, shall be, that the claimant thereof, is a citizen of the United States, or has declared his intention to become such, previous to the filing of his claims as herein before provided; is a citizen of such county, and was one of the original occupants and locators of such town, or holds his right to such lot or lots, or parcels of land, from such original occupant and locator, or his assignees; *provided*, no right to any unimproved lot or lots, or parcels of lands as last above mentioned, acquired after the passage of this Act, shall be respected unless the person from whom the same be acquired, be at the time a resident of said county, or that said claimant or the person under whom, he or she claims has for the last year preceeding the passage of this Act, been in the bona-fide and peaceable possession of the lot or lots, or parcels of land so claimed, and shall have improved the same.

SEC. 6. The said Board of Supervisors or corporate authorities, as the case may be, shall proceed to dispose of the lots or parcels of land, claimed as provided in this Act, and for that purpose shall as soon as practicable, examine each and every claim filed as herein provided, and any papers, in the support of the same, and hear such proof as the claimant or claimants may submit, to establish his or their right thereto; and if the same shall be found to comply with the provisions of this Act, and no conflicting claims, shall have been filed, the said Board of Supervisors or corporate authorities, as the case may be, shall issue a certificate confirming his or their claim, which certificate may be recorded in the Recorder's office of said county, in like manner, and with the same effect as deeds are recorded.

Power of
Supervisors.
Disputed claims.

SEC. 7. In all cases where there shall be a dispute or contest in regard to the title to any lot or lots or parcels of land in the said town, the Board of Supervisors or corporate authorities, as the case may be, shall hear the testimony relating thereto, and shall give their certificate to such person or persons, as may seem to be justly entitled to the same; *provided* however, nothing contained in this Act shall be so construed, as to prevent any person or persons aggrieved by the decision of the said Board of Supervisors, or corporate authorities, from pursuing his, her or their right, to any such lot or lots or parcels of land, at law or equity.

Proviso.

Certificates.

SEC. 8. The certificates herein mentioned, or certified copies of the same, under the hand of the County Recorder shall be deemed and taken in all the Courts of Justice as prima facie evidence of the facts stated therein, and as conveying a title to the holder, or person or persons in whose favor the same may be issued; *provided*, that when there shall have been a dispute or contest, as provided in section seventh of this Act, and the party aggrieved, shall in good faith and without unnecessary delay prosecute his or their right in the proper tribunal, the provisions of this section as to the effect of a certificate, shall not be applicable, but the rights of the parties before such tribunal, shall be adjudicated on their original claims as though no confirmation had been made.

Proviso.

Unimproved
lands.
How disposed of

SEC. 9. All lots or parcels of land remaining unproved, at the expiration of the time specified in section third of this Act shall be deemed as property of the town or village in which they are situated, and shall be held as such in trust, by the corporate authorities; or if there be none, by the Board of Supervisors, and shall be disposed of in a manner as such authorities may direct; *provided*, such lots shall be sold by auction to the highest bidder, after giving public notice for the space of at least thirty days; the proceeds of such sale to be appropriated to the exclusive benefit of such towns or villages.

Proviso.

Patent.

SEC. 10. Whenever a patent shall issue to said town or village, under the existing laws of Congress, it shall inure to the several benefit of those whose claims have been confirmed, and to whom certificates have issued to every intent, as though the same had been issued directly to them without any further or additional conveyance; and it is hereby made the duty of the corporate authorities, or the Board of Supervisors, as the case may be, to cause said patent, when so issued, to be recorded in the Recorder's office of said county.

Patent to be
recorded.

CHAPTER CXL.

AN ACT

Supplementary to and amendatory of an act entitled "An Act concerning Conveyances," passed April 16th, 1850.

[Approved April 27, 1855.]

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

SECTION 1. Every interest in real estate granted or devised to two or more persons, other than executors and trustees as such, shall be a tenancy in common, unless expressly declared in the grant or devise to be a joint tenancy. Interests in real estate.

SEC. 2. The term heirs, or other words of inheritance, shall not be necessary to create or convey an estate in fee simple; and every conveyance of any real estate hereafter executed, shall pass all the estate of the grantor, unless the intent to pass a less estate shall appear by express terms, or be necessarily implied in the terms of the grant. Term "heirs" Conveyances.

SEC. 3. Where a remainder in land or tenements, goods or chattels shall be limited by deed or otherwise, to take effect on the death of any person without heirs, or heirs of his or her body, or without issue, the word "heirs" or "issue" shall be construed to mean heirs or issue, living at the death of the person named as ancestor. Heirs or issue.

SEC. 4. A future estate depending on the contingency of the death of any person without heirs or issue, or children, shall be defeated by the birth of a posthumous child of such person, capable of taking by descent. Posthumous

SEC. 5. Where an estate shall be by any conveyance limited in remainder to the son or daughter or issue, or to the use of the son or daughter or issue of any person to be begotten, such son or daughter, or issue, born after the decease of his or her father, shall take the estate in the same proportion, and in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been created or conveyed to support the contingent remainder after his death. Limited estate.

SEC. 6. Grants of rents or of reversions or remainders shall be good and effectual without attornments of the tenants; but no tenant who, before notice of the grant, shall have paid rent to the grantor, shall suffer any damage thereby. Grants of rents, &c. Tenants not to suffer.

SEC. 7. The attornment of a tenant to a stranger shall be void unless it be with the consent of the landlord of such tenant, or in pursuance to, or in consequence of, a judgment or decree of some court of competent jurisdiction. Attornment of tenant.

SEC. 8. Lineal and collateral warranties, with all their incidents, are abolished; but the heirs and devisees of every person who shall have made any covenant or agreement in reference to the title of, in, or to, any real estate, shall be answerable upon such covenant or agreement to the extent of the land descended or devised to them in the cases, and in the manner prescribed by law. Lineal warranties. Heirs answerable.

Grant, bargain and sell "

Conveyance.

Incumbrances.

Covenants.

Amendment.

Conveyances to be recorded.

Valid without recording.

Conveyance to impart notice.

Subsequent purchasers.

SEC. 9. The words "grant, bargain and sell" in all conveyances hereafter to be made, in and by which any estate of inheritance or fee-simple, is to be passed, shall, unless restrained by express terms, contained in such conveyances, be construed to be the following express covenants, and none other, on the part of the grantor, for himself and his heirs to the grantee, his heirs and assigns; First, that previous to the time of the execution of such conveyance, the grantor has not conveyed the same real estate, or any right, title, or interest therein, to any person other than the grantee; Second, that such real estate is at the time of the execution of such conveyance, free from incumbrances done, made or suffered by the grantor, or any person claiming under him; and such covenants may be sued upon in the same manner as if they had been expressly inserted in the conveyance.

SEC. 10. Sections twenty-four and twenty-five of said Act, entitled "An Act concerning Conveyances," passed April sixteenth, eighteen hundred and fifty, are hereby amended so as to read as follows: Section 24. Every conveyance of real estate, and every instrument of writing, setting forth an agreement to convey any real estate, or whereby any real estate may be affected, proved, acknowledged and certified in the manner prescribed in this Act, to operate as notice to third persons, shall be recorded in the office of the Recorder of the county in which such real estate is situated, but shall be valid and binding between the parties thereto, without such record. Section 25. Every such conveyance or instrument of writing acknowledged or proved and certified, and recorded in the manner prescribed in this Act, shall from the time of filing the same with the Recorder for record, impart notice to all persons of the contents thereof; and subsequent purchasers and mortgagees shall be deemed to purchase and take with notice.

CHAPTER CXLI.

AN ACT

To amend an Act entitled An Act to provide for the Support of the Government of this State, passed May 15, 1854.

[Approved April 27, 1855.]

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

Section 1 amended.

Ad valorem tax.

SECTION 1. That section first of an Act entitled An Act to provide Revenue for the Support of the Government of this State, passed May 15th, 1854, is hereby amended so as to read as follows: Section first. "An annual *ad valorem* tax of sixty cents upon each one hundred dollars shall be levied upon the assessed value of the real and personal property in this State, subject to taxation, as hereinafter in this section named, to be paid as herein provided; five cents on each one hundred

dollars for the payment of the interest on the funded debt of eighteen hundred and fifty-one; thirteen cents on each one hundred dollars, for the payment of the interest on the funded debt of eighteen hundred and fifty-two; six cents on each one hundred dollars for the payment of the interest on the funded debt of eighteen hundred and fifty-five; four cents on each one hundred dollars, for the payment of the interest on the School Fund debt, and one cent on each one hundred dollars, for the payment of the interest on the State Prison Bonds, and to create a fund for their ultimate redemption. All the above interest tax shall be paid in legal coin of the United States. The remaining thirty-one cents on each one hundred dollars, shall be collected as other State taxes are by law required to be collected, and shall be paid into the General Fund; and such county tax, not exceeding fifty cents on each one hundred dollars, as the Supervisors of each county may direct to be levied, for the purpose of paying county indebtedness, and such special tax as may by law be authorized to be collected by any county in the State, shall be levied for county purposes upon the objects of taxation herein after in this article named.

SEC. 2. That section fourth of said Act is hereby amended so as to read as follows: Section fourth. There shall be levied and collected a quarter yearly license tax, as follows: First, from each proprietor or keeper of a Billiard Table, not kept for the exclusive use of the owner and his family, for each table, fifteen dollars per quarter; for a Nine or Ten-Pin, or Bowling Alley, ten dollars for each alley, license to be granted for a term not less than three months, to be paid to the County Treasurer, one half for the use of the State, and one half for the use of the county. Second, from a Manager or Lessee of every Theater, ten dollars per day if granted for a less term than one month; if granted for one month, two hundred dollars shall be paid; if granted for three months, four hundred dollars; if granted for one year, twelve hundred dollars; and for each exhibition of Serenaders, or Opera, or Concert Singers, the same pay for license as required for theatrical performances, to be paid to the County Treasurer, one half for the use of the State, and one half for the use of the county. Third, for each Caravan, Menagerie, the exhibition for pay of Bull and Bear, or any collection of animals for public amusement, twenty dollars for each exhibition; and for each show of any figures, and for each Circus, Rope or Wire dancing, or Sleight of Hand exhibition for reward, ten dollars per day, to be paid to the County Treasurer, one half for the use of the State, and one half for the use of the county. Fourth, from each and every Insurance Company, incorporated by laws of this State, and transacting an insurance business therein, twenty-five dollars per quarter year, payable to the County Treasurer for State purposes. Fifth, from each and every Insurer or Insurance Company, foreign or otherwise, not chartered by this State, and transacting an insurance business herein, or agent or agents thereof, one hundred dollars per quarter payable to the County Treasurer for State purposes.

Section 4
amended.
License tax.

*Amended
see Stat. 1856 p. 191*

SEC. 3. That section tenth of said Act is hereby amended so as to read as follows: Section tenth. Every person who shall sell or vend any goods, wares or merchandize, wines or distilled liquors, drugs or medicines, jewelry, or wares of precious metals, and persons who keep horses or carriages for rent or hire, except mules, horses or animals used in transportation of goods, shall obtain from the Treasurer of the county in which such business may be transacted, for any or all the branches of business herein enumerated, a license for the transaction of

Section 10
amended.
Tax on business.

such business at the following rates, to wit: all persons dealing as aforesaid shall be classed according to the amount of the average of monthly sales or rents effected in the following manner: that is to say, those who are estimated to make average monthly sales to the amount of one hundred thousand dollars or more, shall constitute the first class; of seventy-five thousand dollars, and less than one hundred thousand dollars, shall constitute the second class; of fifty thousand dollars, and less than seventy-five thousand dollars shall constitute the third class; of forty thousand, and less than fifty thousand dollars, shall constitute the fourth class; of thirty thousand and less than forty thousand dollars, shall constitute the fifth class; of twenty thousand, and less than thirty thousand dollars, shall constitute the sixth class; of ten thousand and less than twenty thousand dollars, shall constitute the seventh class; of five thousand and less than ten thousand dollars, the eighth class; of one thousand and less than five thousand dollars, the ninth class; of all amounts under that sum, the "tenth class." The license for the first class shall be given upon the payment of fifty dollars per month; for the second class, thirty-seven dollars and fifty cents per month; for the third class, twenty-five dollars per month; for [the] fourth class, twenty dollars per month; for the fifth class, fifteen dollars per month; for the sixth class, ten dollars per month; for [the] seventh class, seven dollars and fifty cents per month; for [the] eighth class, five dollars per month; for the ninth class, three dollars seventy-five cents per month; for [the] tenth class, two dollars and fifty cents per month; *provided*, that the sale of liquors or wines by persons licensed under this section shall not be in less quantity than one quart measure. The moneys collected for licenses, provided to be granted by this and the preceding section of this article, shall be paid to the County Treasurer for State purposes, except classes ninth and tenth, which shall be paid into the county Treasury for county purposes. The Auditor shall furnish the Treasurer with blank licenses for each class, for which he shall take a receipt, and the Treasurer shall settle such accounts with the Auditor as often as once in each month; *provided*, that in the counties of Klamath and Humboldt, the Treasurer may deliver to the Sheriff blank licenses; *provided*, the Treasurer shall be responsible for the same, and the Sheriff shall make no extra charge for collection.

Classified.

Proviso.

Section 11 amended.
Liquor dealers.

SEC. 4. That section eleven of said Act is hereby amended so as to read as follows: Section eleven. All tavern or inn keepers, and all persons who may sell or dispose of any spirituous, malt or fermented liquors or wines, in less quantities than one quart, shall, before the transaction of any such business, take out a license or licenses from the County Treasurer, as prescribed in this Act, and make therefor the following payment, to wit: Those making sales to the amount of ten thousand dollars or more as a monthly average, shall constitute the first class; sales to the extent of five thousand, and not exceeding ten thousand dollars as a monthly average, shall constitute the second class, and all sales less than five thousand dollars, shall constitute the third class; the license to be paid by the venders of the first class, shall be forty dollars per month; of the second class, shall be twenty dollars per month; of the third class, shall be five dollars per month. The moneys collected for licenses, provided to be granted by this section, shall be paid into the County Treasury for county purposes.

Section 13; amended.

SEC. 5. That section thirteenth of said Act is hereby amended so as to read as follows: Section thirteenth. The licenses provided to be granted by this article shall be granted for three, six and

Section 12 amended.
 Liquor dealers.
 Section 13 amended.
 Liquor dealers.

twelve months, at the option of the party applying for such licenses. Terms of licenses. Penalties for violations. Every person who shall transact or carry on any business specified in this article, without first procuring the license required, for each and every offense shall be liable to an action in the name of the County or of the State, as the case may be, in any court of competent jurisdiction, for double the amount of [the] required license, with cost of prosecution; and it is hereby made the duty of the District Attorney to prosecute the suits provided for in the articles two, three and four of this Act, and violations of the provisions of article two; and in case judgment shall be obtained against the party prosecuted, the court shall tax as cost, against the defendant, the sum of fifteen dollars as District Attorney's fees, and include the same in the judgment; and the moneys, less Attorney's fees, when received, shall be paid to the County Treasurer, for State or County purposes, as the case may be. The County Auditor shall, at least once in three months, forward to the Controller of State a full abstract of all licenses granted; to whom granted; and the amount of money paid on account of the same; the Controller shall thereupon charge the County Treasurer with the amount thereof, and the County Treasurer is hereby authorized and empowered to administer any oath which he may deem necessary to require of parties in order to determine the amount of business transacted. Abstract of licenses. The Controller of State shall cause to be printed a sufficient number of licenses, of all classes mentioned in this article, for three, six and twelve months, filled out completely, except a blank for the name of the County and of the County Auditor. Each license shall also contain a blank receipt, to be signed by the County Treasurer on delivery of said license to the purchaser thereof. He shall forward to the Auditor of each County a sufficient number of blanks for the use of said County, which shall be charged to said Auditor on the Controller's books. The Auditor, from time to time, shall deliver to the Treasurer as many of such licenses as may be required, and shall sign the same, and charge them to the County Treasurer, specifying the class of licenses in his charge. Printed licenses At the end of each month, the Treasurer shall return to the Auditor all licenses not issued, and the Auditor shall charge him with the amount of money received for licenses issued, and open a new account with the Treasurer for the next month. Once in three months the Auditor shall report to the Controller of State the number of licenses issued by the Treasurer of [for] the preceding three months, and the amount of money paid for the same, and the Controller shall hold the Auditor responsible, on his official bond, for all licenses and receipts issued to him under this article, not accounted for or returned. Licenses not issued. If either the Auditor or Treasurer shall issue, have in his possession, or put in circulation any other licenses than those forwarded to the Auditor by the Controller, the person so offending shall be liable to indictment for a felony, and, on conviction, be sentenced to imprisonment in the State Prison for a term not less than one year nor more than four years. Penalty for false license.

SEC. 6. That section forty of said Act is hereby amended so as to read as follows: Section forty. Each male inhabitant of this State, over twenty-one years of age and under fifty years of age, and not by law exempt from poll tax, shall pay a poll tax each year, for the use of the State and County, of three dollars; forty per cent. of the net proceeds of which shall be paid into the County Treasury for County purposes, the remaining sixty per cent. of the net pro- Section 40 amended. Poll Tax.

Proviso. ceeds to be paid into the County Treasury for the use of the State ; *provided*, he shall pay the same to the Assessor or his deputy, on demand ; and upon the neglect or refusal of such inhabitant to pay said poll tax on demand, then the Assessor or his deputy may, in his discretion, proceed to enforce the collection of the same in the manner provided for in section forty-nine of article seven of said Act.

**Section 49
amended.
Poll Tax—How
collected.**

SEC. 7. Section forty-nine of said Act is hereby amended so as to read as follows : Section forty-nine. To enforce the collection of poll taxes as provided in this Act, the Assessor may seize so much of any and every species of property, right, claim or possession whatever, claimed by any person liable to and refusing or neglecting to pay his poll tax, or in the possession of or due from any other person and belonging to such person so refusing to pay such poll tax, as will be sufficient to pay such poll tax and costs of seizure ; and shall and may sell the same at any time or place, upon giving a verbal notice one hour previous to such sale ; and any person indebted to another, liable to poll tax, who shall neglect or refuse to pay the same shall be liable to pay the same for such other person, after service upon him by the Assessor of a notice, in writing, stating the name or names of the person or persons so liable and owing poll tax, and may deduct the amount thereof from such indebtedness. The Assessor, after having deducted the poll tax for which such property was sold, and the necessary fees and costs of sale, shall return the surplus of proceeds to the owners of the property. A delivery of the possession of the property by the Assessor to any purchaser at any such sale, shall be a sufficient title in the purchaser without the execution of a deed therefor by the Assessor.

**Section 62
amended.
Stock in
incorporated
companies.**

SEC. 8. That section sixty-two of said Act is hereby amended so as to read as follows : Section sixty-two. The owner or holder of stock in any incorporated company, liable to taxation on its capital, shall not be taxed as an individual for such stock ; but the property of every private or incorporated company shall be taxed in the county where the property is situated.

**Section 63
amended.
Personal
estate.**

SEC. 9. That section sixty-three of said Act is amended so as to read as follows : Section sixty-three. Every person shall be listed, in the county where he resides, for all personal estate owned by him in such county, including all real and personal estate in his possession or under his control, as trustee, guardian, executor or administrator ; *provided*, that all property shall be assessed and taxed in the county wherein such property is situate, without respect to the residence of the owner thereof.

**Section 109
amended.
Auditor to
report.**

SEC. 10. Section one hundred and nine of said Act is amended so as to read as follows : Section one hundred and nine. The County Auditor shall make a quarterly report to the Controller of State, of the amount of moneys in the County Treasury belonging to the State. For this purpose he is empowered to examine the books of the Treasurer and administer the oath as to their correctness, and the Treasurer shall also, at the time of such examination, make and subscribe an affidavit that all the moneys received by him have been properly entered into the books submitted for examination. The Controller of State shall forward to the County Auditor blank forms, to be used by such officers in making reports required of them in this Act. It shall be the duty of the County Treasurer, in all cases, when payment of any money is made by them into the State

Power of

**Duty of County
Treasurer.**

Treasury, to produce to the Controller of State a report from the County Auditor, together with a duplicate thereof, stating specifically the amount due the State from each particular source of revenue; the original to be filed with the Controller of State, who shall enter upon the same, and also upon the duplicate, the cash or warrants, as the case may be, paid the Treasurer of State, and also the commission and mileage allowed to the County Treasurer on said payments. The County Treasurer shall file the duplicate report with the County Auditor of his County, whereupon the Auditor shall balance the Treasurer's account. No settlement shall be made with any County Treasurer, or money received from any County Treasurer, except in strict conformity with this section and with section ninety-eight of this Act.

CHAPTER CXLII.

AN ACT

For the Relief of the California State Agricultural Society.

[Approved April 27, 1855.]

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

SECTION 1. The sum of fifteen hundred dollars is hereby appropriated for the use and benefit of the State Agricultural Society, out of any funds not otherwise appropriated; and the Controller of State is hereby authorized to draw his warrant on the General Fund for the aforesaid amount, upon his receiving from the Treasurer of said Agricultural Society the proper vouchers for the same.

CHAPTER CXLIII.

AN ACT

To prevent the Counterfeiting of Gold Dust and other species of Gold.

[Approved April 28, 1855.]

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

- Penalty for counterfeiting.** SECTION 1. If any person shall counterfeit any kind or species of gold dust, gold bullion or bars, lumps, pieces or nuggets of gold, or any description whatsoever of uncoined gold, currently passing in this State, or shall alter or put off any kind of uncoined gold mentioned in this section, for the purpose of defrauding any person or persons, body politic or corporate, or shall make any instrument for counterfeiting any kind of uncoined gold as aforesaid, knowing the purpose for which such instrument was made ; or shall knowingly have in his possession and secretly keep any instrument for the purpose of counterfeiting any kind of uncoined gold as aforesaid, every such person so offending shall be deemed guilty of counterfeiting, and upon conviction thereof shall be punished by imprisonment in the State Prison for a term not less than one year, nor more than fourteen years.
- For keeping instruments.**
- For receiving.** SEC. 2. Every person who shall have in his possession, or receive for any other person any counterfeit gold dust, gold bullion or bars, lumps, pieces or nuggets of gold, or any description whatsoever of uncoined gold currently passing in this State, or entering in any wise into the circulating medium of the State, with intention to utter, put off or pass the same, or permit, cause or procure the same to be uttered or passed, with intention to defraud any person or persons, body politic or corporate, knowing the same to be counterfeit, and being there of duly convicted, shall be punished by imprisonment in the State Prison for a term not less than one year, nor more than fourteen years.
- Take effect.** SEC. 3. This Act shall take effect from and after its passage.

CHAPTER CXLIV.

AN ACT

To amend an Act entitled An Act for the Government and Protection of Indians, passed April 22d, 1850.

[Approved April 28, 1855.]

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

SECTION 1. Section six of the Act entitled "An Act for the Government and Protection of Indians," passed April 22d, 1850, is hereby amended so as to read as follows: Section 6. Complaints may be made before a Justice of the Peace, by white men or Indians, and in all cases arising under this Act, Indians shall be competent witnesses, their credibility being left with the jury. Section 6 amended. Complaints. Witnesses.

SEC. 2. Section fifteen of said Act is hereby amended so as to read as follows: Section 15. If any person in this State shall sell, give or furnish, or knowingly cause to be sold, given or furnished to any Indian male or female, any intoxicating liquors, he, she or they so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, be fined not less than forty, nor more than five hundred dollars, or be imprisoned not less than ten days, nor more than three months, or fined and imprisoned, as the Court shall determine. Section 15 amended. Penalty for selling intoxicating liquors.

SEC. 3. Section eighteen of said Act is hereby amended so as to read as follows: Section 18. All fines, forfeitures and penalties incurred under or by virtue of this Act, except section fifteen, shall, after payment of the costs of prosecution, be paid into the County Treasury to the credit of the Indian Fund, as provided in section eight; and all fines recovered under section fifteen shall, after payment of costs, be paid one half to the informant, and the other half into the County Treasury, to the credit of such Indian Fund. Section 18 amended. Fines. Where paid. How disposed of.

CHAPTER CXLV.

AN ACT

To provide for the Survey and Construction of a Wagon Road over the Sierra Nevada Mountains.

[Approved April 28, 1855.]

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

Duty of Surveyor General. **SECTION 1.** The Surveyor-General of the State shall cause to be surveyed a good Wagon Road over the Sierra Nevada Mountains, at an expense not to exceed five thousand dollars, and no further liability shall be incurred for this purpose. The Governor, the Secretary of State and the Surveyor-General shall constitute a Board of Commissioners, and they are hereby authorized to contract for the making of said road, either as a whole or in sections, under the provisions and restrictions of this Act. The Commissioners shall advertise for at least twenty days in the newspapers of the county or counties through which the road passes, and also in one daily paper in Sacramento, and one in San Francisco, for sealed proposals for the performance of the work to be done in improving said road ; and shall, after opening said proposals, let the work by contract, to the lowest and most responsible bidder or bidders ; *provided*, that the accepted bidder or bidders shall give bonds in double the amount of their contracts, with two or more sureties, to be approved by the Commissioners, and conditioned for the faithful performance of such contracts. The western termination of said road shall be at the western foot of the steep slope of the Sierra Nevada Mountains ; and nothing herein contained shall be so construed as to authorize the expenditure of any money on account of the State, in improving any road in the Sacramento Valley, or in the western foot-hills of the Sierra Nevada, which is now usually traveled with ordinary ease and safety with loaded wagons. The right of way for said road is hereby granted through any lands the property of this State, and in cases where said road shall necessarily pass through enclosed lands and valuable improvements to the property of private persons, which enclosures and improvements have been made in good faith, previous to the first day of February, eighteen hundred and fifty-five, the actual damage thereby occasioned shall be ascertained and assessed in the manner by law prescribed in cases of county roads and cart-roads through private property ; and when it shall be made to appear to the satisfaction of the Commissioners that such assessments have been lawfully made, they shall issue a certificate for the payment of the same, in the manner provided for in section two of this Act.

Expense. **SECTION 2.** For the purpose of paying the contractors for the work aforesaid, it is hereby made the duty of the Treasurer of the State to cause to be issued Bonds of the State, not to exceed one hundred thousand dollars in all, of the denomination of " five hundred dollars," payable ten years after date, and bearing an annual interest of seven per cent., payable semi-annually ; which bonds shall be signed by the Governor, and coun-

Board of Commissioners to contract.

Scaled proposals.

Work—how let.

Proviso. Bonds.

Western termination.

Expenditure.

Right of way.

Damages to private property.

Duty of Treasurer.

Denomination of bonds.

Interest.

tersigned by the Controller, and endorsed by the Treasurer of State, and shall have the same force and validity as the bonds issued under "An Act to fund the Indebtedness of the State," passed April twenty-ninth, eighteen hundred and fifty-one. They shall be made payable in the city of New York; but the interest may be made payable either in the city of New York, or at the office of the State Treasurer.

SEC. 3. The payments on the said contract or contracts shall be made monthly; and for the purpose of ascertaining the amount due at the end of each month, it is herein made the duty of the said Commissioners to ascertain and certify the same to the Controller of the State, who shall thereafter issue his warrants on the Treasurer of the State, in the sum or sums certified, payable out of the bonds herein provided for; *provided*, that the sum so paid shall not exceed seventy-five per cent. on the amount of work performed, as certified by said Commissioners, until the completion of said contracts.

SEC. 4. The Commissioners, or either of them, acting under or by virtue of this Act, shall not, either directly or indirectly, be in any manner interested in any contract or undertaking, either for supplies, materials or otherwise in the construction of the road herein contemplated. Any violation of this section shall be a misdemeanor, and upon conviction thereof, before any competent tribunal, said Commissioners, or either of them, shall be fined in any sum not less than five thousand dollars.

SEC. 5. The said road shall be a "Free Public Wagon Road," and made in such a manner as to allow the free and convenient passage of wagons and other vehicles; and for the purpose of constructing such road the said Commissioners are hereby empowered to appropriate and set apart as much territory on either side thereof as may be absolutely necessary; *provided*, no private property shall be taken without just compensation therefor.

SEC. 6. Any two of the Commissioners appointed under this Act, are hereby authorized to make contracts and do all acts and things herein contemplated to be done; and the same shall be as effectual and valid as if made by all such Commissioners.

SEC. 7. Said Commissioners are hereby authorized to expend a sum not to exceed one hundred thousand dollars, and they are hereby required to keep a minute account of all expenditures connected with the construction of said road, and to report the same to the next Legislature, and they also shall be held to show the disposition of all bonds issued under the provisions of this Act. The said Commissioners are required to locate said road at the earliest practicable day, following (in their judgment) the most practical and economical route, and if possible, to have said road so far completed as to make it beneficial to the emigration of the present year; *provided*, any expenditure made, or contract entered into, by the Commissioners, beyond the one hundred thousand dollars, shall be null and void as against the State, and the Commissioners shall be jointly and severally liable to the same prosecution and penalties for a violation of the provisions of this section, as is provided in section four of this Act.

SEC. 8. All liabilities authorized and incurred under, and by virtue of the provisions of this Act, shall be paid out of the appropriation made by this Act.

CHAPTER CXLVI.

AN ACT

To establish the Salaries of the Judges of the Thirteenth, Fourteenth and Fifteenth Judicial Districts, and to define the time for holding Courts in said Districts.

[Approved April 28, 1855.]

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

Compensation
of Judges.
Thirteenth
District.
Fourteenth.
Fifteenth.

SECTION 1. There shall be paid in the manner provided by law to the Judge of the Thirteenth Judicial District, four thousand dollars per annum; to the Judge of the Fourteenth Judicial District, five thousand dollars per annum; to the Judge of the Fifteenth Judicial District, four thousand per annum.

Terms of Court.

County of
Merced.
Mariposa.

Tulare.

SEC. 2. The terms of the District Court of the Thirteenth Judicial District, shall be held as follows: In the county of Merced on the first Mondays of February, June and October; of Mariposa, on the second Mondays of February, June and October of each year; in the county of Tulare, on the first Mondays of March, July and November of each year.

Fourteenth
District Court.
County of
Nevada.

Sierra.

Plumas.

SEC. 3. The terms of the District Court of the Fourteenth Judicial District shall be held as follows: In the county of Nevada, on the third Mondays of April and July, and the second Mondays of October and December in each year; in the county of Sierra, on the second Mondays of March and June, and the third Mondays of September and November of each year; in the county of Plumas, on the first Mondays of April and November, and the third Monday in May in each year.

Fifteenth
District.
Humboldt.

Trinity.

SEC. 4. The terms of the District Court of the Fifteenth Judicial District shall be held as follows: In the county of Humboldt, on the first Mondays in January, April, July and October in each year; in the county of Trinity, on the third Mondays of February, May, August and November in each year.

CHAPTER CXLVII.

AN ACT

Concerning Public Ferries and Toll-Bridges.

[Approved April 28, 1855.]

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

SECTION 1. No person shall demand or receive compensation for the use of any bridge or ferry as a public highway, nor set up and keep on any private road, a toll bridge, ferry or constructed ford so as to receive any remuneration or promise of remuneration for use of the same unless authorized so to do by license as hereinafter provided. ^{License necessary.}

SEC. 2. The Board of Supervisors of each county shall be and are hereby empowered to establish public ferries and toll bridges across those bays, rivers, creeks or sloughs, bounding or within their respective counties when ever they shall deem it necessary ; *provided*, said Board shall not have the power to license bridges across navigable waters. But nothing in this Act contained shall be construed to authorize the granting of any license to keep a public ferry or toll bridge across or over the bays of San Pablo, Suisun, San Francisco or Monterey, or to impair the free and unrestricted navigation of said bays ; *provided*, nothing in this section shall affect any ferry now established on the Straits of Carquenas, between Mare Island and Navy Point. ^{Supervisors empowered. Proviso.}

SEC. 3. Any person may petition the Board of Supervisors for a license to keep a ferry or toll bridge, and if in the discretion of the Board such ferry or toll bridge be necessary, and the petitioner be a suitable person to keep the same, they shall order the Clerk of said Board to issue a license, on the payment of such license tax, for the term for which the license is granted as the Board may direct, not to exceed the rate of one hundred dollars, nor less than three dollars per month for such term, and filing with the Clerk the receipt and bond as hereinafter provided. ^{Discretion of Board. License tax.}

SEC. 4. Whenever a ferry or toll bridge crosses a stream, slough, bay, or arm of the sea, forming the boundary line between two counties, the owner or owners of the same shall take out a license in the county, lying on the left bank descending such stream, slough, bay, or arm of the sea ; *provided*, that the amount paid for such license shall be equally divided between such two counties. Should the County Treasurer to whom such license money may have been paid neglect or refuse to pay over to the County Treasurer of the county entitled to the one-half of said money, on demand, suit may be brought against such Treasurer so neglecting or refusing, and the securities on his official bond, in the name of the county to which said money is due in any court of competent jurisdiction, and judgment shall be recovered for double the amount so found to be due. ^{Bridges on boundary line. Proviso. Neglect of Treasurer.}

SEC. 5. Upon the production of the receipt of the County Treasurer to the Clerk of the Board for the amount of license tax assessed by said Board, and filing the bond as hereinafter required, said Clerk shall issue such license to keep a ferry or toll bridge at the place therein mentioned. ^{Clerk to issue license.}

- Term.** for a term not less than six months, nor more than one year, but no license to keep such ferry or toll bridge shall issue unless the land on which it is sought to establish such ferry or toll bridge be public land, or the land of said petitioner or where the holders or owners of any land where the public convenience may require that such ferry or toll bridge shall be kept, shall neglect or refuse to have a public ferry or toll bridge established within a reasonable time.
- Bridges on public land, etc.**
- Bridge or ferry near another.** SEC. 6. No ferry or toll bridge shall be established within one mile immediately above or below a regularly established ferry or toll bridge, unless it be required by the public convenience, or where the situation of a town or village, the crossing of a public highway, or the intervention of some creek or ravine shall render it necessary. Upon application by any person to establish another ferry or toll bridge within one mile of any regularly established ferry or toll bridge, notice of at least ten days of the time and place of such application, and of the grounds upon which the same is founded, shall be served upon the proprietor of the ferry or toll bridge already established, and such application shall be made to the same tribunal (if the same has jurisdiction) which granted the license for the ferry or toll bridge already established.
- When and how established.**
- Renewal of license.** SEC. 7. Any person having a license to keep a ferry or toll bridge and having kept the same in accordance with law, shall be entitled to have such license renewed from the date of the expiration of the same, for a period of not less than six months or more than one year, having posted notices of his intention to apply for such renewal for twenty days, in the same manner as required on original application, and the Board of Supervisors shall in all cases of application for renewal of license give to the party applying for renewal a preference over any party making original application for license to keep a toll bridge or ferry at the same place; *provided*, such person applying for renewal shall in all respects have complied with the terms and requirements of this Act.
- Notice of intention.**
- Preference.**
- Proviso.**
- Private grounds.** SEC. 8. When any person being owner or holder of any land lying on any river, creek, slough or arm of the sea within or bounding on this State, except such as are by section two of this Act, exempted, where any public road may cross the same, and where the public convenience may require that a ferry or toll bridge should be kept, shall neglect or refuse to have a public ferry or toll bridge established within a reasonable time, it shall be lawful for the Board of Supervisors of the county in which it may be necessary to have such ferry or toll bridge established, upon proper application being made, and after having given three months public notice of their intention by advertisement in some public newspaper in the county, or by written notice set up in three of the most public places in the county, to grant a license to some person to keep a ferry or toll bridge at said place, on such conditions as to them may appear reasonable and just, taking bond with security as hereinafter provided.
- Landings of ferries.** SEC. 9. Any person or persons having obtained a license from the Board as aforesaid shall be and they are hereby authorized and empowered to keep such ferry or toll bridge so established, and also to occupy as much ground as may be necessary to discharge passengers not exceeding one hundred feet on each side of the river, creek, slough or arm of the sea, as the ferryman may deem necessary.
- Appraisers.** SEC. 10. In case any land belonging to a private person be appropriated for public use as provided in the two preceding sections, it shall be the duty of the Board of Supervisors to appoint three disinterested electors of the county, who shall upon view of such land

so appropriated for public use appraise the same and make return to said Board setting forth the metes and bounds of the same, and the valuation they have placed thereon. Whereupon the Board of Supervisors shall make an order that the amount of such appraisement shall be paid to the holder or owner of such land so appropriated by the person or persons obtaining such license.

Amount of appraisement.

SEC. 11. When the land bordering on any creek, river, slough or arm of the sea, across which a public ferry or toll bridge is deemed necessary, shall be a public common for any town, the said Board shall be authorized to establish ferries or toll bridges across such river, creek, slough or arm of the sea, on application of any persons owning land next adjoining such public common, under the same rules and restrictions that ferries and toll bridges are established, upon application of persons owning lands bordering on such river, creek, slough or arm of the sea; but the foregoing provisions shall not be construed as in anywise to affect the rights of any town or corporation, or of any person or persons being proprietor or proprietors of any town, their heirs or assigns, by giving the right to establish a ferry or toll bridge to any person, not proprietor of such town, if the corporation of such town or the proprietor of such lands keep up a sufficient number of ferries or toll bridges.

When Supervisors to build ferries, etc.

Rights of towns or individuals.

SEC. 12. The Board of Supervisors shall not establish any ferry or toll bridge until the applicant shall prove satisfactorily that publication has been made of his intended application in some newspaper published in the county if one be published, and by posting notices in three of the most public places in the township, where the bridge or ferry is sought to be established, for at least thirty days next preceding such application.

Notice of application.

SEC. 13. The Board of Supervisors shall have authority to order and direct from time to time the number and description of boats, and the number of hands which shall be kept on each ferry respectively.

Boats, etc.

SEC. 14. No application as aforesaid shall be granted for any toll bridge until the Board of Supervisors shall be satisfied that such bridge has been or will be made of substantial and durable materials, and at least ten feet in width, railed in with a good substantial railing at least four feet high; *provided*, that nothing in this section contained shall prohibit the Board of Supervisors upon application from authorizing the erection of toll bridges across mountain streams where it is impracticable to travel with wagons, of such dimensions as the Board in its discretion may determine.

Description of bridges.

Proviso.

SEC. 15. Any person injured, delayed or damaged, through any defect, insufficiency, or want of repair in a toll bridge or ferry, shall have a right to sue for and recover of the party having a license therefor, such damages as he may have thereby sustained in any court of competent jurisdiction.

Damages for delay, etc.

SEC. 16. The person or persons obtaining an order granting to him or them the privilege of keeping a ferry or toll bridge, shall within thirty days from the date of such order execute a bond payable to the State of California, in a penal sum to be fixed by the Board of Supervisors with one or more sureties to be approved by the County Judge, conditioned that he or they will keep such ferry or toll bridge in good repair and condition, according to law, and that he or they will give passage to all public messengers and expresses when required, without fee or reward, and conditioned further that the obligors will pay to any person delayed, injured or damaged, by

Bonds.

Conditions.

reason of any defect or insufficiency, or want of suitable repair of said ferry or bridge, all damages that such persons may recover therefor in any court of competent jurisdiction, which bond shall be filed with the County Clerk and may be proceeded on by any party injured by any breach of the conditions thereof in the same manner as appeal bonds; and if any party obtaining an order granting a ferry or bridge privilege, shall neglect or refuse to give such bond he or they shall forfeit the right to said ferry or toll bridge privilege.

Where filed.

Refusal to give bond.

License from County Judge.

SEC. 17. When the Board of Supervisors refuse to grant a license or a renewal of a license to keep a ferry or toll bridge to any person to establish a ferry or toll bridge, the person making such application according to law shall have the right to apply to the County Judge of the county in which the ferry or bridge is sought to be established is located, for such license during any regular term of the County Court for such county, and the County Judge may in his discretion grant such license in accordance with the provisions of this act.

Violating section 1.

SEC. 18. Any person who shall violate the first section of this Act shall be deemed guilty of a misdemeanor, and may upon conviction be punished by fine not exceeding five hundred dollars for the first offense, and for the second offense in addition thereto, shall be imprisoned in the County Jail not exceeding thirty days.

Rates of toll.

SEC. 19. The Board of Supervisors shall establish the rates of toll to be charged and received for crossing all licensed ferries and toll bridges, which rates shall be posted up, either written, printed or painted, at each licensed ferry or toll bridge in the State, by the owner thereof.

Persons to pass free.

SEC. 20. All expresses sent on public service by a Commander in Chief, Colonel or Major, or from the Governor for the time being, or the commanding officer of the Militia, shall be accounted public messengers or expresses, and shall pass all ferries or toll bridges free of charge, within the condition of the bond aforesaid if the dispatch carried by such messenger or expresses be endorsed "Public Service" and be signed by the person sending the same, but no ferryman or toll bridge keeper shall be bound to give passage free to any such expresses in time of peace except in case of insurrection.

Obligations of ferrymen.

SEC. 21. Each licensed ferry keeper shall constantly keep a good and sufficient boat or boats, (if more than one be necessary) with a sufficient number of able and skillful ferrymen, as may be directed by the Board of Supervisors, and give due attendance to the said ferry or ferries, and to the transportation of all persons with their property, who shall apply for the same between daylight in the morning and dark in the evening, so that no unnecessary delay may happen to persons having occasion to pass such ferry; and all licensed ferry or toll bridge keepers shall be obliged at any hour of the night, if required, except in cases of evident danger to give passage to all expresses above recited, and to all other persons requiring the same on their tendering or paying the rate of toll or ferriage allowed to be taken during the day time.

Banks of streams.

SEC. 22. It shall be the duty of all ferry and toll bridge keepers to cause the banks of the streams to be graded and kept in good passable order for the passage of loaded wagons and other vehicles.

Bridging without license.

SEC. 23. The Board of Supervisors may in their discretion and under restrictions herein before prescribed, establish and license ferries or bridges over streams that are otherwise impassable for short

periods at particular seasons, without the payment of license tax, if said Board shall be satisfied that the profits of such ferry or toll bridge will not justify the owner in paying a tax therefor, but every ferry or toll bridge so established under the provisions of this section shall be subject to all the rules, regulations and restrictions of this Act, except the payment of a license tax.

SEC. 24. If any ferry which now is, or may hereafter be established, shall not be furnished with the necessary boat or boats and ferrymen within one month after the establishment thereof and continue to be so furnished, or if the proprietor shall at any time thereafter refuse or neglect to properly attend to the same, it shall be the duty of the Board of Supervisors for the county wherein such ferry is located on complaint to them made and verified by the oath of any citizen of the county, to cause the proprietor or proprietors of such ferry to be summoned to appear before said Board at its next sitting to show cause why the license for such ferry should not be revoked, and the Board of Supervisors shall revoke such license or dismiss such complaint on hearing the testimony adduced, and may award cost against the complainant or proprietor or in their discretion apportion the costs.

SEC. 25. When any member of the Board of Supervisors is interested in the establishment or continuation of any ferry or toll bridge, and in counties where no such Board is organized, the County Judge of the county in which the application is required to be made shall have and exercise under the same obligation and restrictions the powers and duties devolved upon the Board of Supervisors by this Act.

SEC. 26. All moneys assessed and collected for ferry or toll bridge licenses shall be paid into the County Treasury for county purposes.

SEC. 27. Each and every person to whom a license to keep a ferry or toll bridge has been granted by the Court of Sessions or District Judge of any of the counties of this state, which license was unexpired on the first Monday in February, A. D., 1855, and the assignee or assignees of such as have transferred the franchise are, and each and every of them is hereby licensed to keep a ferry or toll bridge, according to the grant of their respective franchise until the first Monday of June next, and any person or persons to whom a license to keep a ferry or toll bridge is hereby granted, who shall have kept the same in accordance with law, shall be entitled to have such license renewed from the date of the expiration of the same, for a period of not less than six months nor more than one year, having posted notices of intention to apply for such renewal in the same manner as required on an original application.

SEC. 28. An Act entitled an Act concerning public ferries and toll bridges passed May 15, 1854, is hereby repealed.

CHAPTER CXLVIII.

AN ACT

Appropriating Moneys for the Benefit of the Orphan Asylums of the City of San Francisco.

[Approved April 28, 1855.]

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

Appropriation.

SECTION 1. The Controller of State is hereby directed to draw his warrants on the Treasurer, payable out of the General Fund, for the sum of ten thousand dollars, five thousand to each, in favor of the Trustees of the two Orphan Asylums in San Francisco, and the sum of ten thousand dollars is hereby appropriated out of any moneys in the Treasury not otherwise appropriated for the purpose of carrying out the provisions of this Act.

Report of Trustees.

SEC. 2. The Trustees of said Orphan Asylums are hereby required to report to the Governor of this State on the 20th day of December of each year the manner in which said money is appropriated; also, a detailed statement of the expenditure of the above appropriation, with the names of the orphans who may be inmates of their respective Asylums, and a full account of all expenses incurred by said institutions severally.

Expenditures, names of orphans, &c.

CHAPTER CXLIX.

AN ACT

Supplemental to an Act to create a Board of Supervisors in the Counties of this State, and to define their Duties and Powers, passed March 20th, 1855.

[Approved April 28, 1855.]

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

Public buildings.

SECTION 1. For the purpose of purchasing, erecting and constructing court houses, jails and other public buildings in the counties of Yuba and Calaveras, the Board of Supervisors of the said counties are hereby authorized to levy a special tax not to exceed one-half of one per cent. on all taxable property in their respective counties.

Special tax.

CHAPTER CL.

AN ACT

Supplementary to an Act entitled An Act to Incorporate the City of Marysville, passed March 5th, 1855.

[Approved April 28, 1855.]

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

SECTION 1. The right to establish, license and control all ferries and bridges across the Yuba river, from the mouth of said river up the same so far as the corporate limits of the city of Marysville extend, is hereby granted to and vested in the corporate authorities of said city. ^{Ferries and bridges.}

CHAPTER CLI.

AN ACT

To provide for the Sale of the Swamp and Overflowed Lands belonging to this State.

[Approved April 28, 1855.]

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

SECTION 1. The swamp and overflowed lands belonging to this State shall be sold at the rate of one dollar per acre, in manner prescribed by this Act. ^{Sale of lands.}

SEC. 2. Any person or persons wishing to purchase lands under the provisions of this Act, shall cause the tract or tracts of land sought to be purchased to be surveyed by the County Surveyor of the county in which such lands may be situated. ^{Persons wishing to purchase.}

SEC. 3. It shall be the duty of said County Surveyor to make out a plat and field notes of every survey made by him under the provisions of this Act, and keep the same on file in his office, and forward a certified copy of the same to the Surveyor General of this State, within ninety days after such survey or surveys may be completed, and shall also deliver a certified copy of said plat and field notes of such survey or surveys to the person or persons for whom such survey or surveys may be made. And it shall be the duty of such ^{Duty of County Surveyor.}

- Survey to be recorded.** person or persons to cause the same to be recorded in the office of the County Recorder of such county, within thirty days from the time such survey or surveys may be completed, and it shall be the duty of the Surveyor General to transmit a copy of such plat and field notes to the office of the Secretary of State of this State.
- Surveyor General's duty.**
- Price of lands.** SEC. 4. The purchaser or purchasers of lands under the provisions of this Act, shall at the time or previous to the filing of such plat and field notes for record, as aforesaid, pay to the County Treasurer of such county the sum of one dollar per acre for all the lands contained in such survey or surveys, which may be paid either in money, Controller's warrants or any other evidence of indebtedness of this State originating out of the ordinary expenses of the State Government, and take said Treasurer's receipt for the same, and have such receipt recorded in the office of the County Recorder, at the time of recording said plat and field notes, as aforesaid.
- How paid.** $\frac{1}{2}$
- Credit.** SEC. 5. Any person or persons wishing to purchase lands under the provisions of this Act, may, if preferred by such purchaser or purchasers, have a credit of five years to pay for the same, by paying interest at the rate of ten per cent. per annum upon the purchase money, the interest, in all cases, to be paid one year in advance, which interest, as well as principal, may be paid in the same manner as provided by the fourth section of this Act.
- Interest—when and how paid.**
- Forfeiture.** SEC. 6. If any person or persons purchasing lands, upon a credit of five years, as provided in section five of this Act, shall fail or neglect to pay the principal and interest within the said term of five years from the date of the certificate of purchase, or shall fail or neglect to pay the interest as required by this Act, for the space of one year from the time such interest may become due, or shall fail or neglect to reclaim at least one half of the land so purchased, within the said term of five years, such neglect or failure shall work a forfeiture of such lands, and the same shall be re-sold, as if no purchase had been made.
- Resold.**
- County Treasurer to pay.** SEC. 7. It shall be the duty of the County Treasurer of each county to pay over to the Treasurer of this State, at the same times and in the same manner as other State revenues, all moneys received by him under the provisions of this Act, and shall, at the same time, transmit to the State Treasurer a certificate showing the name of the purchaser or purchasers, the amount of land purchased, and that the same was paid, as principal or interest, (as the case may be.)
- Duties of State Treasurer and Secretary of State.** SEC. 8. It shall be the duty of the State Treasurer, upon the receipt of the purchase money, or interest upon the same, according to the provisions of this Act, to certify the same to the Secretary of State, whose duty it shall be to issue a certificate of purchase to such purchaser or purchasers, specifying, in a brief manner, the terms of the purchase.
- Time of Interest.** SEC. 9. The time of calculating interest shall, in all cases, commence from the date of the certificate of purchase.
- Purchaser limited.** SEC. 10. No person shall become the purchaser, from the State, of more than three hundred and twenty acres of land, under the provisions of this Act.
- Lands exempted.** SEC. 11. No person shall become the purchaser, from the State, of any lands situated within ten miles of the city of San Francisco or San Diego, nor within five miles of the cities of Sacramento, Marysville, or Oakland, nor within one mile of any other incorporated city

or town in this State, nor within one mile of the Sacramento river, from the mouth of said river to the mouth of Feather river. The land situated within ten miles of the city of San Francisco or San Diego, within five miles of the cities of Sacramento, Marysville and Oakland, and within one mile of any other incorporated city or town, and within one mile of the Sacramento river, from the mouth of said river to the mouth of Feather river, shall be and they are hereby excluded from the provisions of this Act.

SEC. 12. All surveys made under the provisions of this Act shall be according to instructions from the Surveyor General of this State, which instructions shall be, as near as practicable, in accordance with the surveys of the public lands of the General Government. Instructions.

SEC. 13. Previous to the survey of such lands, the purchaser shall file an affidavit in the Recorder's office, that he or she is not knowing to any other legal claim of any description to said land. Affidavit of purchaser.

SEC. 14. In all cases where full payments have been made by the purchaser or purchasers of lands, under the provisions of this Act, the Secretary of State shall certify the same to the Governor, whose duty it shall be to issue a patent to the person or persons purchasing the same. Patent.

SEC. 15. For the issue of such patent the purchaser shall pay a fee of one dollar, which shall go to the Library Fund. Fee.

SEC. 16. Any person or persons having or holding a settler's claim, under the laws of this State for the protection of settlers, upon the swamp and overflowed lands belonging to this State, shall be and is hereby protected in his, her or their claim to the same, including all improvements thereon; *provided*, that he, she or they shall, within six months after the taking effect of this Act, comply with all the requirements of other purchasers under the provisions of this Act; *provided, further*, that no person or persons settling upon any of the swamp or overflowed lands described in this Act, shall acquire any right or title, by reason of such settlement, upon any of the lands excepted from the provisions of this Act. Protection of settlers. Proviso.

SEC. 17. All expenses attending the survey and purchase of lands, under the provisions of this Act, shall be paid by the purchaser or purchasers of the same, as far as the same applies to the county officers of the county in which such lands may be situated. Expenses.

SEC. 18. The provisions of this Act shall apply only to lands granted to this State by Act of Congress, passed September 28th, 1850, entitled "An Act to enable the State of Arkansas and other States to reclaim Swamp Lands within their limits;" and the provisions of this Act shall not apply to, nor in any manner affect any lands belonging to this State by virtue of its sovereignty, below the line of ordinary high tide water, on the sea shore and the shores of the harbors on the coast of this State. Lands applied to.

SEC. 19. This Act to take effect and be in force from and after the first day of June next. Take effect.

CHAPTER CLII.

AN ACT

Concerning Roads and Highways.

[Approved April 28, 1855.]

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

- Highways.** SECTION 1. All roads shall be considered as public highways which are now used as such, and have been declared such by order of the Court of Sessions or Board of Supervisors, or which may be hereafter so declared by the Board of Supervisors within their respective counties.
- Road districts.** SEC. 2. It shall be the duty of the Board of Supervisors of each county, to divide the county into a suitable number of road districts, and to appoint annually, or whenever vacancies may occur, an Overseer for each district, whom they shall have power to remove at pleasure.
- Duty of County Clerk.** SEC. 3. The County Clerk of each county shall notify all persons who have been appointed Road Overseers, within ten days after such appointment has been made, informing them of such appointment, and describing the boundaries of their District.
- Overseer's duty.** SEC. 4. The Road Overseers shall cause all the public highways within their respective districts to be kept clear from obstructions and in good repair, causing banks to be graded, bridges and causeways to be made where the same may be necessary, to keep the same in good repair, and to renew them when destroyed.
- Power of.]** SEC. 5. The Road Overseers shall have power to make use of any gravel or dirt for improving the roads, which may be absolutely necessary, from any adjacent unimproved lands, and the Board of Supervisors may allow such damages, if there be any, to the owners of said lands, as they may deem just; *provided*, that said Supervisors shall be liable to pay damages to the county, at the suit of any citizen, if it shall be proved that they have allowed extraordinary and extravagant damages.
- Damages.**
- Taxes.** SEC. 6. The Boards of Supervisors shall have power to levy a road tax on all able-bodied men between the ages of twenty-one and fifty years, which shall not exceed four dollars per annum, and a property tax, which shall not exceed five cents on each one hundred dollars, for road purposes, to be levied and collected at the same time and manner as other property taxes are collected; *provided*, that the provisions of this section, so far as it relates to the road tax, shall not apply to any of the incorporated cities or towns of this State.
- How collected.**
- Same.** SEC. 7. The property tax so levied shall be collected by the Sheriff of the county, in the same manner as in the collection of other taxes; but all road taxes for road purposes shall be collected by the Overseers in their respective Districts; *provided*, that the Board of Supervisors shall in all cases require a bond of such Overseer, to secure

the payment of such moneys as he may receive under the provisions of this Act.

SEC. 8. Whenever any contract for the improvement of roads is to be made, advertisement thereof shall be given by the Overseer of the District in which such improvement is to be made, by posting written notices in two of the most public places of his District, and by advertisement in one newspaper of the county, or if none be published in the county, by notice posted at the Court House door ten days prior to the letting of such contract; and all contracts shall be awarded to the lowest responsible bidder, subject to the approval of the Board of Supervisors; *provided*, that the Overseers shall have power to make contracts for the improvement of roads, which shall not exceed the sum of fifty dollars, at their option; such contracts to be approved by the Board of Supervisors.

SEC. 9. The Board of Supervisors of each County, on presentation of petition praying for a County Road to be laid out within the county, or praying for a cart road to be laid out from the dwelling or plantation of any person to any public road, or from one public road to another, and designating the points therein, shall cause notice to be given to the parties owning the land over which such road is to be located; and if objections by one or more of the owners shall be made, the Board of Supervisors shall consider and determine the same at their next regular meeting, and if they shall be of the opinion that such road is necessary, they shall appoint two persons as Viewers, to view out and locate said road; and upon a return of the certificate of the Viewers, shall declare the same to be a public highway. When absolutely necessary, the County Surveyor may be called in by the Supervisors to assist in said location.

SEC. 10. Each Road Overseer shall report to the Board of Supervisors, quarterly, the amount of money collected and paid out by him, and to whom and for what paid, the number of days he himself has been in actual service, and also a list of delinquents; and the said Overseer shall make an affidavit before a Justice of the Peace, that said report and delinquent list is correct, to the best of his knowledge and belief; and any person refusing or neglecting to pay the road tax, required by this Act, to the Overseer, on or before the first day of October of each year, shall be considered a delinquent, and the Overseer shall proceed to levy and sell at public vendue, to the highest bidder, after giving six days' public notice, the property of such delinquent, or so much thereof as may be necessary to satisfy such delinquency and cost.

SEC. 11. The Overseers shall receive for their services, while in actual employment, the same per diem compensation as is allowed to the Supervisors of their respective counties.

SEC. 12. If any person shall obstruct any public road, by felling any tree across the same, or by placing any other obstruction therein, or damming, digging, or deepening a creek or river, or its banks, so as to destroy a ford or crossing, he shall be liable to prosecution before any Justice of the Peace, by any Supervisor of the county, or Overseer of the Road District, on behalf of the county, and on conviction thereof, shall be fined in a sum not exceeding fifty dollars, and shall forfeit five dollars for every day he shall suffer said obstruction to remain, after he shall have been ordered to remove the same by the Overseer.

SEC. 13. If any person shall willfully destroy or injure any

bridge or causeway, or remove or cause to be removed, any of the plank or timber therefrom, or cut down or injure any tree planted or growing as a shade tree in any public highway, or damage any highway by digging in it, he shall be liable to be prosecuted before any Justice of the Peace by any Supervisor of the county, in behalf of said county, and on conviction thereof, shall be fined in a sum not to exceed one hundred dollars.

Disposition
of fines.

SEC. 14. All fines collected under the provisions of this Act shall be paid into the County Treasury for the use of the Road District in which the same was collected.

Repeal.

SEC. 15. An Act concerning Roads and Highways, passed April eleventh, eighteen hundred and fifty, and An Act concerning Roads and Highways, passed April nineteenth, eighteen hundred and fifty-three, are hereby repealed.

CHAPTER CLIII.

AN ACT

To Discourage the Immigration to this State of Persons who cannot become Citizens thereof.

[Approved April 28, 1855.]

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

Tax of \$50.

SECTION 1. The master, owner, or consignee of any vessel, arriving in any of the ports of this State from any foreign State, country or territory, having on board any persons who are incompetent by the laws of the United States or the laws and constitution of this State to become citizens thereof are hereby required to pay a tax, for each such person, of fifty dollars.

Officers to
visit ships.

SEC. 2. It shall be the duty of the Commissioner of Emigrants of the city of San Francisco, or the Mayor or other chief municipal officer of any town or city in other parts of this State, to visit all such vessels immediately upon their arrival in any of said ports, and whenever the said Commissioner, Mayor or other chief municipal officer shall be satisfied by personal inspection, or otherwise, of the number of passengers referred to in the first section of this Act, on board of said vessel, he shall demand and receive of the master, owner or consignee of such vessel, the sum of fifty dollars for each such passenger so disqualified from becoming a citizen of the United States.

Collection
of tax.

SEC. 3. In the event of the non-payment of said tax within three days after the arrival of said vessel, or within three days after demand for said tax, said Commissioner, Mayor or chief officer of any city, town or village, shall commence suit in the name of the State against the master, owner or consignee, or all of them for said tax before any court of competent jurisdiction in said town or city; and the

Suit against
master.

commencing of said suit shall constitute a lien upon such vessel for the ^{Lien on vessel.} amount of said tax, and it shall be forever liable for the same.

SEC. 4. The Commissioner of Emigrants of San Francisco is hereby ^{Disposition of money.} required to pay over on the first Monday of every month to the Treasurer of State, for the use of the Hospital Fund, all moneys collected under the provisions of this Act, reserving to himself first five per cent-^{Commission.} of the amount so collected as compensation under this Act.

SEC. 5. The said Commissioner of Emigrants is required, before ^{Bond of Commissioner.} entering upon the duties of this Act, to enter into a bond to the State of California in the sum of thirty thousand dollars, with good and sufficient security to be approved by the Governor, conditioned that he will ^{Condition.} well and truly discharge all the duties required of him by this Act, which said bond shall be filed in the office of the Secretary of State.

SEC. 6. This Act shall take effect from and after the first day of ^{Take effect.} September next.

CHAPTER CLIV.

AN ACT

To fix the Salary of the County Judge of Placer County.

[Approved April 23, 1855]

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

SECTION 1. The County Judge of the county of Placer, shall re-^{Salary.} ceive for his services the sum of four thousand five hundred dollars annually, from and after the 2d day of June, 1855.

SEC. 2. So much of an Act entitled "An Act to fix the compensa-^{Repeal.} tion of County Judges, and Associate Justices of the Courts of Sessions and to repeal a like Act passed April 22d, 1850," passed May 17th, 1853, as is inconsistent with the provisions of this Act, is hereby repealed.

CHAPTER CLV.

AN ACT

Amendatory of an Act entitled "An Act to Regulate Proceedings in Civil Cases in the Courts of Justice of this State," passed April 29th, 1851, and also amendatory of an Act entitled "An Act amendatory of and supplementary to an Act entitled An Act to Regulate Proceedings in Civil Cases in the Courts of Justice in this State, passed April 29th, 1851," passed May 15th, 1854.

[Approved April 28, 1855.]

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

Act of April
29 amended.

SECTION 1. An Act entitled "An Act to Regulate Proceedings in Civil Cases in the Courts of Justice of this State," (passed April 29th, 1851,) is hereby amended, as hereinafter prescribed.

Section 28.
Summons—by
whom served.

SEC. 2. Section twenty-eight of said Act, as amended by an Act passed in March, A. D. 1855, is hereby amended so as to read as follows : Section 28. The summons shall be served by the Sheriff of the county where the defendant is found, or by his Deputy, or by a person specially appointed by him, or appointed by a Judge of the Court in which the action is brought, or by any white male citizen of the United States over twenty-one years of age, who is competent to be a witness on the trial of the action, except as hereinafter provided ; a copy of the complaint, certified by the Clerk, shall be served with the summons. When the summons is served by the Sheriff or his Deputy, it shall be returned with the certificate or affidavit of the officer of its service and of the service of the copy of the complaint to the office of the Clerk from which the summons issued. When the summons is served by any other person, as before provided, it shall be returned to the office of the Clerk from which it issued, with the affidavit of such person of its service, and of the service of a copy of the complaint. If there be more than one defendant in the action, and such defendants reside within three miles of the Clerk's office, a copy of the complaint need be served on only one of the defendants.

Section 43.
Complaints
and answers.

SEC. 3. Section forty-third of said Act is hereby amended so as to read as follows : Section 43. If the complaint be amended, a copy of the amendments shall be filed, or the Court may in its discretion require the complaint as amended to be filed, and a copy of the amendments shall be served upon every defendant to be affected thereby, or upon his attorney, if he has appeared by attorney ; the defendant shall answer in such time as may be ordered by the Court, and judgment by default may be entered upon failure to answer, as in other cases.

Section 64.
Causes of
action.

SEC. 4. Section sixty-four of said Act is hereby amended so as to read as follows : Section 64. The plaintiff may unite several causes of action in the same complaint, when they all arise out of—First, Contracts express or implied ; or, Second, Claims to recover specific real

property, with or without damages, for the withholding thereof, or for waste committed thereon, and the rents and profits of the same; or, Third, Claims to recover specific personal property, with or without damages for the withholding thereof; Fourth, Claims against a trustee by virtue of a contract or by operation of law; or, Fifth, Injuries to character; or, Sixth, Injuries to person; or Seventh, Injuries to property. But the causes of action so united shall all belong to one only of these classes, and shall affect all the parties to the action, and not require different places of trial, and shall be separately stated; *provided*, however, that an action for malicious arrest and prosecution, or either of them, may be united with an action for either an injury to character or to the person.

SEC. 5. Section one hundred and twenty-eight of said Act is hereby amended so as to read as follows: Section 128. Any person owing debts to the defendant, or having in his possession or under his control any credits or other personal property belonging to the defendant, may be required to attend before the Court or Judge, or a referee appointed by the Court or Judge, and be examined on oath respecting the same. The defendant may also be required to attend for the purpose of giving information respecting his property, and may be examined on oath. The Court or Judge may, after such examination, order personal property capable of manual delivery, to be delivered to the Sheriff on such terms as may be just, having reference to any liens thereon, or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

SEC. 6. Section four hundred and two of said Act is hereby amended, so as to read as follows: Section 402. A subpoena may require not only the attendance of the person to whom it is directed, at a particular time and place, to testify as a witness, but may also require him to bring any books, documents or other things in his control, to be used as evidence. No person shall be required to attend as a witness before any Court, Judge, Justice or any other officer out of the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of trial.

SEC. 7. Section six hundred and four of said Act is hereby amended so as to read as follows: Section 604. Every Justice shall keep a book denominated a docket, in which he shall enter—First, The Title of every action or proceeding; Second, The object of the action or proceeding, and if a sum of money be claimed, the amount of the demand; Third, The date of the summons and the time of its return, and if an order to arrest the defendant be made, or a writ of attachment be issued, a statement of these facts; Fourth, The time when the parties, or either of them, appear, or their non-appearance if default be made; a minute of the pleadings and motions, if in writing, referring to them—if not in writing, a concise statement of the material parts of the pleading and of all motions made during the trial by either party, and his decisions thereon; Fifth, Every adjournment, stating on whose application, whether on oath, evidence or consent, and to what time; Sixth, The demand for a trial by jury, when the same is made, and by whom made, the order for the Jury and the time appointed for the trial and return of the Jury; Seventh, The names of the Jury, who appear and are sworn, the names of all witnesses sworn and at whose request; Eighth, The verdict of the Jury and when received; if the Jury disagree and are discharged, the fact of such disagreement and discharge; Ninth, The judgment of the Court, specifying the costs included, and the time when rendered;

Tenth, The issuing of the execution, when issued and to whom, the renewals thereof, if any, and when made, and a statement of any money paid to the Justice, and when and by whom; Eleventh, The receipt of a notice of appeal, if any be given, and of the appeal bond, if any be filed.

Act of May 15
amended.

SEC. 8. An Act entitled an Act amendatory of and supplementary to an Act entitled An Act to Regulate Proceedings in Civil Cases in the Courts of Justice of this State, passed May 15th, 1854, is hereby amended, as hereinafter proscribed.

Section 55.
Appeals to
County Court.

SEC. 9. Section fifty-five of said Act is hereby amended so as to read as follows. Section six hundred and twenty-five of said Act is hereby amended so as to read as follows: Section 625. When a party appeals to the County Court on questions of law alone, he shall, within ten days from the rendition of judgment, prepare a statement of the case and file the same with the Justice. The statement shall contain the grounds upon which the party intends to rely on the appeal, and so much of the evidence as may be necessary to explain the grounds, and no more; within ten days after he receives notice that the statement is filed, the adverse party, if dissatisfied with the same, may file amendments; the proposed statement and amendments shall be settled by the Justice, and if no amendments be filed, the original statement shall be adopted. The statement thus adopted or as settled by the Justice, with a copy of the docket of the Justice, and all motions filed with him by the parties during the trial, and the notice of appeal shall be used on the hearing of the appeal before the County Court.

Section 57.
Notice of appeal.

SEC. 10. Section fifty-seven of said Act is hereby amended so as to read as follows: Section six hundred and twenty-seven of said Act is hereby amended so as to read as follows: Section 627. Upon receiving the notice of appeal and on payment of the fees of the Justice and filing an undertaking as required in the next section, the Justice shall within five days transmit to the Clerk of the County Court; if the appeal be on question of law alone, a certified copy of his docket, the statement as admitted or as settled, the notice of appeal and the undertaking filed; or, if the appeal be on questions of fact, or both law and fact, a certified copy of his docket, the pleadings, all notices, motions and other papers filed in the cause, the notice of appeal and the undertaking filed, and the Justice may be compelled by the County Court, by an order entered upon motion, to transmit such papers, and may be fined for neglect or refusal to transmit the same; a certified copy of such order may be served on the Justice by the party or his attorney. In the County Court either party shall have the benefit of all legal objections made in the Justice's Court.

Duty of Justices.

Section 58.
Bonds on appeal.

SEC. 11. Section fifty-eight of said Act is hereby amended so as to read as follows: Section six hundred and twenty-eight of said Act is hereby amended so as to read as follows: Section 628. An appeal from a Justice's Court shall not be effectual for any purpose, unless an undertaking be filed with two or more sureties in the sum of one hundred dollars for the payment of the costs on the appeal; or if a stay of proceedings be claimed, in a sum equal to twice the amount of the judgment, including costs, when the judgment is for the payment of money, or twice the value of the property, including costs, when the judgment is for the recovery of specific personal property, and shall be conditioned, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from and

all costs, if the appeal be withdrawn or dismissed, or the amount of any judgments and all costs, that may be recovered against him in said action in the County Court; where the action is for the recovery of specific personal property, the undertaking shall be conditioned that the appellant will pay the judgment and costs appealed from, and obey the order of the court made therein, if the appeal be withdrawn or dismissed, or any judgment and costs that may be recovered against him in said action in the County Court, and will obey any order made by the court therein. The undertaking shall be accompanied by the affidavit of the sureties that they are residents of the county, and are each worth the amount specified in the undertaking over and above all their just debts and liabilities, exclusive of property exempt from execution, or the bond shall be executed by a sufficient number of sureties, who can justify in the aggregate to an amount equal to double the amount specified in the bond; or a deposit of the amount of the judgment including all costs appealed from, or of the value of the property, including all costs in actions for the recovery of specific personal property, with the Justice, and such deposit shall be equivalent to the filing of the undertaking in this Act mentioned, and in such cases the Justice shall transmit the money to the Clerk of the County Court, to be by him paid out upon the order of the court.

Sec. 12. Section sixty-three of said Act is hereby amended so as to read as follows: Section 63. In actions respecting miners' claims in a Justice's Court, the Justice shall have power upon application of the party out of possession of the claim or claims, after notice of one day to the adverse party, to appoint a Receiver of the proceeds of the claim, pending the action. If the parties agree upon a person, he shall be appointed such Receiver. If the parties do not agree, the Justice shall appoint a Receiver, who shall take an oath, which shall be filed with the Justice, that he is not interested in the action between the parties, and that he will honestly keep an account of all gold dust or metals of any kind, the proceeds of the claim or claims in dispute. After the appointment of such Receiver, the Justice shall have power to issue a written order to any Sheriff or Constable to put such Receiver into possession of such claim; which said Sheriff or Constable shall execute, and the Receiver shall remain in possession of the claim or claims, so long as said action may remain undetermined in any court. The court in which the action may be pending, shall have authority upon application of either party with two days' notice to the other, from time to time, to make such orders for the disposition of the proceeds of such claim or claims for the safety of the same, as may seem proper. The court in which the action may be pending shall also have power, upon application of the Receiver, based upon his affidavit, to punish as for contempt, all persons who have been guilty of disturbing the Receiver in the possession of the claim.

CHAPTER CLVI.

AN ACT

Amendatory of an Act entitled "An Act dividing the State into Counties, and establishing the Seats of Justice therein," approved April 25th, 1851.

[Approved April 30, 1855.]

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

Section 30
amended.

Boundaries of
Trinity County

SECTION 1. Section 30 of the Act entitled "An Act dividing the State into Counties, and establishing the Seats of Justice therein," approved April 25th, 1851, is hereby amended so as to read as follows : County of Trinity. Beginning at the northeast corner of Humboldt County, on the Trinity River, at the point where the boundary line between said County of Humboldt and the County of Klamath crosses said river ; thence northeasterly up the principal ridge to the summit of the range of mountains dividing the waters of the Trinity River from the waters of Salmon River ; thence following the said summit in an easterly direction to the summit of the range that divides the waters of the Sacramento from the waters that flow westwardly through the Klamath into the Pacific ; thence southerly following the summit of said range to its intersection with the fortieth degree of parallel of north latitude ; thence due west along said parallel of latitude to the eastern boundary of Humboldt county ; thence in a northerly direction along said eastern boundary to the place of beginning. The Seat of Justice shall be Weaverville.

Location of
Seat of Justice.

Section 31
amended.
Boundaries of
Klamath.

SEC. 2. Section 31 of said Act shall be so amended as to read as follows : Section 31. County of Klamath. Beginning at a point in the ocean three miles due west of the mouth of Mad River, and running thence due east along the northern boundary of Humboldt County to the western boundary of Trinity County ; thence due north along said western boundary to the northwestern corner of Trinity County ; thence easterly along the northern boundary of Trinity County to the southwesterly boundary of Siskiyou County ; thence in a northerly direction along said boundary of Siskiyou to the parallel of forty-two degrees of north latitude ; thence along said parallel to the Pacific Ocean, and three miles therein ; thence in a southerly direction parallel with the coast to the place of beginning. The Seat of Justice shall be at such place as may be chosen by the qualified electors of the county.

Seat of Justice

CHAPTER CLVII.

AN ACT

Supplementary to an Act entitled "An Act to Regulate Fees in Office," passed March 30th, 1855.

[Approved April 30, 1855.]

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

SEC. 1. The Act entitled "An Act to Regulate Fees in Office,"^{Clerk of Supreme Court.} passed on the 30th day of March, 1855, shall take effect as far as it applies to the fees of the Clerk of the Supreme Court, on the first day of January, 1857, being the expiration of the term of the present incumbent.

CHAPTER CLVIII.

AN ACT

To provide for a Contingent Fund for the Arrest of Fugitives from Justice.

[Approved April 30, 1855.]

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

SECTION 1. The sum of one thousand dollars is hereby set apart out of the General Fund not otherwise appropriated, for the purpose of paying rewards offered by the Governor, for the arrest of fugitives from justice; and the Governor is hereby authorized to draw on the same at any time he may deem proper, in payment of rewards as aforesaid.^{Appropriation for rewards.}

CHAPTER CLIX.

AN ACT

To authorize certain Chinese Companies to sell and convey certain Real Estate by their Superintendents.

[Approved April 30, 1855.]

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

- Right to sell.** SECTION 1. The Chinese companies in the State of California, known as the "Sze Yap" Company, and the "Ning Yeung" Company, and the members of said companies shall have the right and are hereby authorized and empowered to sell and convey certain real estate, situated in the city of San Francisco, and bounded and described as follows,
- Description.** to wit.: Commencing at the southeast corner of Stockton and Sacramento streets in the said city of San Francisco, and running thence easterly along the south side of Sacramento street forty feet; thence southerly and parallel with Stockton street fifty-seven feet six inches; thence westerly and parallel with Sacramento street forty feet to Stockton street; and thence northerly along the east side of Stockton street fifty-seven feet six inches to the place of beginning, by and through the Trustees or Superintendents of said companies.
- Deeds of conveyance.** SEC. 2. The sale or conveyance of the real estate, in the first section of this Act mentioned and described, or any part thereof, by either of said companies, shall be by deed or deeds of conveyance made, executed and acknowledged by the Trustees or Superintendents of such company, in the name and for and in behalf of such company; and any deed or deeds so made, executed and acknowledged in pursuance of this Act, shall be valid and have like force and effect as if such deed or deeds had been made, executed and acknowledged by the several members of said company.
- Deeds valid.**

CHAPTER CLX.

AN ACT

Concerning the Escape of Convicts of the State Prison.

[Approved April 30, 1855.]

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

SECTION 1. Whenever any person, legally committed to the State Prison in this State, shall escape therefrom, and shall be arrested in any part of this State, such person may be tried by any court having criminal jurisdiction in this State, in the manner and form observed in other trials in criminal cases, and if found guilty of such escape from the State Prison prior to pardon, discharge [discharge] or expiration of his term of service in said Prison, he shall be punished by a recommitment for the same length of time for which he was sentenced when he escaped from said Prison; said second term of imprisonment to commence at the expiration of the term for which he was last sentenced.

SEC. 2. It shall be the duty of the Lessee or other person having charge of the State Prison, to post a copy of this Act in each of the cells of said Prison.

CHAPTER CLXI.

AN ACT

To Organize the County of Buena Vista.

[Approved April 30, 1855.]

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

SECTION 1. All that portion of the County of Tulare situated south of the township line dividing townships number twenty-one and twenty-two south, shall constitute a new county, to be called "Buena Vista" County.

SEC. 2. If at any time prior to the first day of August next, the qualified voters of the said counties of Buena Vista and Tulare shall file petitions in the office of the County Clerk of the County of Tulare, the said County Clerk shall immediately give notice to the Board of Supervisors of the County of Tulare of the filing of such petitions; whereupon it

shall be the duty of such Board of Supervisors to hold a special session of said Board of Supervisors, on or before the thirteenth day of August next, and examine such petitions; and if in the opinion of said Board of Supervisors a majority of the qualified voters within the said new county of Buena Vista, and also a majority of the qualified voters of said counties of Buena Vista and of Tulare put together have signed such petitions, such Board of Supervisors shall enter an order for an election of officers for said county of Buena Vista, under the provisions of this Act, and shall at the same time divide said County of Buena Vista into townships or election precincts.

Duty of Supervisors.
Election.
Townships.
Officers to be elected.
Term of office.

SEC. 3. Said County of Buena Vista shall, on the day of the next general election in this State, elect one County Judge, one County Clerk, who shall be ex-officio County Recorder of said county, one District Attorney, one Sheriff, one County Treasurer, one County Surveyor, one Assessor, one Coroner, one Public Administrator, a Board of Supervisors for said county, and two Justices of the Peace, and two Constables for each township or precinct in said county; all of which officers shall hold their respective offices for the term of two years, and until their successors are elected and qualified, except township officers, who shall be elected for one year only.

Duty of officers of Tulare Co.

SEC. 4. From and after the entering of the order of the Board of Supervisors, according to the provisions of the second section of this Act, the county officers of the County of Tulare shall severally perform the duties of officers of the County of Buena Vista, until such officers for said County of Buena Vista shall be elected and qualified under the provisions of this Act.

Duty of Clerk of Tulare Co.

SEC. 5. When the County Clerk elected under the provisions of this Act for the County of Buena Vista shall be duly elected and qualified, it shall be the duty of the County Clerk for the County of Tulare to transfer all books and papers pertaining to the election of officers under this Act, and all other papers properly belonging to said County of Buena Vista over to the said County Clerk of Buena Vista County.

Books, &c., of Buena Vista Co.

SEC. 6. It shall be the duty of all county officers of Tulare county to transfer all books, papers, moneys and effects which may come into their hands, and properly belonging to the said County of Buena Vista, over to the proper officers of the County of Buena Vista, as soon as such officers may be elected and qualified under the provisions of this Act.

Seat of Justice.

SEC. 7. The qualified electors of said County of Buena Vista shall, on the day of electing county officers for said county, under the provisions of this Act, elect some point or place to be the Seat of Justice of said county, and the place receiving the highest number of votes shall be the Seat of Justice of said county until otherwise provided by law.

Judicial District.
Time of Court.

SEC. 8. Said County of Buena Vista shall constitute a part of the Thirteenth Judicial District of this State, and the terms of the District Court in and for said County of Buena Vista, shall be on the third Monday of March, July and November of each year.

County Judge and District Attorney's salaries.

SEC. 9. The salary of the County Judge of said county shall be one thousand dollars per annum, and the salary of the District Attorney for said county shall be five hundred dollars per annum.

Senatorial District.
Member of Assembly.

SEC. 10. Said County of Buena Vista shall constitute a portion of the Sixth Senatorial District, and the counties of Tulare and Buena Vista shall elect one member of Assembly.

Supervisors to meet.

SEC. 11. One of the members of the Board of Supervisors of the County of Tulare, to be selected by said Board, and one of the members of the Board of Supervisors of the County of Buena Vista, to be selected by said

Board, shall meet at the County Seat of the County of Tulare, on the first Monday in the month of October next, or such other time as they may agree upon within one month thereafter, for the purpose of ascertaining the amount of indebtedness of Tulare County, and the amount justly chargeable to Buena Vista County by the assessment roll of taxable property of the year A. D. eighteen hundred and fifty-five; for which amount thus found to be justly chargeable to Buena Vista County, the Board of Supervisors of said county shall order a warrant to be issued upon the Treasury of said Buena Vista County, payable out of one-third part of the first funds which may come into said Treasury. ^{Warrant to be issued.}

SEC. 12. If the said County of Buena Vista shall not be organized under the provisions of this Act, in the year A. D. eighteen hundred and fifty-five, then this Act shall be in force and apply to the year A. D. eighteen hundred and fifty-six. ^{Act to remain in force.}

CHAPTER CLXII.

AN ACT

To amend an Act entitled "An Act to provide for the Formation of Corporations for certain purposes," passed April 14th, 1853.

[Approved April 30, 1855.]

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

SECTION 1. Section first of said Act is amended so as to read as follows: Corporations for manufacturing, mining, mechanical, wharfing and dockage or chemical purposes, or for the purpose of engaging in any species of trade or commerce, foreign or domestic, may be formed according to the provisions of this Act; such corporations and members thereof being subject to all the conditions and liabilities herein imposed and to none others. ^{Section 1 amended. Corporations. Conditions.}

CHAPTER CLXIII.

AN ACT

To authorize the Board of Trustees of the City of San Diego, to convey to the President and Board of Directors of the San Diego and Gila Southern Pacific and Atlantic Railroad Company, two leagues of the Pueblo Lands to aid in the Construction thereof.

[Approved April 30, 1855.]

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

Trustees to convey land.

SECTION 1. The Trustees of the City of San Diego, in the County of San Diego, or a majority of them, may and they are hereby authorized and empowered to grant, convey, release and quit claim, to the President and Board of Directors of the San Diego and Gila Southern Pacific and Atlantic Railroad Company, and to their successors in office, in accordance with the provisions of this Act, but not otherwise, two leagues of the Pueblo or public lands belonging to said city; and the lands so conveyed may either be sold, released or hypothecated, for the purpose of raising funds to construct the said road, and the procuring of the necessary machinery for the same; but the land so conveyed shall neither be sold, leased nor hypothecated by the President and Directors of the said Railroad Company, for any other purpose whatever; and upon the failure of the said Company to build and complete said road within ten years from the date of their present charter, the lands so conveyed shall revert back to the City of San Diego.

Lands can be sold. Purpose of sale.

Failure to build road.

Election.

Notice thereof.

Inspector and Judges.

Qualified voters

Tickets.

Duty of Trustees

SEC. 2. Within six months after the passage of this Act, the Board of Trustees of the City of San Diego shall order an election to be held, of which they shall give at least thirty days' notice, by publication in the San Diego Herald, or post and keeping the same posted on the Court House door, at New San Diego, and at the Plaza, which notice shall state the object for which the election is to be held; and for the purpose of holding said election the Board shall appoint an Inspector and two Judges, who shall be sworn, and who shall have power to appoint Clerks, and hold the election in the same manner as general elections are held.

SEC. 3. At the election provided for in the second section of this Act, all the legally qualified voters of the county of San Diego, who shall have resided as their permanent place of residence for six months next preceding such election within the bounds of the Pueblo lands of the City of San Diego, according to Fitch's survey and map of said lands, or whose families reside permanently on the same for six months during the year, shall be entitled to vote at said election; upon each ticket shall be plainly written or printed the word or words, "Grant" or "No Grant"; if a majority of all the votes cast shall be in favor of granting, then it shall be, and is hereby made the duty of the present Board of Trustees, or their successors in office, to convey all the right, title and interest of the City of San Diego in and to two leagues of the Pueblo lands of said city, to the President and Directors of the San Diego and

Gila Southern Pacific and Atlantic Railroad Company, in trust and for the use of said Company; which title deed or deeds shall refer to this Act by its title and date of approval; said deed or deeds shall also contain a condition, that unless the said company shall construct and complete the said road within ten years from the date of its present charter, the land so conveyed shall revert back to the city of San Diego; *provided*, that if a majority of all the votes cast in said election shall be opposed to granting said lands, then this Act shall be null and void.

Condition of deed.

Proviso.

SEC. 4. For the purpose of carrying the provisions of this Act into effect, the Board of Trustees shall employ a competent surveyor to survey and plat so much of the Pueblo lands as may be necessary, lying immediately upon or adjacent to the Bays of San Diego, into lots, blocks or tracks of such size as in their judgment will most increase the value of each alternate lot, block or track; but no lot shall be of a less size than fifty yards front; for defraying the expenses of the survey and plat provided for in this Act, the President and Directors of the said Railroad Company shall pay, or secure to be paid to the Board of Trustees of the City of San Diego one half of the cost of such survey and plat.

Further duty of Trustees.

Size of Lots.

Cost of survey.

SEC. 5. So soon as the survey and plat shall have been completed, the President of the Board of Trustees, under the direction of the Board, shall, commencing at some fixed point on the survey, near the water of the main bay, and in case there shall be two or more surveys, lying immediately upon the main bay, separated from each other by intervening lands, then at some fixed point near the water upon each survey, and select the first lot to be reserved to the city, and the President of the Railroad Company, under the direction of the Board of Directors thereof, shall be present and select the adjoining lot; and the two Presidents shall proceed in like manner to select each alternate lot, until all the lots lying within one-quarter of a mile of high-water mark of the main bay of San Diego shall have been selected; in the selection of lots, blocks or tracts of land, lying one-quarter of a mile and over from the high-water mark of the main Bay of San Diego, the two Presidents may either select alternately or otherwise, as in their judgment may be just and proper; when a quantity of land equal to two leagues shall have been selected by the President of the Railroad Company, said land so selected shall be conveyed by the Board of Trustees to the said Railroad Company, in the manner provided for in this Act.

To reserve alternate lots.

Privilege of Presidents.

SEC. 6. It shall be the duty of the Inspector and Judges of the election held under the authority of this Act, to make out a complete return of said election, in duplicate; which return shall contain the day on which the election was held, the place where held, the names of the Inspectors, Judges and Clerks, the name of each voter, and the number of votes polled for and against the grant; and the Inspector and Judges shall certify to said returns under oath or affirmation, before the County Recorder, and deliver the original to the President of the Board of Trustees, and the duplicate to the President of the Railroad Company; and it shall be the duty of the President of the Board of Trustees to have the same recorded in the office of the County Recorder; and the expenses of the election, and for the recording the returns thereof, shall be paid one-half by the Board of Trustees, and the other half by the Board of Directors of the Railroad Company.

Duty of Inspectors and Judges of election. Returns.

How paid for.

SEC. 7. This Act shall take effect from and after the fifteenth day of May next.

Take effect.

CHAPTER CLXIV.

AN ACT

To provide for the Payment of the Salary of the District Attorney of the County of San Francisco.

[Approved April 30, 1855.]

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

Warrant, &c.

SEC. 1. That the County Auditor of the County of San Francisco, is hereby authorized and directed to draw his warrants upon the County Treasurer of said county, in favor of the District Attorney thereof, for the salary provided by law for said officer.

CHAPTER CLXV.

AN ACT

For the Relief of Joseph Marzen and Bernhard Mayer.

[Approved April 30, 1855.]

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

Judgment.

SECTION 1. That the judgment recovered by the people of the State of California, on the twenty-fifth day of April, eighteen hundred and fifty-three, in the Sixth Judicial District Court, against Joseph Marzen and Bernhard Mayer, for the sum of two thousand dollars and costs, be, and the same is hereby released and discharged.

Enter discharge.

SEC. 2. The Clerk of said Court is hereby authorized and directed to enter a full satisfaction and discharge of said judgment on the books in his office.

CHAPTER CLXVI.

AN ACT

To compensate Mrs. Sarah Staples, Teacher of the Pioneer School of the County of Tuolumne.

[Approved April 30, 1855.]

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

SECTION 1. The Superintendent of Public Instruction is hereby ^{Warrant, &c.} directed to draw his warrant, with the seal of the State Board of Education, on the Treasurer of State, for the sum of four hundred dollars, payable to Mrs. Sarah Staples or her order, from the School Fund ; and to forward the said warrant to said Staples, taking receipt therefor in the usual form.

CHAPTER CLXVII.

AN ACT

To authorize the Working of the Convicts in Sacramento County.

[Approved April 30, 1855.]

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

SECTION 1. The Board of Supervisors of Sacramento county shall ^{Power of Supervisors.} have power to make a contract with the city authorities of Sacramento City, or with any person who may be engaged in doing work for the public in said city, to authorize the working of all able-bodied male persons who are or may be convicted of crime in said county, and sentenced to imprisonment in the County Jail of said county ; on such terms as may be fair and equitable between the contracting parties, and with such limitations and restrictions as shall safely keep and humanely provide for said convicts.

SEC. 2. If any convict who is being worked out under the provisions of this Act, shall escape from his overseer, he shall, upon conviction before any Justice of the Peace or City Recorder in said county, ^{Penalty for escaping.}

be sentenced to imprisonment not less than one nor more than six months, to begin when his first term of imprisonment shall expire.

Section 2
to be read.

SEC. 3. The second section of this Act shall be read to each of said convicts before he is sent from the jail to work.

CHAPTER CLXVIII.

AN ACT

To authorize the Judges of the Supreme Court to employ a Secretary.

[Approved April 30, 1855.]

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

Secretary.
Salary.

SECTION 1. The Judges of the Supreme Court are hereby authorized to employ the services of a Secretary, whenever they may deem it necessary ; *provided*, that the amount expended for such purpose shall not exceed the sum of one hundred and fifty dollars per month.

Certificate.

SEC. 2. The services performed under this Act, shall be certified by the Judges of said Court, or a majority of them, and the Controller of State shall thereupon draw his warrant upon the Treasurer as in other cases in favor of the person or persons so performing such service.

Payment.

SEC. 3. The sum of eighteen hundred dollars is hereby set apart, and the same shall be paid out of any moneys in the General Fund not otherwise appropriated, to meet the expenses accruing under this Act.

CHAPTER CLXIX.

AN ACT

For the Relief of James Austen, by his Agent, Benjamin S. Lippincott.

[Approved April 30, 1855]

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

SECTION 1. The Controller of State is hereby authorized to issue ^{Warrant.} in favor of James Austen, by his Agent, Benjamin S. Lippincott, a State Warrant for such amount as will cover the principal and interest accruing on State Bonds destroyed by fire to the amount of one thousand and fifty dollars, and bearing date from May the fourth, (1850) one thousand eight hundred and fifty.

SEC. 2. The said James Austen, by his Agent, Benjamin S. Lippincott, to indemnify the State against all loss that may hereafter occur, shall furnish good and sufficient bonds for double the amount of the warrant above authorized. ^{Austen to give bonds.}

CHAPTER CLXX.

AN ACT

Amendatory of an Act entitled An Act to fund the Debt of Contra Costa County, and to provide for the Payment of the same, approved February 14th, A. D. eighteen hundred and fifty-five.

[Approved April 30, 1855.]

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

That section tenth and section fourteenth of an act to fund the debt of Contra Costa county, and to provide for the payment of the same, approved February fourteenth, A. D. eighteen hundred and fifty-five, be amended so as to read as follows:

SECTION 1. That section tenth of said Act shall read as follows: ^{Interest on bonds.} It shall be the duty of the Board of Supervisors of Contra Costa county to make certain arrangements for the payment of the interest on said bonds, when the same shall fall due, at least sixty days before the time of payment; and in the event that the said interest fund is

Fund insufficient. insufficient, the Board of Supervisors shall draw a warrant on the County Treasurer of Contra Costa County, on the general fund of said county, for such purposes; and said County Treasurer shall forthwith pay such warrant; and in the event that those funds prove inadequate, the Board of Supervisors is hereby authorized, empowered and required to make such contract and agreements in the name, behalf and for said county, as may be necessary for the payment of said interest and the protection of the faith of the County of Contra Costa; *provided*, that said Board of Supervisors shall have first drawn from the County Treasurer, such sums as may be in the County Treasury, subject to and provided for the payment of said interest by the provisions of said Act.

Contracts to pay interest.

Proviso.

Compensation. SEC. 2. That section fourteenth of said Act shall read as follows: The Commissioners, Treasurer and Auditor shall receive as a compensation for their services, each, eight dollars per day for every day actually engaged in the performance of their duties therein required; *provided*, that the time within which the Commissioners shall perform the duties prescribed in this Act; shall not extend beyond the first day of June, A. D. eighteen hundred and fifty-five.

Proviso.

CHAPTER CLXXI.

AN ACT

To amend an Act to Regulate Fees in Office, approved April 10th, A. D. 1855.

[Approved April 30, 1855.]

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

Duty of Clerks. SECTION 1. Section fifty-third of an Act to Regulate Fees in Office, approved April 10th, A. D. 1855, is hereby amended so as to read as follows: Sec. 53. It shall be the duty of the Clerks of the several Courts to cause a printed copy of that part of this Act relating to San Francisco, to be posted and kept in some conspicuous place in their offices. The cost of such printing shall be paid out of the County Treasury.

Pay for printing.

Section 58 amended. Penalty for violation.

SEC. 2. Section fifty-eight of said Act is hereby amended so as to read as follows: Section 58. Any officer who shall violate any of the provisions of the fifty-first and fifty-second sections of this Act shall be indicted, and, if found guilty, shall be fined in a sum not less than one thousand dollars, nor more than (at the discretion of the jury) five thousand dollars.

CHAPTER CLXXII.

AN ACT

To provide for the Payment of State Prison Inspectors.

[Approved April 30, 1855.]

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

SECTION 1. The pay of State Prison Inspectors shall be twelve ^{Compensation.} hundred dollars per annum ; and the Controller of State is hereby authorized and directed to audit the accounts of the State Prison Inspectors heretofore appointed, at the aforesaid rates, from the dates of their appointment and confirmation by the Senate, respectively ; and to draw his warrant upon the State Treasurer for the amounts due such Inspectors ; he is hereby directed to pay the same out of the general fund ; *provided*, that nothing contained in this Act shall ^{Proviso.} be so construed as to allow any pay to any one of the Board of Inspectors for services for which he may already have been paid.

CHAPTER CLXXIII.

AN ACT

To provide for Funding the Floating Debt of the City of Marysville, and for the Extinguishment thereof.

[Approved April 30, 1855.]

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

SECTION 1. The city of Marysville is hereby authorized to fund its ^{Board of Commissioners.} floating debt in the manner hereinafter provided ; and to that end the Mayor, President of the Council, and Treasurer of said city, and their successors in office, shall constitute a Board of Commissioners, to be styled, "The Funding Commissioners of the City of Marysville," and shall have and exercise the powers and perform the duties hereinafter provided.

SEC. 2. The holders of all legally created city indebtedness due ^{Warrants not to be funded.} at the time of the passage of this Act, and of all indebtedness as evidenced by the issue of warrants upon *bona fide* and regularly audited and certified accounts, in accordance with the ordinance or

ordinances authorizing the same, which shall become due prior to the first day of July, one thousand eight hundred and fifty-five, shall be entitled to the privileges of funding the same, by virtue of this Act; and on and after which date, the funding powers of said Commissioners shall wholly cease and determine. Certificates of stock shall be issued at one hundred cents on the dollar for an equal amount of indebtedness surrendered, the vouchers of which indebtedness shall be effectually canceled after settlement.

Funding power to cease.

Certificates of stock. Signing of certificate. Purport.

Denomination.

Interest.

When payable.

Date of stock. Principal—when payable.

Coupons. By whom signed.

Commissioners to certify. Assessment.

First moneys collected.

Common Council restricted.

Commissioners to inspect books.

Sec. 3. Said certificates of stock shall be in form prescribed by said Commissioners and shall be signed by each of them holding office, and each certificate shall purport in substance as follows: The city of Marysville is indebted to the holder thereof, a sum to be expressed therein, which sum and certificate shall be for the sum either of one hundred dollars, or five hundred dollars, or one thousand dollars, at the option of the creditors. The stock shall bear an interest of ten per cent. per annum, payable semi-annually, on the first day of January and July of each year; the interest shall be made payable in the city of New York, or in Marysville, at the option of the creditors to whom the certificate is issued. The principal shall be made payable in the city of Marysville or New York, at the option of the person or persons to whom the certificate is issued. Said stock shall be dated on the first day of July, 1855, the principal thereof be payable, in fifteen years after date; the interest on said stock shall be made payable on coupons annexed to each certificate, the first coupon being payable on the first day of January, A. D. eighteen hundred and fifty-six, and thereafter semi-annually. Said coupons shall be signed by the Mayor and Treasurer of said city, and shall be equally binding with the certificates. The certificates shall be signed under the corporate seal of the city.

Sec. 4. The said Commissioners previous to the making out of the general assessment list for the said city in each and every year, shall certify and deliver to the City Assessor the amount which shall be necessary to be raised for the payment of the interest of the debt herein funded for the current year; and the said Assessor in completing said assessment list shall add to the amount which may be authorized by law to be raised for other purposes the amount so certified for the payment of such interest, and of the sinking fund when due, as hereafter specified; and the first moneys collected on the whole of such general assessment list which shall remain in the hands of the City Treasurer, shall be paid by said Treasurer into the hands of the Commissioners created by this Act, as fast as the same be collected; and in payment of other than that, shall be, directly or indirectly, made out of the moneys assessed or collected in said assessment list for any other purpose, until the amounts authorized by this section to be assessed and collected shall have been actually paid over to said Commissioners. The Common Council of said city shall not have power to enact any provisions which shall prevent or hinder the immediate collection, in current coin, of the amounts authorized to be raised by this section, or otherwise contravene the provisions of this section; and if any such provisions are attempted to be enacted, it shall be the duty of the City Collector to disregard the same, and to collect and pay over the current coin as authorized in this section. Said Commissioners shall have the right at all times to inspect the books of the Assessor and Collector of the city.

Sec. 5. The said Commissioners shall receive into their custody

all the moneys which shall be levied and collected for the purposes of this Act. Out of the same they shall pay the interest of the said stock, and the residue thereof they shall securely invest; and re-invest the proceeds thereof, under good security, until they shall be able to apply the same to the extinguishment of the debt herein created, as hereinafter provided. They shall keep regular books of accounts, minutes of their proceedings, which shall be open at all times to the inspection of the Common Council of the city; and shall, within one month before the expiration of the fiscal year of said city, transmit to the Common Council thereof a statement, verified by oath of one or more of said Commissioners, showing the amount of moneys received and paid out by them; the expenditures by them made; the amount of stock outstanding and the amount redeemed within the current year; with the condition of the moneys and funds in their hands, and how the same are invested and secured; which statement the Common Council shall cause to be published forthwith in the newspaper published in said city.

Moneys received.
Disposition.

Books, &c.

Statement.

Publication.

SEC. 6. Seven years from and after the passage of this Act, there shall commence to be collected, annually, and paid over by said Assessors to the Commissioners, in addition to and in the same manner as the interest is specified herein to be assessed and paid over, ten per cent. upon the aggregate amount of the whole debt herein created, as a sinking fund for the payment of said principal sum at maturity. The same shall be devoted to the purchase of the stock, for which proposals shall in all cases be invited from the public, annually, with at least ninety days' notice, and the best offer of sale be accepted; *provided*, however, that no bid shall be accepted at a higher rate than the par value. When said stock cannot be purchased, the Commissioners shall invest and re-invest, under good security, all the moneys which shall come into their hands not required for the payment of interest; and said investment and re-investments shall continue until sufficient shall be in their hands to redeem said principal at maturity. If any portion of said stock be purchased, it shall be effectually canceled and filed away in the office of the Commissioners. At the time when the principal of said stock becomes payable, the Commissioners shall devote the moneys in their hands to the redemption of the same, and shall pay over the surplus, if any, to the Treasurer of the city.

Ten per cent.
to be paid.

How applied.

Proviso.

Commissioners
to invest.

Stock purchased.

Principal
of stock.

Surplus.

SEC. 7. The said Commissioners shall, before entering upon their duties, give good and sufficient bonds, to be approved by the Common Council, in the penal sum of twenty thousand dollars each, for the faithful performance of their duties, except the Treasurer, whose official bond shall hereafter provide for the faithful performance of his duties as Commissioner in addition to the covenants now therein contained.

Bonds of
Commissioners.

Exception.

SEC. 8. The duties hereby required to be performed by said Commissioners shall be deemed a part of their official duties as Mayor, President of the Council and Treasurer, respectively, and shall be performed without compensation; and nothing herein contained shall be construed as authorizing either one of said Commissioners to receive or charge any commission or per centage upon any moneys received or disbursed in performance of the duties enjoined upon them, or either of them, by this Act; nor shall they receive any gift, present or compensation of any description for any service rendered in funding the said debt, other than is provided in this Act; and if

Official duties.

No compensation.

No per centage.

No gifts, &c.

Penalty.

either of said Commissioners shall violate any of the provisions of this Act, he and his sureties shall be liable on his official bond therefor in double the amount proven to have been so received by said Commissioners; *provided*, that the said Board of Commissioners may employ a Clerk until the first day of July, 1855, at a rate of compensation not to exceed one hundred and fifty dollars per month.

Proviso.

Clerk.
No warrants
to be drawn.

SEC. 9. On and after the first day of July, A. D. 1855, it shall not be lawful for the City Clerk, or other authorities, to draw any warrant upon the treasury without there be cash actually therein to meet the warrant so drawn. Any violation of this section shall be deemed a misdemeanor, and upon conviction thereof the party or parties so offending shall be subject to a fine of not less than five thousand dollars, nor more than ten thousand dollars, or imprisonment in the State Prison for a term of not less than one year, nor more than five years, at the discretion of the Court.

Common Coun-
cil to issue.

SEC. 10. The Common Council of said city may, by ordinance, authorize the Board of Funding Commissioners to issue bonds similar to those described in the third section of this Act, to an amount not exceeding ten thousand dollars, for the purpose of defraying the current expenses of the city after the first day of July, 1855; said bonds to be disposed of in manner to be prescribed by the Common Council of said city; *provided*, that none of the proceeds of said bonds shall be appropriated or used for the purpose of paying any debt of said city that has now accrued or that may accrue previous to the first day of July, 1855.

Disposition
of bonds.
Proviso.

CHAPTER CLXXIV.

AN ACT

To amend an Act to provide for the Protection of Foreigners, and to define their Liabilities and Privileges, passed March 30th, 1853.

[Approved April 30, 1855.]

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

Section 6
amended.

SECTION 1. Section six of An Act to provide for the Protection of Foreigners, and to define their Liabilities and Privileges, passed March thirtieth, eighteen hundred and fifty-three, is hereby amended so as to read as follows: Section sixth. The amount to be paid for each license by each foreigner eligible to become a citizen of the United States, shall be at the rate of four dollars per month; and the amount to be paid for each license by each foreigner ineligible to become a citizen of the United States, shall be at the rate of four dollars per month, until the first day of October, A. D. eighteen hundred and fifty-five; and six dollars per month from the first day of

License of eli-
gible foreigners.Ineligible
foreigners.

October, A. D. eighteen hundred and fifty-five, to the first day of October, A. D. eighteen hundred and fifty-six; and eight dollars per month, from the first day of October, A. D. eighteen hundred and fifty-six, to the first day of October, A. D. eighteen hundred and fifty-seven; and so on, increasing the license two dollars per month from and after the first day of October, each year, to be paid by all foreigners ineligible to become citizens; said licenses shall be substantially in the form set out in section second of this Act, (the amount per month being changed to correspond with the year herein set forth,) and shall in no case be transferable; *provided*, that no foreigner shall be entitled to hold or work in any mining claim, unless he pays his monthly tax as herein provided for.

Increased
license.
Further increase.

Amount
per month.
Proviso.

CHAPTER CLXXV.

AN ACT

To punish Vagrants, Vagabonds, and Dangerous and Suspicious Persons.

[Approved April 30, 1855.]

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

SECTION 1. All persons except Digger Indians, who have no visible means of living, who in ten days do not seek employment, nor labor when employment is offered to them, all healthy beggars, who travel with written statements of their misfortunes, all persons who roam about from place to place without any lawful business, all lewd and dissolute persons who live in and about houses of Ill-Fame; all common prostitutes and common drunkards may be committed to jail and sentenced to hard labor for such time as the Court, before whom they are convicted shall think proper, not exceeding ninety days.

Punishment.

SEC. 2. All persons who are commonly known as "Greasers" or the issue of Spanish and Indian blood, who may come within the provisions of the first section of this Act, and who go armed and are not known to be peaceable and quiet persons, and who can give no good account of themselves, may be disarmed by any lawful officer, and punished otherwise as provided in the foregoing section.

Disarming of
"Greasers."

SEC. 3. It shall be the duty of any Justice of the Peace, on knowledge or on written complaint from any creditable person of the State, to issue his warrant to apprehend such person or persons, and upon due conviction to send such person or persons to jail, as prescribed in section first of this Act; and on a second conviction for the same offense any offenders may be sentenced to the County Jail for such additional time as the Court may deem proper, not exceeding one hundred and twenty days; and in case of a conviction for

on Duty of Justice.

Second
conviction.

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| Appeal. | either of the offenses aforesaid, an appeal may be taken to the Court of Sessions, in the same manner as provided for by law in criminal cases in this State. |
| Employment of vagrants. | SEC. 4. The keeper of the Jail or such other person, as the Sheriff of the county may appoint, shall be master or keeper of such prisoners after conviction and shall employ them at any kind of labor that the Board of Supervisors of the county may direct, and each |
| How secured. | and every person so convicted, shall be secured whilst employed outside of the County Jail, by ball and chain of sufficient weight and strength to prevent escape. |
| How discharged. | SEC. 5. When the Board of Supervisors of the county shall be of opinion that any person, who may have been committed under the provisions of this Act, has so conducted himself or herself, whilst so confined or employed, that he or she should be no longer held, said Board of Supervisors may discharge such person from confinement, upon his paying what may remain due of the costs of prosecution and commitment, including his support whilst so confined, or upon giving bond with two or more good and sufficient sureties in the sum of five hundred dollars for future good behavior; <i>provided</i> , that the Board of Supervisors shall have power to discharge any person committed under the provisions of this Act without such conditions, when the health of said person is such as to require his or her discharge. |
| Proviso. | |
| Take effect | SEC. 6. This Act shall go into effect thirty days after its passage. |

CHAPTER CLXXVI.

AN ACT

To provide for Funding the Out-Standing Debt of the City of Oakland, and to Prevent the creation of New Debts by said City.

[Approved April 30, 1855]

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

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| Indebtedness. | SECTION 1. The City of Oakland is hereby authorized to fund its outstanding legal indebtedness as it existed on the first Monday of March, eighteen hundred and fifty-five, not to exceed twenty-five thousand dollars, and for this purpose there shall be elected by the legal voters of said city, in the manner hereinafter prescribed, two |
| Commissioners. | citizens, residents and legal voters, who, together with the Mayor of said city shall constitute "the Commissioners of the Funded Debt of the City of Oakland," and as such they and their successors shall possess the power and perform the duties hereinafter enumerated. |
| Election. | SEC. 2. The election for said two Commissioners shall be holden in said city at such time and place as the Common Council of said city shall appoint, ten days previous notice having been given by pub- |

lic notice posted in three public places in said city, and by publication in any newspaper printed in said city. The Judges, Inspectors, and Clerks of said election shall be appointed by the said Council, who shall receive the returns and declare the persons duly elected.

SEC. 3. The Mayor of the city of Oakland shall be *ex-officio* President and Secretary of said Board, and the Board shall appoint one of its own members to act as Secretary. The Secretary shall keep in a bound book, a correct account of all the transactions and proceedings of the Board. The proceedings of said Board shall be public, and their books shall be open to inspection. Any vacancy in the Board by death, resignation, removal from the city or otherwise, shall be filled by the City Council. Said Commissioners shall, previous to entering upon the discharge of their duties, take the oath of office prescribed by the Constitution of the State, and shall give such bonds for the faithful discharge of their duties, in such sums as shall be required by the Common Council of said city.

SEC. 4. The said Commissioners shall have authority to fund all the legal indebtedness of said city which has accrued prior to the first Monday of March, eighteen hundred and fifty-five, on presentation of the proper vouchers by the claimants thereof; but they shall only receive as evidences of such indebtedness certified transcripts of judgments against said city duly obtained in some court of competent jurisdiction, or warrants on the Treasury of said city, or of the late town of Oakland legally issued in accordance with the ordinances or resolutions of the Common Council of said city, or of the Board of Trustees of said town, for the legal indebtedness of said city or town; *provided*, that the aggregate amount to be funded under this Act shall not exceed the sum of twenty-five thousand dollars.

SEC. 5. The said Commissioners shall cause to be prepared, and shall have power to issue on behalf of said city, bonds of the denomination of one hundred dollars, and five hundred dollars each, with coupons for interest attached, which bonds shall be made payable at the Treasurer's office in said city, on the first day of July, eighteen hundred and sixty-five, and the interest on the same shall be made payable by the Treasurer of said city, semi-annually, on the first day of July and January of each year, on presentation of the respective coupons therefor; *provided*, that the first coupons shall not be payable until the first day of January, eighteen hundred and fifty-six; said bonds shall draw interest from date at the rate of seven per cent per year. Every bond so issued shall be signed by the President and Secretary of the Board, and be authenticated with the corporate seal of the city of Oakland, and shall purport in substance that the city owes to the holder thereof the sum named in the bond, payable and bearing interest as aforesaid. The coupons for interest shall also be signed by the President and Secretary of the Board.

SEC. 6. The Common Council of the City of Oakland shall cause to be levied and collected upon the property within said city annually, the sum of seventeen hundred and fifty dollars as an interest tax, which shall be devoted exclusively to the payment of the interest on the funded debt as herein provided, so far as the same shall fall due and become payable, and no money shall be paid out of the Treasury from the taxes of any year until enough shall have been laid aside for the payment of the interest as aforesaid for the ensuing year.

SEC. 7. The compensation of the two Commissioners elected shall be such as may be fixed by the City Council, not to exceed two hundred and fifty dollars each.

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| Term of office. | SEC. 8. The term of office of said Board of Commissioners shall expire in one year after the passage of this Act, or at such time previously thereto when they shall have completed all the business submitted to them, when it shall be their duty to hand over all their books, papers and accounts, to the Clerk of the City Council, and any duties remaining unfinished under the provisions of this Act shall thereafter devolve upon the Mayor and Common Council of said city. |
| Unfinished duties. | |
| Tax of '63 and '64. | SEC. 9. In each of the years 1863 and 1864 the Common Council of the City of Oakland, shall cause to be raised by tax upon the property within said city a sum equal to one half of the amount of the funded debt, which shall be devoted to the payment and redemption of said bonds as they fall due, or may be presented for redemption. |
| How devoted. | |
| Prohibition. | SEC. 10. From and after the passage of this Act the corporate authorities of the city of Oakland are absolutely prohibited from issuing to any persons any warrant, scrip, or evidence of debt, save as hereinbefore provided for, and for any violation of this section, the officer or person so offending may be indicted, and punished as for a misdemeanor. But nothing in this section shall be so construed as to prohibit the proper authority of said city from auditing accounts against said city, and passing such audited accounts into the hands of the City Treasurer, and to him only as authority for the payment of said audited accounts. |
| Auditing of accounts. | |
| Unlawful. | SEC. 11. When audited accounts as provided for in the preceding section have been passed into the hands of the Treasurer of said city, it shall be unlawful for him to issue them or permit them to be issued to any person or persons as evidences of indebtedness, but he shall retain them in his hands, and when he pays the respective accounts, shall take a receipt for the same; [for] any violation of the provisions of this section the officer or person so offending may be indicted and punished as for a misdemeanor. |
| Penalty. | |

CHAPTER CLXXVII.

AN ACT

To amend an Act entitled "An Act to Prohibit the Erection of Wiers and other obstructions to the run of Salmon."

[Approved April 30, 1855.]

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

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| Unlawful | SECTION 1. Section 7th of said Act shall be amended so as to read as follows: It shall not be lawful for any person or persons to cast, draw or make use of any line or net for the purpose of catching salmon in any of the rivers of this State in the following months: August, October, December and January, in each year except as hereinafter specified; <i>provided</i> , that it may be lawful for any person or persons |
| Proviso. | |

to catch Salmon in the San Joaquin river or any of its tributaries in the following months : August, September, and from the 1st to the 15th day of October inclusive, in each year; and *provided* further, that it may be lawful for any person or persons to catch salmon in the county of Humboldt from the 25th day of October, to the 25th day of November inclusive of each year. Every person so offending and being thereof legally convicted, shall be subject to the same fines and penalties as are imposed by section two of this Act. This Act shall not apply to any of the Indian tribes so as in any manner to preclude them from fishing in accordance with the custom heretofore practiced by them. Not to apply to Indians.

CHAPTER CLXXVIII.

AN ACT

Amendatory of, and Supplementary to an Act entitled "An Act concerning Escheated Estates," passed May 4th, 1852.

[Approved April 30, 1855.]

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

Section 1st of an Act entitled "An Act concerning Escheated Estates," passed May 4th, 1852, is hereby amended so as to read as follows :

SECTION 1. If any person shall die, or any person who may have died within the limits of what is now the State of California, seized of any real or personal estate, and leaving no heirs, representatives or devisees capable of inheriting or holding the same, and in all cases when there is no owner of such real estate capable of holding the same, such estate shall escheat to and be vested in this State. When estate escheats.

Section 2d of said Act is hereby amended so as to read as follows :

SEC. 2. That whenever the Attorney General shall be informed or have reason to believe that any real estate hath escheated to this State by reason that any person hath died seized thereof, and hath left no heirs capable of inheriting the same, or by reason of the incapacity of the devisees to hold the same, or when he shall be informed or have reason to believe that any such estate hath otherwise escheated to the State, it shall be his duty to file an information in behalf of the State in the District Court of the Judicial District in which such estate or any part thereof is situated, setting forth a description of the estate, the name of the person last lawfully seized, the name of the *terre tenant* and persons claiming such estate, if known, and the facts and circumstances in consequence of which said estate is claimed to have escheated, and alleging that by reason thereof the State of California hath right by law to such estate; whereupon such Court shall award and issue a summons against such person or persons, Attorney Gen'l to file an information. Contents. Summons.

bodies politic or corporate alleged in such information to hold, possess, or claim such estate, requiring them to appear and show cause why such estate should not be vested in the State, within the time allowed by law in other civil cases, and the Court shall make an order setting forth briefly the contents of said information, and requiring all persons interested in the estate to appear and show cause if any they have, within thirty days from the date of said order, why the same should not vest in this State; which order shall be published at least one month from the date thereof in a newspaper published in said district, if one be published therein, and in case no newspaper should be published in said district, (by direction of the Judge,) in some other newspaper in this State.

Order of Court.

Publication.

Appeal, &c.

SEC. 3. Section 4th of said Act is hereby amended to as to read as follows: Section 4th. Any party who shall have appeared to any proceedings as aforesaid, and the Attorney General in behalf of the State, shall, respectively have the same right to prosecute an appeal or writ of error upon any judgment as aforesaid, as parties in other cases.

Receiver.

SEC. 4. The said District Court upon the filing of said information and application of the Attorney General, either before or after answer, upon notice to the party or parties claiming such estate, if known, may, sufficient cause therefor being shown, appoint a receiver to take charge and receive the rents and profits of the same until the title to such real estate shall be finally settled.

Five per cent. for information.

SEC. 5. Any person furnishing original information to the Attorney General of the escheating of any property to the State of California, together with the necessary evidence to sustain the action of the State in such behalf, shall be entitled to receive, upon the final recovery of such property, five per centum of the property so recovered; *provided*, that the amount so received by the person or persons furnishing such information, shall not in the aggregate exceed the sum of twenty thousand dollars in any one case; and *provided* that only one person shall be entitled to compensation for such services.

Proviso.

Moneys accrued.

How paid.

SEC. 6. All moneys which have accrued, or may hereafter accrue to this State from escheated estates, shall be paid into the general fund, and, if need be, [used] in the defrayment of the current expenses of the Government and the redemption of Controller's warrants.

Moneys converted into bonds.

Kept and marked.

Interest.

SEC. 7. The amount of such moneys so received shall be converted by the State Controller into bonds of the State, bearing seven per cent. interest per annum; which bonds shall be kept as a special deposit in the Treasury, marked "School Fund," to be credited to said School Fund. All interest falling due on said bonds so set apart shall be semi-annually placed to the credit of said School Fund.

SEC. 8. All laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

CHAPTER CLXXIX.

AN ACT

To amend the Second Section of an Act entitled "An Act concerning County Judges" passed April 4th, 1854.

[Approved April 30, 1855]

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

SECTION 1. The Second Section of an Act entitled "An Act concerning County Judges," passed April 4th, 1854, is hereby amended so as to read as follows. Section 2 amended.

SEC. 2. No County Warrant shall be issued in payment or part payment of his salary, nor shall any portion of his salary be paid to any County Judge, who does not reside at the County Seat of the County of which he is the acting County Judge; *provided*, that the provisions of this Act shall not extend to the Counties of Yolo, Alameda, Contra Costa, Plumas, Tulare, Yuba and San Diego. Residence of County Judge. Proviso.

CHAPTER CLXXX.

AN ACT

To Regulate the Fire Department of the City of San Francisco.

[Approved April 30, 1855.]

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

SECTION 1. The President and Secretary of the Fire Department shall in all business relating thereto have power to administer oath and affirmation. Administer oath.

SEC. 2. The Secretary of the Fire Department shall be ex-officio Fire Warden, and shall have a yearly salary of eighteen hundred dollars, payable monthly out of the Fire Department Fund. Secretary. Salary.

SEC. 3. The officers of a Company shall consist of a Foreman, and at least one Assistant Foreman, a Secretary and a Treasurer. It shall require at least twenty-five persons, twenty-one years of age to compose a company, all of whom must have signed the constitution of the same previous to their petition for admission, and they shall forward a copy of their Constitution, together with the names of Company officers. Members. Admission of Company.

their officers and men and their residences, the situation in which they wish to locate, and a petition for admission into the Fire Department, to the Board of Delegates, whose duty it shall be to determine whether such addition is required by the Department. Whenever the Board by a majority vote of all its members shall decide to recommend the admission of a company, it shall be the duty of the Secretary of the Board, to forward to the Common Council, a certificate of such recommendation together with the petition of the company, the Constitution of the same, the names of the Officers and men, and their residences and location desired. If such recommendation shall receive the approval of the Common Council, the company shall be declared admitted into the Fire Department and shall be furnished with an engine or fire apparatus and a house for receiving the same, by the city. And no petition for the admission of any company shall be entertained by the Common Council until it shall have received the recommendation of the Board of Delegates.

SEC. 4. Whenever an Engine or Hook and Ladder Company by reason of deaths, resignations or expulsions, shall have reduced its roll to less than twenty-five certificate members, and a Hose Company to less than fifteen certificate members; it shall be the duty of the Secretary to notify the Chief Engineer, and the Foreman of the company, of the fact. At the first regular meeting of the Board after such notice has been given, it shall be the duty of the Chief Engineer to report to that body the condition of such company, and the Board shall then declare whether such company shall be disbanded or continue in the Fire Department, to be decided by a majority vote of the members composing the same.

SEC. 5. There shall be an election annually on the first Monday of December for Chief Engineer, and First, Second, and Third Assistant Engineers. Said election to be called by the Mayor, by giving ten days notice in two or more of the daily newspapers, and held at such place as the Board of Delegates may designate; the polls to be kept open from nine o'clock, A. M., until five o'clock P. M., under the inspection of three Judges each from a different company, to be appointed by the Board of Delegates. The person having the highest number of votes for Chief Engineer shall be declared elected. For Assistant Engineer the three persons having the highest number of votes shall be declared elected, and shall rank as follows: the person having the highest number of votes shall be the First Assistant Engineer. The person receiving the next highest number of votes shall be the Second Assistant Engineer. The person having the next highest number of votes shall be the Third Assistant Engineer. When a vacancy occurs in the office of the Chief Engineer, the Mayor shall call an election as herein before provided to fill such vacancy, but when a vacancy occurs in the office of First or Second Assistant Engineer, the office [officer] next below in rank shall take the vacant office, and an election shall be ordered as above to fill the vacancy in the lower office. All contested elections for Engineers shall be decided by a vote of the Board, and should a tie vote occur in the office of Assistant Engineer, the rank of the same shall be decided by a vote of the Board. The election term for each Engineer shall be for one year or until his successor is elected and qualified. The Judges of the aforementioned election shall have power to administer, and examine voters, under oath. The salary of the Chief Engineer shall be five thousand dollars per annum, and that of the Assistant Engineers, (who shall,

Engine, &c.

Recommendation.
Notice of Secretary.

Report of Chief.
Declaration of Board.

Election for Chief.

Plurality elects.

Assistant engineers.

Rank.

Vacancies.
How filled.

Contested elections.

Term of office.

Power of Judges.

Salaries.

be *ex-officio* Fire Wardens) shall be one thousand eight hundred dollars per annum.

SEC. 6. Each and every Company shall, at its stated meeting in October in every year elect two of its members as Delegates to the Board of Delegates of the Fire Department; which Board shall consist of two representatives from each Fire Company. They shall make laws for the government of the Fire Department, and all laws made by them shall be binding on every company and member of the Department; and any Engineer, Company, Officer, or Member of the Department who shall violate any of said laws, or who shall refuse to obey the lawful orders of the Chief or other Engineer, shall upon complaint, be tried by the Board, and if found guilty, be censured, suspended, removed from office, or expelled from the Fire Department, as the judgment of the Board may direct. They shall examine the returns and declare the result of all Engineer's elections, and give them their certificates of office.

SEC. 7. The Common Council shall have sole power to order work and supplies for the Fire Department. All proposals for the same shall be opened by the Chief Engineer in presence of a majority of the Committee on Fire and Water, of the Common Council, and by them without unreasonable delay, [be] awarded to the lowest responsible bidder or bidders. All work done for, and supplies furnished said Department, shall be under the supervision of the Chief Engineer, and he shall certify all bills for such work and supplies.

SEC. 8. The Chief Engineer shall report to the Common Council quarterly, in the months of January, April, July and October, the number, location, and condition of cisterns, fire engines, and other fire apparatus, and the state of fire company houses, and all property of the city in the keeping of said Department. Also, all accidents by fire that may have taken place in the city, with the causes thereof, as well as they can be ascertained, and a description of the property destroyed or injured, with the names of the owners of the same. Also, such other information and such recommendations as he may deem proper.

SEC. 9. The Chief Engineer is hereby empowered to appoint a Clerk at a yearly salary of eighteen hundred dollars, payable monthly out of the Fire Department Fund.

SEC. 10. The Board of Delegates shall, at their stated meeting in December of each year, elect three persons to serve as Bell Ringers of the City Hall bell, who shall be governed by such rules as the Board may prescribe; and for a violation of the same, shall be amenable to the Board. Said Bell Ringers shall have a yearly salary [of] eighteen hundred dollars each, payable monthly out of the Fire Department Fund.

SEC. 11. All fines collected under all fire ordinances shall be appropriated to the Fire Department Charitable Fund. They shall be paid to the City Treasurer, who is hereby authorized and instructed to pay over the same to the Treasurer of the Fire Department Charitable Fund Association, taking his receipt therefor, which receipt shall be deposited into the office of the City Controller.

CHAPTER CLXXXI.

AN ACT

Supplementary to, and amendatory of, an Act entitled "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 26th, 1851," passed May 18th, 1853.

This bill having been returned by the Governor with his objections thereto, and, after a reconsideration, having passed both houses by the constitutional majority, it has become a law, this 1st day of May, A. D. 1855.

W. W. STOW, Speaker of the Assembly.
SAMUEL PURDY, President of the Senate.

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

Creation of
Board.

SECTION 1. The Governor, Secretary of State, and Controller of State, are hereby appointed a Board, whose duty it shall be (when in their opinion the same may be deemed expedient) to advertise and dispose of the interest of the State, in all property authorized to be sold under the Act entitled 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, eighteen hundred and fifty-one, passed May eighteenth, eighteen hundred and fifty-three, and yet remaining unsold.

To supersede
Commissioners.

SEC. 2. The said Board shall supersede the Commissioners appointed under said Act, from and after the time when the official term of said Commissioners shall expire by law; and they shall discharge all the duties imposed on said Commissioners by attending to and closing all business connected with the sale and disposition of said property.

Duties.

Agent.

SEC. 3. It shall be lawful for said Board to appoint an Agent and Clerk from time to time, for such length of time as they may think proper, or to authorize one of their own members to attend all sales; and it shall be the duty of said Agent so authorized to make all collections, receive payments in cash, or the civil warrants of the Controller of State, and pay the same over to the Treasurer on the warrant of the Controller; and discharge such other duties as may be assigned him by said Board.

Duty of agent.

Treasurer
of State.

SEC. 4. The Treasurer of State shall not be required to attend said sales, nor shall he receive any of the proceeds arising from sales heretofore or hereafter made, except as they may be paid over to him by the person, and in the manner provided in the third section, of this Act.

Notice of sale.

SEC. 5. The said Board shall not be required to give more than fifteen days' notice of any sale.

Bond of agent.

SEC. 6. The said Board shall also require their Agent to give bond and security to the State, for the faithful performance of his

duties ; which bond shall be filed in the office of the Secretary of State.

SEC. 7. All the necessary contingent expenses of the Board, including the pay of the Clerk and Agent, which said pay for either, shall not exceed ten dollars per day, for each day of actual service ; and the charges for advertising and printing, shall be paid out of the proceeds of the sales by the Board, and the same shall be accounted for in their annual report ; but the members of the Board shall receive no compensation for their services, other than for necessary expenses.

SEC. 8. The existing Board of Land Commissioners, at the expiration of their term, as limited by law, shall deliver over to the Board constituted by this Act, all books and papers relating to their office.

CHAPTER CLXXXII.

AN ACT

To authorize the Supervisors of the County of Alameda to re-assess the Taxable Property upon which the Taxes remained unpaid in said County for the year eighteen hundred and fifty-four.

[Approved May 2, 1855.]

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

SECTION 1. The Board of Supervisors of the county of Alameda are hereby authorized and directed, at any legal meeting of said Board, to re-assess the taxes remaining unpaid upon the taxable property of said county for the year eighteen hundred and fifty-four, upon the same property, and cause the same to be placed upon the assessment roll of the present year, in separate lines immediately under the assessment of the taxes of the present year, on each item of property respectively, and to be marked re-assessed for unpaid taxes for eighteen hundred and fifty-four.

SEC. 2. The taxes provided to be re-assessed by the first section of this Act shall be collected in the same manner, for the same compensation, and be in all respects subject to the existing laws, as near as may be in relation to the taxes of the present year.

SEC. 3. All moneys to be collected under the provisions of this Act, belonging to the county of Alameda, may be applied by the Board of Supervisors of said county to the purpose of improving the navigation of the San Antonio Creek, and removing the bar from the mouth of the same.

CHAPTER CLXXXIII.

AN ACT

Providing for the Payment of Officers holding Elections and for Transmitting the Returns thereof.

[Approved May 2, 1855.]

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

Pay of officers. SECTION 1. In all general or special State or County elections hereafter legally held in this State, there shall be audited and paid to the officers of the same, out of the County Treasury, in the same manner as other county charges are audited and paid, the following per diem allowance : To the Inspector, Judges and Clerks of an election, five dollars per day.

Carrier of returns. SEC. 2. After the returns of any precinct are canvassed and made out, the officers of elections, without delay, shall designate some proper person to carry the election returns to the County Seat, and deliver the same to the County Clerk. The person so designated and carrying the returns shall be entitled to and receive the same mileage as Sheriffs, and shall be allowed and paid this amount in the same manner as officers of election, in section one of this Act.

Pay of same. SEC. 3. The provisions of this Act shall not apply to the counties of El Dorado, Placer, Calaveras, Sutter, Yuba, Tuolumne, Sierra, Siskiyou, Klamath, Mariposa, Shasta, Trinity, Nevada, Colusi, Plumas, Amador, Butte, Los Angeles and San Bernardino.

Not to apply to certain counties.

CHAPTER CLXXXIV.

AN ACT

To provide for Settling the Boundary Line between the Counties of Santa Cruz, Santa Clara and San Francisco.

[Approved May 2, 1855]

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

Surveyor General's duty.

SECTION 1. For the purpose of establishing and settling the boundary lines between the counties of Santa Cruz, Santa Clara, and San Francisco, the Surveyor General is hereby authorized and re-

quired to survey, or cause to be surveyed, the boundary line between said counties in accordance with the statute, or statutes providing for their organization and boundaries.

Sec. 2. Said lines shall be marked with suitable marks, devices ^{Lines.} and monuments, so that they may be easily known and traced, and a copy of such survey, or plat, or map, shall be made out in quadruplicate; one copy of which shall be deposited with the County Clerk ^{Survey.} of Santa Cruz County, one copy with the County Clerk of Santa Clara County, one copy with the County Clerk of San Francisco ^{Where} County, and the other copy in the office of the Surveyor General. ^{deposited.}

CHAPTER CLXXXV.

AN ACT

To establish, support and regulate Common Schools, and to repeal former Acts concerning the same.

[Approved May 3, 1855.]

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

STATE BOARD.

SECTION 1. The Governor, the Superintendent of Public Instruction ^{Board of Education.} and the Surveyor General of the State, shall constitute a State Board of Education. The Governor shall be the President, and the Superintendent shall be the Secretary of the Board.

Sec. 2. The State Board of Education shall have a seal, an impression and description of which shall be deposited by the Secretary ^{Seal.} of the Board in the State Treasurer's office, and on or before the fifteenth day of January of each year, the Board shall make a full ^{Reports.} report of all their official acts to the Legislature.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Sec. 3. It shall be the duty of the Superintendent of Public Instruction, by and with the advise, and subject to the supervision of the State Board of Education: First, To prepare and publish, in connection with this Act, instructions and forms for the direction of the Superintendents, Boards, Trustees, Marshals and Teachers of the Common Schools, and to distribute to each County Superintendent a sufficient number of copies of this Act, and of the said instructions and forms, for the supply of the Common School officers in the county. Second, By all proper means in his power to disseminate intelligence among the people in relation to the method and value of ^{Duty of Superintendent of Public Instruction.}

Same.

education. Third, To exercise a general supervision over such Normal Schools and Teachers' Institutes as may by law be established. Fourth, Immediately after the State Controller has made his semi-annual report, as herein required, to apportion to the several counties the amount of school moneys in the State Treasury, to which each shall be entitled under the provisions of this Act, in proportion to the number of children residing therein between the ages of four and eighteen, as shown by the last previous reports of the County Superintendents and School Marshals, or other officers charged therewith, and make a record thereof in the Book of Records, to be kept by the State Board of Education, and furnish to the Controller of State, to each County Treasurer, and to each County Superintendent, an abstract of such apportionment; and with each apportionment, to furnish to each County Treasurer his order on the Controller of State, under the seal of the State Board of Education for the amount of school moneys in the State Treasury to which such county shall be entitled, and to take such County Treasurer's receipt for the same. Fifth, To present to the Legislature, annually, on or before the tenth day of each session, a full report of the condition of public instruction in the State; the number and grade of schools in each county; the number of white children in each county between the ages of four and eighteen years; the number of such attending Common Schools established under the provisions of this Act; the amount of Common School moneys apportioned to each county; the amount of moneys raised and expended by any county, town, city or school district for the support of Common Schools therein; together with such suggestions as he may deem it expedient to make in relation to the construction of school houses, the improvement and better management of Common Schools, the qualification of teachers, the ways and means for raising funds for the support of Common Schools, and providing suitable school houses, and for the promotion of the general interests of education throughout the State.

Moneys—how expended.

SEC. 4. All necessary expenditures of moneys incurred by the Superintendent of Public Instruction in the discharge of his official duties, shall be paid out of any fund in the Treasury not otherwise appropriated, the amount being duly certified by the State Board of Education, and the Controller of State is hereby authorized to issue his warrants on the Treasurer for the same.

Teachers' Convention.

SEC. 5. He may annually call a State Convention of teachers and officers of Common Schools, and such convention may discuss and recommend improvements in teaching, and the management of schools, and a series of school books throughout the State, and may consider other subjects pertaining to public instruction; *provided*, the State shall incur no expense from such convention.

STATE TREASURER AND STATE CONTROLLER.

State Treasurer.

SEC. 6. It shall be the duty of the State Treasurer to receive and hold as a special deposit, all Common School moneys paid into the Treasury, and pay them over only on the warrant of the Controller of State, issued upon the order of the State Board of Education under the seal of said Board, and signed by the Superintendent of Public Instruction in favor of the County Treasurers; which orders, duly endorsed by the County Treasurers shall be the only valid vouch-

ers in the hands of the State Controller for the disbursement of said Common School moneys.

SEC. 7. All school moneys due each county in the State, shall be paid over by the State Treasurer to the County Treasurers on the first day of January and the first day of July of each year, or as soon thereafter as the County Treasurers may apply for the same, upon the warrant of the Controller of State, drawn in conformity with the apportionment of the Superintendent of Public Instruction, as provided for in section three of this Act; *provided*, however, that no mileage nor allowance other than the commissions provided for by law, shall be made to any County Treasurer for receiving and transporting said money to his county.

State Controller.
School moneys—
when paid.

SEC. 8. The State Controller shall keep a separate and distinct account of the Common School Fund, and of the interest and income thereof, together with such moneys as shall be raised by State tax or special appropriation, or otherwise, for the support of Common Schools.

How accounts
are to be kept.

SEC. 9. The State Controller shall, on or before the tenth day of June, and the tenth day of December, of each year, report to the Board of Education, who shall include the same in their annual report to the Legislature, a statement of the securities belonging to the Common School Fund, together with a particular statement of the moneys in the Treasury accruing on or before the first day of July and the first day of January next following, from the interest or income of the Common School Fund, or from State taxes, or appropriations, or from any other source for the support of Common Schools.

Reports.

COUNTY SUPERINTENDENTS.

SEC. 10. A Superintendent of Common Schools shall be elected in each county, at the general elections, and enter on the duties of his office on the first Monday of the month subsequent to his election. He shall hold office for two years, or until his successor is qualified, and shall take the oath of and give official bond to the county, in a sum to be fixed by the Board of Supervisors; which bond shall be in a sum not less than double the estimated amount of school moneys to come into the County Treasury; and the Assessors shall be and remain County Superintendents until their successors are elected as herein provided.

Duty of County
Superintendent.

SEC. 11. The County Superintendent shall have power, and it shall be his duty in accordance with the principles and provisions of this Act, and the instructions of the State Board of Education and the Superintendent of Public Instruction: First, To visit each school in the county under his control, personally, at least once a year, and to exercise a general supervision over the interests of Common Schools in his county, and give to the School Trustees, Marshals and Teachers such aid and counsel as may be important to the prosperity of the schools. Second, To aid the various School Trustees in the examination of teachers for public schools, and to see that the examination in all cases is sufficiently rigid and thorough. Third, To distribute promptly such blank reports, forms, laws and instructions, as shall be deposited in his office for the use of the School Trustees, Teachers and Marshals, and any other officers entitled to receive the same. Fourth, To draw his warrants on the County Treasurer in favor of,

Same.

Same.

and deliver the same to, the persons entitled to receive the same ; *provided*, that no such warrant shall be drawn in favor of any city, town or school district, until full and correct returns shall have been made to him by the same, as required by law, and a certificate of the Trustees or Board of Education given, showing for what purpose, in accordance with this Act, the money is required. Fifth, To keep on file in his office the report of the School Trustees, Marshals and Teachers, received by him, and to record all his official acts as such County Superintendent, in a book to be provided for that purpose ; and at the close of his official term, to deliver to his successor such records and all documents, books and papers belonging to his office, and to take his receipts for the same, which shall be filed in the office of the County Treasurer. Sixth, To make full report, in writing, annually, on or before the twentieth day of November, for the school year ending on the last day of October next previous thereto, to the Superintendent of Public Instruction ; such report to include an abstract of all the various annual reports of the City Boards of Education, School Teachers, Marshals and Teachers, by law required to be made to the County Superintendent for the preceding school year.

Same.

SEC. 12. Upon receiving notice from the County Treasurer, as provided in this Act, the County Superintendent shall apportion the Common School moneys in the County Treasury among the several towns, cities and school districts in proportion to the number of white children residing therein, between the ages of four and eighteen years, as shown by the last previous reports of the Common School Marshals, and other officers charged therewith ; and shall forthwith, in writing, notify the County Treasurer of such apportionment in detail ; and no school district shall be entitled to any portion of the Common School moneys in which there shall not have been taught a Common School for three months within the year ending on the last day of October previous.

COUNTY TREASURERS.

Duty of County Treasurer.

SEC. 13. It shall be the duty of the County Treasurer of each county : First, To receive and hold as a special deposit, all Common School moneys, whether received by him from the State Treasurer or any other source, or raised by the county for the benefit of Common Schools ; and to keep a separate account thereof, and of their disbursements. Second, On receiving any Common School moneys subject to distribution, to notify the County Superintendent of Common Schools of the amount thereof. Third, To pay over on the warrant of the County Superintendent, duly endorsed by the person entitled to receive the same, the several amounts of school moneys to which each city, town and district shall be entitled. Fourth, And on or before the first day of November, annually, to make a full report of the Common School moneys received into the County Treasury within the school year ending on the last day of October next previous thereto ; with a particular statement of the disbursement of the said school moneys ; and of any amount of said school moneys which may remain in his hands for distribution at the close of such school year, designating whether of State or county school fund, to the Superintendent of Public Instruction.

SCHOOL TRUSTEES.

SEC. 14. In each school district of this State, except otherwise provided by law, there shall annually be elected three Common School Trustees by the qualified electors in the district, at the school district meeting, to be held on the first Monday in October, and the district officers shall give at least ten days' notice of the time and place of said meeting. Such Trustees are required to take the oath of office, and they shall enter on their duties on the first Monday of the month subsequent to their election, and shall hold their office for one year, or until their successors are elected and qualified; *provided*, the election of Trustees for the present year shall take place on the first Monday of June. Election of Trustees.

SEC. 15. In all cases of failure on the part of the people to elect Trustees as herein provided, and also upon this Act taking effect, and when vacancies occur, and when a new district is formed, the County Superintendent shall appoint the same. Appointment of same.

SEC. 16. The School Trustees of the several school districts shall have power, and it shall be their duty within their respective jurisdiction: First, To select and designate a Common School Marshal, and file a certificate of his appointment in the office of the County Superintendent. Second, To fix the location of school houses in accordance with the expressed wishes of a majority of the qualified electors within their districts expressed at a district meeting to be called on at least five days' notice by the Trustees; but in case a majority of such voters shall not agree thereon, then the said Trustees may fix the location of school houses according to their own best judgment. Third, To superintend the erection and repairs of all school houses; to distribute the blank forms, laws and instructions received by them, to the persons by law entitled to receive the same. Fourth, To examine persons proposing to become school teachers, under the provisions of this Act, and to grant certificates of approbation and recommendation to each as they shall find, after a rigid and thorough examination and investigation, to be persons of good moral character, of sufficient learning and ability for teaching, having a special regard to their ability to impart knowledge, and to no others; and to revoke any such certificate at pleasure, first giving reasonable notice to the person holding the same; all such certificates shall remain in force during one year from and after their respective dates, unless sooner revoked, and no longer, and any certificate otherwise granted shall be void. Fifth, To employ and fix the salaries and time of service of Common School teachers. Sixth, To suspend or expel from any such Common School, with the advice of the teacher, any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein. Seventh, To arrange among themselves in such a manner that at least one of the Trustees shall visit and ascertain the character, progress and prospects of each school, at least once a month. Eighth, To carry out and execute their powers and duties, as conferred and imposed by this Act, in accordance with the instructions of the State Board of Education, and in form, as shall be prescribed by the Superintendent of Public Instruction. Ninth, To make and keep a record of all their official acts and decisions, and a strict and particular account of all moneys received and disbursed, and all bills audited and paid; said record and account, together with the vouchers relating thereto, shall be subject at all times, Duty of same. Same.

Same.

to the inspection and examination of the Superintendent of Public Instruction, or the County Superintendent, or any elector of the school district. Tenth, To report to the County Superintendent of their respective counties, on or before the first day of November, annually, the amount of all expenditures on account of schools in their respective precincts during the previous school year, ending on the last day of October; and the manner in which the same shall have been expended: specifying what portion and amount thereof has been expended for the services of legally qualified teachers; the amount which during that time shall have been raised in the several Common School districts, by subscription or otherwise, and allowed to such qualified teachers as salary or compensation; the names of the teachers employed and the time of service, and the salaries paid to each; the number of pupils taught, and the average attendance and progress of the pupils in each school organized and taught under the provisions of this Act; and such other statistics as shall be directed by the Superintendent of Public Instruction. Eleventh, And at the close of their official term, to deliver over their books of records, and all papers, books, blanks, documents, moneys, and all other property in their hands as such Trustees, to their successors in office, and take their receipt for the same, which receipt shall be filed with the County Superintendent; *provided*, that if the Trustees neglect to make returns as herein required, the district shall still be entitled to its portion of school money, if proof satisfactory to the Superintendent of Public Instruction be made in writing and filed with the State and County Superintendent, showing the facts required to be reported by the Trustees.

Same.

SEC. 17. The Trustees may cause the Common Schools within their respective jurisdiction, to be divided into Primary, Grammar and High School Departments, and to employ competent and legally qualified teachers for the instruction of the different departments, whenever they shall deem such division into departments advisable; *provided*, there be sufficient means for all such departments, and if not, then, in the order in which they are herein named, the primary school having preference.

SCHOOL MARSHALS.

Duty of School Marshals.

SEC. 18. The Marshals selected and designated by the Trustees under the provisions of this Act, shall, in the month of October, annually, take a specific census of all the white children within their respective precincts, between the ages of four and eighteen years, specifying the names of the children, of the parents or guardians of such children, and the town, city and school district within which they reside, and make full report thereof, in writing, under oath, to the County Superintendent of Common Schools, and deliver a true copy thereof to the Trustees in their respective school districts by the tenth day of November next, thereafter.

COMPENSATION.

Pay of school officers.

SEC. 19. The County Treasurer, Superintendent, Trustees and Marshals of Common Schools, within their several counties, shall respectively receive for their official services under this Act, such compensation as shall be allowed by the Board of Supervisors, which shall be

audited and paid in the same manner as other county salaries and expenses are audited and paid.

SCHOOL DISTRICTS.

SEC. 20. Until otherwise determined and established by the proper ^{School Districts.} authorities, each city and each town or township in this State shall constitute one school district.

SEC. 21. Upon [a] petition being presented to the Board of Super-^{Same in cities.} visors, such Board shall, except in incorporated cities and towns which have made provisions for schools within their respective limits, have the power to constitute and establish school districts, and to define and to alter the boundaries thereof, in accordance with the wishes of the qualified electors in the respective precincts, and as the best judgment of the said Board may direct.

INCORPORATED CITIES AND TOWNS.

SEC. 22. The Common Council of each and every incorporated city ^{Public schools} in this State, shall be, and hereby is authorized and empowered: First, ^{in cities.} To raise annually by tax upon the real estate and personal property within the city, as estimated by the City Assessors, such amount of money not exceeding one-fourth of one per cent. on the valuation on the assessment roll, as shall be requisite for the support of Free Common Schools therein, and providing and furnishing suitable houses therefor, and purchasing lots on which to build school houses, and paying contingent expenses. Second, To provide by ordinance for the collection, custody and disbursement of the moneys thus raised by city tax for school purposes. Third, To provide by ordinance for the drawing from the County Treasury on the warrant of the County Superintendent of Common Schools, the moneys to which said city shall be entitled under the provisions of this Act, and for the custody and disbursement by the City Treasurer of the same, in accordance with the provisions of this Act. Fourth, To provide by ordinance for constituting and establishing school districts, and for the examination of Common School teachers; the regulation of Common Schools within the city; the census, or enumeration of the children, and for making the annual and other reports to the County Superintendent. Fifth, To provide by ordinance for the election or appointment of a City Board of Education and Superintendent of Common Schools, and prescribe their powers and duties; and Sixth, To ordain all such rules and regulations as they may deem expedient and necessary for the promotion of the interests, prosperity and usefulness of Common Schools within the city; *provided*, that the Common Council shall not make any ordinance, nor do any act, which shall be in conflict with the principles or provisions of the Constitution of the State or of any Act of the Legislature. Seventh, *Provided*, that the Common Council, on the petition of fifty heads of white families, citizens of the district, shall establish a school or schools in said district, and shall award said school or schools a *pro rata* of the School Fund; *provided*, no sectarian doctrines are taught in said school or schools, and said schools so established, shall in all particulars be under the supervision and control of the Common Council, as are all other Common Schools within their jurisdiction, under the provisions of this Act.

SEC. 23. No Trustees or Marshals elected or appointed under the

City schools. foregoing provisions of this Act, shall have any jurisdiction or control within the limits of any city which shall have provided for the support, regulation and management of Common Schools therein under the provisions of the next preceding section of this Act.

SEC. 24. All the powers, rights and privileges conferred upon incorporated cities by the provisions of this Act, shall be enjoyed and may be exercised in like manner by incorporated towns, and the town officers shall have the same powers as the corresponding officers in cities.

STATE SCHOOL FUND.

State School Fund. SEC. 25. Controller's warrants drawn upon the General Fund, and paid into the State Treasury for school land, shall draw the same rate of interest and be entitled to all the preference of civil bonds; and the State Treasurer on receiving any such warrants, shall endorse upon the same, "Common School Fund," with the date of their reception, and subscribe thereto his official signature; and no portion of said securities shall be sold or exchanged for other securities, except by special Act of the Legislature.

How to be used. SEC. 26. No portion of the Common School Fund, nor of the interest or income thereof, nor of the moneys raised by State tax, or specially appropriated for the support of Common Schools, shall be diverted to any other object or purpose.

SEC. 27. The school moneys distributed to the various counties of this State from the State School Fund, shall not be used for any other purpose than the payment of qualified teachers under this Act, and no portion of said "Funds" shall, either directly or indirectly, be paid for the erection of school houses, the use of school rooms, furniture, or any other contingent expenses of Common Schools.

COUNTY SCHOOL FUND.

County School Fund. SEC. 28. Each and every county in this State is hereby empowered and authorized to raise annually, by special tax, (in the same manner that other county taxes shall be levied) upon the real estate and personal property within the county, an amount of money not exceeding ten cents on each one hundred dollars of valuation, for the support of Common Schools therein, and providing suitable houses, and purchasing libraries and apparatus for such Common Schools.

How to be expended. SEC. 29. All moneys raised by county tax as above provided, for Common School purposes, shall be paid into the County Treasury as a special deposit, and shall be apportioned by the "County Superintendent of Common Schools," among the towns, cities and school districts in the county, upon the basis provided by this Act for the apportionment of State School moneys; and be drawn from the County Treasury on the warrant of the County Superintendent as before provided.

Same. SEC. 30. The School Trustees or Board of Education of each city, town and district, may use the moneys from the county school fund to purchase, build or rent school houses; to purchase libraries; and to pay teachers or contingent expenses, as they may deem proper.

SCHOOLS AND TEACHERS.

SEC. 31. Any balance required to be raised in any school district for

the payment of teachers' compensation, beyond the amount apportioned to such district by the previous provisions of this Act, and other public moneys belonging to the district applicable to the payment of teachers' compensation, shall be raised by a rate bill, made out by the Trustees against those sending to school, in proportion to the number of days and of children sent; to be ascertained by the teacher's list; and in making out such rate bill it shall be the duty of the Trustees to exempt such indigent inhabitants as may in their judgment be entitled to such exemption.

SEC. 32. No Common School shall receive any moneys, benefits, or immunities under the provisions of this Act, unless such school shall be instructed by a teacher or teachers duly examined, approved and employed by competent and legal authority, as herein before provided. Teachers' salaries. Schools not to receive moneys.

SEC. 33. No books, tracts or papers of a sectarian or denominational character, shall be used or introduced in any school established under the provisions of this Act; nor shall sectarian or denominational doctrines be taught therein; nor shall any school whatever receive any of the public school funds, which has not been taught in accordance with the principles of this Act. Books not to be used.

SEC. 34. No teacher shall be entitled to any portion of the public Common School moneys as compensation or salary for services rendered, unless such teacher shall have been duly employed by competent authority, nor unless such teacher shall have had during the whole time of such service, such certificate of competency and approval as required by this Act in full force and effect, and bearing date within one year next before the services aforesaid shall have been rendered; nor unless such teacher shall have made report in manner and in form as shall be prescribed by the Superintendent of Public Instruction. Teachers not to be paid.

MISCELLANEOUS PROVISIONS.

SEC. 35. The Common School year shall commence on the first day of November, and shall end on the last day of October. School year.

SEC. 36. Any printing required under this Act, shall be executed in the form and manner and at the prices of other State printing, and shall be paid for in like manner out of the "General Fund," upon the bill for the same being certified by the State Board of Education. Printing.

SEC. 37. The Act entitled "An Act to establish a system of Common Schools," approved May third, eighteen hundred and fifty-two; and an Act entitled "An Act to be entitled an Act amendatory of and supplementary to an Act entitled an Act to establish a system of Common Schools," approved May third, eighteen hundred and fifty-two, approved May eighteen, eighteen hundred and fifty-three, and all other laws and parts of laws inconsistent with this Act, are hereby repealed; *provided*, this repeal shall not render invalid any lawful proceedings already taken under the laws hereby repealed; and the "Common School moneys" and securities already accrued, shall enure to the benefit of and belong to the School Fund referred to in this Act. Acts repealed

CHAPTER CLXXXVI.

AN ACT

To appropriate Money to enable the Trustees of the Insane Asylum to build a Dining Room, Kitchen and Bath House; also to purchase Furniture for the Main Building of the same.

[Approved May 3, 1855.]

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

- Appropriation. SECTION 1. That the sum of fifteen thousand dollars be and the same is hereby appropriated, out of the General Fund, to enable the Trustees of the Insane Assylum to erect or cause to be erected a Bath House, Kitchen and Dining Room; and also to purchase furniture for the main building; *provided*, the cost of such buildings and furniture shall not exceed the sum herein appropriated.
- Proviso.
- Draft, &c. SEC. 2. That the Trustees shall cause a draft of the Dining Room and Kitchen (which shall be under the same roof) to be made with such specifications as they may deem necessary. They shall advertise in the two papers published in the city of Stockton, for sealed proposals for furnishing of the materials, and for the erection of the building, and the contract shall be awarded to the lowest responsible bidder; *provided*, the cost of the same shall not exceed the sum of ten thousand dollars.
- Contract—to whom awarded.
- Proviso.
- Board of Contractors. SEC. 3. The person or persons to whom the contract may be awarded, shall, within ten days after such award, execute a bond to the Trustees of said Assylum in double the amount of the entire contract so awarded, conditioned for the faithful performance of such contract; and for any failure on the part of the contractors in the performance of such contract, it shall be the duty of the Trustees to cause suit to be instituted on said Bond against the said contractors and their sureties. The Trustees shall make or cause to be made an estimate of the work done or materials furnished, and the Controller of State, on presentation to him of such estimate, shall draw his warrant for the amount, payable to said Trustees.
- Failure of Contractor.
- Estimate.
- Furniture. SEC. 4. That the Trustees shall, by and with the advice and consent of the resident Physician, purchase or cause to be purchased such furniture as may be necessary for the main building of the Assylum; *provided*, that the cost of the same shall not exceed five thousand dollars. The Trustees shall make or cause to be made a bill of the costs of said furniture, and the Controller of State, on presentation to him of such bill, shall draw his warrant for the amount payable to said Trustees.
- Proviso.
- Bill for furniture.

CHAPTER CLXXXVII.

AN ACT

To Cede Certain Property to the City of Benicia.

[Approved May 3, 1855.]

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

SECTION 1. The State of California hereby grants to the City of ^{Grant of State.} Benicia the entire water front of said city, and all of the right, title and interest, of the said State, in and to all of the lands within the corporate limits of said city which are subject to overflow ; *provided,* ^{Proviso.} that nothing in this Act shall be so construed as to convey any right or title to any part of the water-front which lies east of a north and south line drawn from the most western part of the land belonging to the United States, and now used for military purposes ; and *pro-* ^{Further proviso.} *vided further,* that nothing herein shall be so construed as to convey to said city any part of her water-front which may extend into the Straits of Carquines beyond where the water is eighteen feet deep at low tide.

SEC. 2. The said water-front and overflowed lands herein granted shall not be subject to execution upon any judgment against the said City of Benicia, but may be sold from time to time by the au- ^{Land not subject to execution.} ^{How sold.} thorities of said city, in such manner as will be most to the interest of the same.

SEC. 3. Said cession is made upon this express condition, that the ^{Condition of cession.} authorities of the city of Benicia shall not sell the property ceded without first giving notice of said sale by publication in at least one daily newspaper in San Francisco, and one newspaper, if one be published, in the County of Solano for thirty days preceding said sale, and that said property so ceded shall be sold at public auction to the highest bidder, and in separate lots not exceeding in size one hundred feet, by one hundred and sixty feet in size.

SEC. 4. Any person who has erected useful and substantial build- ^{Privilege of builders.} ings upon any of the property ceded to the city of Benicia by this Act, believing that he had good title to such property by virtue of a purchase from the founders of the city shall have the privilege within six months from the passage of this Act, of purchasing the lots on which they have built, at private sale, from the said city, and at a fair valuation of the lot without the buildings ; such valuation to be determined by the City Council.

CHAPTER CLXXXVIII.

AN ACT

To take the Sense of the People of this State, at the General Election in A. D., 1855, on the Passage of a Prohibitory Liquor Law.

[Approved May 4, 1855.]

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

Vote on
Liquor Law.

SECTION 1. Every voter, at the General Election in A. D., 1855, may vote for or against the passage of a Prohibitory Liquor Law, the provisions of which shall prohibit the manufacture and sale of all spirituous and intoxicating liquors, except for mechanical, chemical, medicinal and Sacramental purposes.

Inscription
on ballot.

SEC. 2. Every voter, at the General Election in A. D., 1855, who votes for the passage of a Prohibitory Liquor Law, shall write upon his ballot "Prohibitory Liquor Law—Yes;" and every voter who votes against such a law, shall write upon his ballot "Prohibitory Liquor Law—No." The votes thus cast for or against a Prohibitory Liquor Law, shall be returned to the respective County Clerks in like manner as other votes are returned, and an abstract thereof sent by the respective County Clerks to the Secretary of State, in the same manner and at the same time that votes for State Officers are returned.

Duty of Secre-
tary of State.

SEC. 3. It shall be the duty of the Secretary of State to prepare and lay before the Senate and Assembly, at the session of A. D., 1856, immediately after their organization, a complete abstract of the whole vote cast as above provided in this Act for and against a Prohibitory Liquor Law.

Publication.

SEC. 4. The Secretary of State shall cause this Act to be published by the State Printer for at least ninety days previous to the next General Election.

CHAPTER CLXXXIX.

AN ACT

Supplemental to "An Act to regulate Elections," passed March 23, 1855.

[Approved May 4, 1855.]

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

SECTION. 1. That it shall be and is hereby made the duty of the Statement of County Clerk. County Clerk, in each of the Counties of this State, on or before the tenth day after the returns shall have been received of any general or special election held for members of the Legislature, County, State or District officers, Members of Congress or Presidential Electors, to make out under the seal of his Court a statement thereof, setting Contents of same. forth the names of the persons voted for, the office to fill which each person was voted for ; the number of votes given at each precinct to each of such persons, and the number of votes given to each in the County, and transmit the same to the Secretary of State to be filed in his office.

CHAPTER CXC.

AN ACT

To Provide for the Redemption of California "War Bonds" previous to their Maturity.

[Approved May 4, 1855.]

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

SECTION 1. The Treasurer of State is hereby required as soon as possible, after having been advised of the payment (either in part or in full) of the "War Debt" of the State of California, by the United States Government, to cause a notice to be inserted in one of the daily Journals, published in each of the cities of Sacramento and San Francisco, in the State of California, and the city of New York, State of New York ; such notice shall call for proposals to surrender "War Bonds" issued by the State of California, under Acts passed, severally, February fifteenth, one thousand eight hundred and

Act issued
under.

fifty-one ; March seventeenth, one thousand eight hundred and fifty-one ; May third, one thousand eight hundred and fifty-two ; April sixteenth, one thousand eight hundred and fifty-three ; May eighteenth, one thousand eight hundred and fifty-three.

Surrender—
where made.

SEC. 2 Such proposals shall be receivable at the office of the Treasurer of State, but the surrender may be made in the city of Sacramento, or in the city of New York, in accordance with the propositions accepted, and it shall be the duty of the Treasurer and Controller of State, on the first Monday of each of the six succeeding months after the giving of aforesaid notices, to proceed to open, and consider such proposals, as may have been received, previous to each respective date ; such proposals as shall be most advantageous to the State of California shall be accepted ; *provided*, no proposals shall be considered for more than par value with interest accruing.

Proposals
accepted.

Proviso.

Notice of
Treasurer.

SEC. 3. Immediately after the respective considerations, the Treasurer shall give notice in like manner as required in Section first of this Act, declaring the amount, and particularizing such Bonds as will be redeemed, stating the time and place, and after the expiration of thirty days from the time of such notice, said designated Bonds shall cease to bear interest.

Interest ceases.

Surplus.

SEC. 4. At the expiration of the time given for the presentation of proposals, and surrender of Bonds, the Treasurer shall proceed to convert such surplus moneys, (received from the Federal Government) as may not have been absorbed by the redemption of Bonds, into seven per cent. Civil Bonds of this State ; said Bonds shall be held by the Treasurer of State, for the redemption of the remaining Bonds at maturity.

CHAPTER CXCI.

AN ACT

To amend an Act entitled "An Act to fix the times for holding the Terms of the District Courts throughout this State," passed May 18, 1853.

[Approved May 4, 1855.]

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

SECTION 1. The several terms of the Judicial Districts in this State during each year shall commence as follows :

Terms in
first district,

SEC. 2. In the first Judicial District, in the County of San Diego, on the third Monday of April, August and December. In the County of Los Angeles on the third Monday of March, July and November. In the County of San Bernardino on the third Monday of February, May, and October.

SEC. 3. In the Second Judicial District in the County of Santa Barbara on the first Monday of May, August, and November. In the County of San Luis Obispo on the first Monday of March, June, and September. Second district.

SEC. 4. In the Fourth Judicial District on the first Monday of February, April, June, August, October and December. Fourth district.

SEC. 5. In the Fifth Judicial District, in the County of San Joaquin, on the third Monday of January, April and July, and on the second Monday in October. In Calaveras County on the first Monday of February, June and October. In Tuolumne County on the third Monday of February, June and October. In Mariposa County on the first Monday of March, July and November. Fifth district.

SEC. 6. In the Sixth Judicial District, on the first Monday of February, April, June, August, October and December. Sixth district.

SEC. 7. In the Seventh Judicial District, in the County of Solano, on the third Monday of January, April and October. In the Counties of Contra Costa on the first Monday of January, April and October. In the County of Napa, on the first Monday (of) February, May and November. In the County of Sonoma, on the third Monday of February, May and November. In the County of Marin on the first Monday of March, June and December. Seventh district.

SEC. 8. In the Eighth Judicial District in the County of Klamath on the second Monday of April, first Monday in June, and second Monday in October. In Siskiyou on the first Monday in May, August and November. Eighth district.

SEC. 9. In the Ninth Judicial District, in the County of Butte on the second Mondays of March and June, on the fourth Monday of August, and on the third Monday of December. In the County of Shasta, on the fourth Monday of March and June, on the second Monday of September, on the fourth Monday of November. In the County of Colusa, on the first Monday of May and August, on the third Monday of October. Ninth district.

SEC. 10. In the Tenth Judicial District, in the County of Sutter, on the third Monday of February, June and October. In the County of Yuba, on the third Monday of January, second Monday of March and May, the third Monday of July, and the second Mondays of September and November. Tenth district.

SEC. 11. In the Eleventh Judicial District, in the County of Eldorado, on the fourth Monday in January, on the second Monday in May, and on the third Mondays in August and November. In the County of Placer, on the second Monday of January, and on the third Mondays of April, July and October. In the County of Yolo, on the third Monday in March, on the first Monday in August, and on the third Monday in December. Eleventh district.

SEC. 12. All laws and parts of laws conflicting with any of the provisions of this Act are hereby repealed. Laws repealed.

CHAPTER CXCII.

AN ACT

To fix the Compensation of District Attorneys for the several Counties of this State.

[Approved May 4, 1855.]

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

- SECTION 1.** The District Attorneys of the several counties of this State shall receive for their services annually the following sums. First. Of the County of San Francisco, four thousand (4000) dollars ; and Sacramento, El Dorado and Yuba, three thousand dollars each. Second. Of the Counties of Placer and Nevada, two thousand five hundred dollars. Third. Of the County of Siskiyou, one thousand eight hundred dollars. Fourth. Of the Counties of Butte, Tuolumne, San Joaquin, Calaveras and Shasta, two thousand dollars. Fifth. Of the Counties of Sutter, Klamath, Santa Clara, Contra Costa, Sonoma, Marin, Los Angeles, Mariposa and Stanislaus, one thousand two hundred dollars. Sixth. Of the County of Plumas, one thousand six hundred dollars. Seventh. Of the Counties of Sierra, Amador, Colusi, Solano and Trinity, one thousand five hundred dollars. Eighth. Of the Counties of Alameda, Yolo and Napa, one thousand dollars. Ninth. Of the Counties of Santa Barbara, Humbolt, Monterey, nine hundred dollars. Tenth. Of the Counties of Santa Cruz, and Merced, six hundred dollars. Eleventh. Of the Counties of San Diego, San Louis Obispo and Tulare, five hundred dollars. Twelfth. Of the County of San Bernardino, two hundred dollars ; *provided*, that up to the time when this Act shall take effect, all District Attorneys aforesaid shall be compensated according to their respective salaries, as heretofore fixed by the Courts of Sessions, or Board of Supervisors of their several Counties.
- SECTION 2.** The salaries of the District Attorneys, as fixed by this Act, shall quarterly be audited and paid in the same manner as the salaries of County Judges are by law audited and paid.
- SECTION 3.** All laws and parts of laws authorizing the Courts of Sessions or Boards of Supervisors of the several Counties of this State, to fix the compensation of District Attorneys, are hereby repealed.

Annual Compensation.

Second.

Third.

Fourth.

Fifth.

Sixth.

Seventh.

Eighth.

Ninth.

Tenth.

Eleventh.

Twelfth.

Proviso.

Salaries audited.

Laws repealed.

CHAPTER CXCIII.

AN ACT

Authorizing Joseph S. Wallis and Sarah Wallis to change the name of their infant son Talbot Howard Green to Talbot Howard Wallis.

[Approved May 4, 1855.]

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

SECTION 1. It shall be lawful for Joseph S. Wallis and Sarah Name changed. Wallis, to change the name of their infant son Talbot Howard Green to Talbot Howard Wallis.

CHAPTER CXCIV.

AN ACT

To Establish a Prominent Boundary Line between the Counties of Stanislaus and Tuolumne.

[Approved May 4, 1855.]

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

SECTION 1. The north eastern boundary of the County of Stan- Boundary line. islaus separating the said County from the County of Tuolumne, is hereby permanently established as follows : Beginning at the south-east corner of San Joaquin County, at the corner where said County adjoins the County of Calaveras, and running in a south-easterly course on a direct line to the Big Falls on the Tuolumne river, in the mouth of the large canon one mile north of Dye's Saw Mill, (near Spark's old ferry) crossing the Tuolumne river at the point above described, and continuing the same parallel direction to the line separating the Counties of Tuolumne and Merced.

SEC. 2. The Surveyor General of this State shall within ninety Duty of Surveyor General. days after the passage of this Act, survey and mark (or appoint some suitable person to survey and mark) the said boundary line as described in the first section of this Act ; and shall receive such Compensation. compensation therefor, as may be allowed by law ; *provided*, that he file in the offices of the clerks of Stanislaus and Tuolumne Counties, within

thirty days after the completion of said survey, certified copies of the said boundary survey, including marks, courses and distances, which plat and certificate shall be placed on the records of the respective Counties, retaining one copy to be placed on file in the office of the Surveyor General of this State.

Assessor to
return.

Sec. 3. The Assessor of the County of Stanislaus, shall make return to the Supervisors of Stanislaus County, of the number of inhabitants, and taxable property at the time of the passage of this Act, between the line defined by this Act, and the line heretofore surveyed by the Surveyor of Stanislaus County, and the number and value so ascertained shall form the basis for so much of the County debt as shall be assumed by the County of Stanislaus, and paid to the County of Tuolumne, in manner provided by law.

Basis of debt.

CHAPTER CXCIV.

AN ACT

To Fund the Debt of the County of San Diego, and Provide for the Payment of the same.

[Approved May 4, 1855.]

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

Treasurer to
prepare bonds.

SECTION 1. That with a view to fund the debt of the County of San Diego, in this State, and to provide for the payment thereof, the Treasurer of said County shall cause to be prepared, bonds for an amount equal to the present County indebtedness, together with all indebtedness that shall have accrued on or before the first day of July, one thousand eight hundred and fifty-five ; said bonds shall be of the denomination of one hundred, and five hundred dollars each, and each and every bond shall purport in substance, that the County of San Diego owes to the holder thereof, a sum expressed therein, bearing an interest of ten per cent. per annum, from date of issue ; the interest to be paid on presentation at the office of the County Treasurer, on the first day of January and July, one thousand eight hundred and fifty six, and on the first day of January and July of every year thereafter, until said bonds shall be paid and liquidated, said bonds shall be due and payable at the office of the County Treasurer, on or before the first day of July, one thousand eight hundred and sixty-five, said bonds shall be signed by the County Judge, countersigned by the County Auditor, and endorsed by the County Treasurer, and shall have the seal of the County annexed thereto.

Denomination.
Purport.

By whom
signed.

Duty of
County Judge.

SEC. 2. It shall be the duty of the County Judge to keep an account of the number, denomination, and amount of all bonds signed by him in accordance with the provisions of this Act ; it shall be the duty

of the County Auditor to furnish the County Treasurer of San Diego County, a certified copy of the record of all warrants, issued from his office, since the organization of the County, for all indebtedness of said County accruing prior to July first, one thousand eight hundred and fifty-five. It shall be the duty of the County Treasurer to examine all warrants presented for funding, and ascertain if they are the true and correct ones issued, according to the Treasurer's and Auditor's books, corresponding with the entries therein, and no other than those shall be considered true and lawful warrants to be funded, and it shall be the duty of the Treasurer and Auditor aforesaid each to keep a separate record of all such bonds as may be issued, showing the number, date, amount of said bonds, and to whom issued.

Duty of Auditor.

Duty of Treasurer.

Record of bonds.

SEC. 3. Any person holding true and lawful warrants against the County of San Diego, as provided in the second section of this Act, shall have the privilege of receiving in exchange therefor, ten per cent. bonds as provided for in the first section of this Act, and the Treasurer is hereby authorized and directed to issue said bonds to the persons holding said warrants, at the rate of one hundred cents for each dollar of principal and interest, accrued on said warrants, on the first day of July, A. D., one thousand eight hundred and fifty-five; *provided*, that said warrants be presented at the County Treasurer's office, within sixty days after the said first day of July, A. D., one thousand eight hundred and fifty-five.

Warrants exchanged.

Issue of bonds.

Proviso.

SEC. 4. All bonds issued in exchange for warrants shall bear date on the second day of July, one thousand eight hundred and fifty-five. The Treasurer shall endorse on the back of each warrant by him exchanged for bond as aforesaid, the date on which he redeemed the same, and from whom received, and shall file the same in his office so endorsed and keep a record of the same, giving the number, date, and amount of the warrants.

Date of bonds.

Endorsement

Record of bonds.

SEC. 5. It shall be the duty of the County Judge and County Auditor, together, to attend at least once in every two weeks, at the office of the County Treasurer, until the expiration of the time within which warrants can be funded in accordance with this Act, to examine all warrants redeemed by the said Treasurer, and cause the same to be registered and cancelled in such a manner, as to prevent their being re-issued or put in circulation; at the semi-monthly meetings aforesaid, the several County officers aforesaid shall compare their respective records of the date, number and amount of the bonds respectively signed, countersigned and endorsed by them, and ascertain whether or no any bonds have been wrongfully issued, or warrants wrongfully redeemed by the County Treasurer.

Duty of Auditor and Judge.

SEC. 6. The County Treasurer shall keep an account of the expenses actually incurred by him, in the purchase of the necessary record books required to carry into effect the provisions of this Act, and present the same to the Board of Supervisors of said County, who shall audit and allow the same, and the same shall be paid out of any money in the County Treasury not otherwise appropriated; *provided*, that the total expense as aforesaid shall not exceed fifty dollars.

Account of expenses.

Proviso.

SEC. 7. The County Treasurer shall cause bonds to be procured to an amount equal to the amount of the outstanding indebtedness of the County on the first day of July, one thousand eight hundred and fifty-five; said bonds shall conform in every particular to the requirements of the first and fourth sections of this Act; coupons for the interest shall be attached to each bond, so that the coupon may be removed without in-

Bonds to be procured.

Coupons.

jury or mutilation to the bond; said coupon shall be signed by the Treasurer; *provided*, the Treasurer can procure said bonds with coupons attached, for a sum not to exceed three hundred dollars; *provided*, further, that if the Treasurer cannot procure bonds with coupons attached for the sum specified in this section, then he shall procure such bonds as the County Board of Supervisors may direct, the same not to cost more than two hundred and fifty dollars; and whenever any interest shall be paid upon a bond issued without coupons under the provisions of this Act, the Treasurer shall endorse the same upon the bond, and shall demand and receive from the person drawing the interest, a receipt for the amount, which receipt shall be filed and shall be a proper voucher for said Treasurer; all expenses incurred by the Treasurer, in procuring bonds, with or without coupons attached, shall be audited and paid in the same manner as is provided for the purchase and payment of books of Record, in the sixth section of this Act.

Expense in procuring bonds.

Additional special tax.

SEC. 8. In addition to the ordinary taxes for general county purposes, there shall, this year, and every year thereafter, until the principal and interest of the said bonds to be issued shall be fully provided for, by payment or otherwise, as hereinafter provided, be assessed and collected at the same time, in the same manner and by the same officers as the ordinary revenues of the County; a special tax of thirty-five cents on each one hundred dollars' valuation of all taxable property in said County; said special tax shall be called the "Interest Tax" of San Diego County, and be collected and paid over into the County Treasury in the legal currency of the United States; The fund to be derived from this interest tax, shall not be loaned in whole or in part to any fund, nor shall any moneys be paid out of this, except as herein provided for, *provided*, however, that should said fund furnish a surplus over and above what may be required for the payment of the interest each year, such surplus shall be turned over and paid into the sinking fund hereinafter provided for.

Name of same

Fund not to be loaned.

Proviso.

Sum set aside.

SEC. 9. Of the moneys received by the County Treasurer, arising out of all taxes, general and special, annually assessed and collected for County purposes, there shall be first set apart by said Treasurer, a sum, each year, equal to total amount of the assessment of thirty-five cents on each one hundred dollars of taxable property as herein provided for, to constitute the interest fund of each year, and no moneys shall be paid directly or indirectly out of the County Treasury until such amount aforesaid be set apart.

Supervisors limited.

SEC. 10. The Board of Supervisors of the said County of San Diego, shall not have power to make any order which shall prevent or hinder the prompt collection in gold or silver coin, of the interest tax aforesaid, and the prompt separation of the amount of said tax out of the first moneys received as provided for in section nine of this Act, or otherwise contravene the provisions of this Act.

Poll tax.

SEC. 11. There shall also be levied and collected in said County, this year, and every year thereafter, until the principal and interest of the said bonds to be issued shall be fully provided for, by payment or otherwise for the purposes of this Act, a poll tax of one dollar, said poll tax to be levied upon all persons, not by law exempt from such tax, and shall be levied and collected at the time and in the manner provided by law for the levying and collecting poll tax for State purposes; said poll tax levied and collected as herein provided, to be paid into the County Treasury, and turned over to the sinking fund hereinafter provided for.

Sinking fund.

SEC. 12. It shall be the duty of the Treasurer of the County of San

Diego to set apart a fund to be called the "sinking fund of San Diego County," into this fund shall be paid; First. Any and all surplus of the interest tax after providing for the payment of the yearly interest. To be paid into same. First. Second. Whatever surplus may remain in the County Treasury at the expiration of each fiscal year. Second. Third. The whole amount of the poll tax levied and collected under the provisions of section eleven of this Act; each of these payments shall be continued until the said sinking fund shall be sufficient for the payment of the principal and interest of the bonds aforesaid, and when the same shall be paid and liquidated the payment shall cease, and all surplus remaining in said sinking fund, shall be paid into the Common Treasury of said County. Surplus.

SEC. 13. Whenever at any time there shall be in the sinking fund, the sum of five hundred dollars, or more, the County Treasurer shall advertise, in a public newspaper published in the county, or give notice by posting in three public places in said County for the space of two weeks for proposals for the redemption of said bonds; said advertisement or notice, to specify the day, hour and place said sealed proposals are to be opened; after the expiration of the time the Treasurer shall open the sealed proposals at his office, in presence of the County Judge, and such persons as may choose to be present, and shall pay and liquidate the bonds presented, at the lowest value at which they may be proposed to be liquidated; *provided*, that the same shall not be for more than par value, and, *provided*, that should there be no proposals for less than par value, then the payment shall be made *pro rata*, on all bonds offered at par, and, *provided*, that whenever there shall be sufficient moneys in the sinking fund for the extinguishment of all the outstanding bonds, and interest due thereon, of the said County, it shall be the duty of the Treasurer, to advertise in some newspaper published in that County, or by posting in three public places within the County for the space of four weeks, for the redemption of the outstanding bonds as hereafter provided, after which time said bonds shall cease to bear interest. Redemption of bonds. Advertisement. Proviso. Proviso.

SEC. 14. The County Treasurer shall endorse upon each bond redeemed, the date of redemption and from whom redeemed, and the County Judge and County Auditor shall attend at the office of the Treasurer, whenever such bonds shall be redeemed as hereinafter provided for, and see that the said bonds are duly cancelled; full and particular account of the sinking fund shall be kept by the said Treasurer, and shall at all times be opened to the inspection of the County Judge and Auditor, Board of Supervisors and Grand Jury of said County, and the said Treasurer shall furnish the Board of Supervisors, or Grand Jury with a full statement of the operations of the said sinking fund whenever by them required; and shall cause to be published in some newspaper printed in the county, in the month of January of each year, a concise statement of the condition of said fund, the amount of bonds issued, bonds redeemed and interest paid, and also the names of the bidders, and the rates of the bids for the redemption of bonds made from time to time. Endorsement. Duty of Auditor and Judge. Statement of Treasurer.

SEC. 15. The Treasurer shall receive in compensation for the services rendered in the funding of the debt of the said County, one half of one per cent. on the amount of bonds issued, and there shall be paid for the collection and disbursement of the special interest tax and poll tax, to the collecting and disbursing officers, the same compensation as may be by law allowed to be paid for the collection and disbursement of the ordinary revenues of the County, but all compensation so paid, shall be paid out of moneys in the Treasury not otherwise appropriated, and in no case, be paid out of the interest or sinking fund. Compensation of Treasurer. Pay for collecting, &c. Power of District Court.

- Penalty.** SEC. 16. The District Court, having original civil jurisdiction within the County of San Diego, shall have power to enforce obedience to the provisions of this Act, and for that purpose may issue process of mandamus, prohibition, and all other writs authorized by law; and any public officer who shall wilfully violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall be liable to indictment and punishment therefor, and shall moreover be liable on his official bonds, for any damages or loss sustained by such wilful violation.
- Advertisement.** SEC. 17. On the first of June, one thousand eight hundred and fifty-five, the Treasurer of San Diego County shall advertise that after thirty days, the funding of said debt will commence, from which time it shall not be lawful for the Treasurer to pay or liquidate any of the present indebtedness of said county in any other manner than is herein provided.
- Repealed.** SEC. 18. So much of the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth and eighteenth sections of an Act entitled "an Act concerning the office of County Treasurer," passed March twenty-seventh, one thousand eight hundred and fifty, as conflicts with this Act, is hereby repealed; *provided*, that such repeal shall not be construed so as to affect any other County than San Diego, and shall apply only to the indebtedness of said County, herein provided to be funded, and not to the future indebtedness of said County.
- Take effect.** SEC. 19. This Act shall take effect from and after its passage.

CHAPTER CXCVI.

AN ACT

To amend an Act entitled "An Act to Regulate Proceedings in Civil Cases in Courts of Justice of this State."

[Approved May 4, 1855.]

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

- Section 494 amended.** SECTION 1. Section four hundred and ninety-four of said Act to Regulate Proceedings in Civil Cases in Courts of Justice of this State, is hereby amended so as to read as follows: Section four hundred and ninety-four. The measure and mode of compensation of Attorneys and Counsellors shall be left to the agreement, express or implied, of the parties; but there shall be allowed to the prevailing party in any action in the Supreme Court, District Court, Superior Court of the City of San Francisco, and County Courts, his costs and necessary disbursements in the action, or special proceeding in the nature of an action.
- Compensation.**
- Sections amended.** SEC. 2. Sections five hundred and one, five hundred and two, five hundred and three, and six hundred and thirty-two of said Act, are hereby repealed.

SEC. 3. Section five hundred and five of said Act is hereby ^{Postponement.} amended so as to read as follows : Section five hundred and five. When an application is made to a Court or Referee to postpone a trial, the payment of costs occasioned by the postponement may be imposed, in the discretion of the Court or Referee, as a condition of granting the same.

SEC. 4. Section five hundred and ten of said Act is amend- ^{Section 510} ed as follows : Section five hundred and ten. The party in whose ^{amended,} favor judgment is rendered, and who claims his costs, shall de- ^{Party getting} liver to the Clerk of the Court, within two days after the verdict ^{Judgment.} or decision of the Court, a memorandum of the items of his costs and necessary disbursements in the action or proceeding ; which memorandum shall be verified by the oath of the party, or his attorney, stating that the items are correct, and that the disbursements have been necessarily incurred in the action or proceeding.

SEC. 5. Section six hundred and thirty-one of said Act is hereby ^{Costs.} amended so as to read as follows : Section six hundred and thirty-one. Costs shall be allowed to the prevailing party in a Justice's Court.

CHAPTER CXC VII.

AN ACT

To Re-Incorporate the City of San Francisco.

[Approved May 5, 1855.]

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

SECTION 1. The Corporation, or body corporate, now existing ^{Corporation.} and known as "the City of San Francisco," shall remain and continue to be a body politic and corporate, in name and in fact, by the name of "the City of San Francisco," and by that name shall have perpetual succession ; may sue and defend, in all courts and places, and in all actions, proceedings and matters whatever ; and may, and shall have ^{Privileges.} and use, a common seal, and the same may alter at pleasure ; and may purchase, receive, hold and enjoy real and personal property, and sell, convey, mortgage and dispose of the same for the common benefit ; *provided*, that it shall purchase without the city no property ^{Proviso.} except such as shall be necessary for establishing hospitals, prisons, cemeteries, asylums, powder magazines and water works ; *and pro-* ^{Further proviso.} *vided*, also, that all rights and liabilities of the corporation heretofore known as "the City of San Francisco," shall survive to the corporation continued by this Act.

SEC. 2. The City of San Francisco shall be bounded as follows : ^{Boundary.} On the south by a line drawn parallel with Clay street, two and a-half miles' distant from the centre of Portsmouth Square ; on the west by a line drawn parallel with Kearny street, two miles' distant

- from the center of Portsmouth Square ; its boundaries on the north and east shall be the same with those of the County of San Francisco ; *provided*, that the Common Council of said city shall have power to extend the boundaries thereof, so as to embrace any and all lands that may be hereafter confirmed, granted or released to said city, by the State of California or the United States.
- Proviso.** ;
- Wards.** SEC. 3. Said city shall be divided into eight wards, as at present constituted : the number and boundaries of which shall not be altered, except that in the years eighteen hundred and fifty-five, or eighteen hundred and fifty-six, and every third year thereafter at least three months prior to the municipal election in such years, the Common Council may re-divide the city into such number of wards as they may deem expedient ; *provided*, that each ward shall contain as nearly as may be, an equal number of inhabitants ; *provided*, also, that the whole number of wards shall not exceed twelve, prior to the year eighteen hundred and sixty.
- Common Council.**
- Proviso.**
- Officers elected.** SEC. 4. There shall be elected in and for the City of San Francisco for the government of the same, a Mayor, (who shall be *ex-officio* Recorder,) a Controller, Marshal, Surveyor, Attorney, Treasurer, Tax-Collector, and one Assessor for each ward, who shall hold their offices for one year, and until their successors are elected and qualified ; there shall also be elected for the city, a Common Council, consisting of a Board of Aldermen and a Board of Assistant Aldermen, whose term of office shall be as hereinafter provided. The municipal election shall be held on the fourth Monday of May in each year, on which day all officers to be elected for the whole city shall be voted for on a general ticket by the qualified electors thereof. The Aldermen and Assistant Aldermen shall be elected as hereinafter provided. The officers receiving the highest number of legal votes cast for each office, shall enter upon the duties of their respective offices on the first Monday of July following.
- Term of office.**
- Common Council.**
- Municipal election.**
- Commencement of duties.**
- Duties of Common Council.** SEC. 5. Such election shall be subject to all provisions of law regulating elections for State officers. The Common Council shall give ten days' previous notice of such elections ; shall fill all vacancies caused by the removal, resignation or otherwise in the Board of Inspectors and Judges of election of the several wards. They shall, also, examine the returns, and declare the results within two days from the time of such returns are made. They may, also, by ordinance, extend the time for the canvass of the votes, not exceeding three days.
- Vacancies.** SEC. 6. All vacancies in office, except as hereinafter provided, shall be filled by special election called by ordinance, which election shall be governed by the same laws as are in this Act provided for General Municipal Elections
- Returns.** SEC. 7. The certified returns of all Municipal Elections shall be filed by the Inspectors and Judges, with the County Clerk within two days after any such election, by whom they shall be at once transmitted to the Board of Aldermen, to be by said Board, acting as a Board of City Canvassers, duly canvassed, and the result thereof declared. Elections shall not be held in any building in which intoxicating liquors are sold, or within three buildings on either side thereof.
- Tie votes.** SEC. 8. When two or more persons have an equal, and the highest number of votes at any election for the office of Mayor, the new Common Council shall, at its first session after organizing, decide by joint vote of the two Boards, between such persons, all elections by

either Board, or by joint vote of the two Boards, shall be *viva voce*, and a majority of all the votes cast, shall be necessary to a choice.

SEC. 9. The Inspectors and Judges of all Municipal Elections, shall be those chosen at the next preceding General Election in the several wards, or those appointed by the Common Council to fill vacancies.

SEC. 10. No person shall be elected or appointed to any office under this Act, who shall not at the time of his election or appointment, be a qualified elector.

SEC. 11. The Executive and Judicial power of the Corporation by this Act provided for, shall be vested in a Mayor. (who shall be *ex-officio* Recorder,) a Controller, Tax Collector, Treasurer, Marshal, Attorney, Surveyor, and such other executive officers as are or may be created by law: Neither the Common Council or any Board, committee or member thereof shall exercise any Executive power nor perform any Executive business.

SEC. 12. It shall be the duty of the Mayor to communicate to the Common Council, semi-annually, and oftener if necessary, a general statement of the condition of the city, with reference to its government, finances, resources and improvements, together with such recommendations in relation thereto as he shall deem expedient; to be vigilant and faithful in causing the laws and ordinances for the government of the city to be duly observed and enforced, and to exercise a constant supervision over all city officers, and to hear and examine all complaints made against any of them for neglect of duty, and to certify the same to the Common Council. He shall have power to administer oaths and affirmations; he shall also have power to call out the military of the city whenever he shall deem it necessary for the suppression of riots. It shall be his duty to exercise the powers and to perform the duties prescribed by the laws of the State, and the ordinances of the city, heretofore exercised by and prescribed to the Recorder. As to offenses committed in the city, he shall have the same jurisdiction as may be conferred upon Justices of the Peace. He shall have jurisdiction in all cases of violation of ordinances of the city, in all cases of assault, riot, breach of the peace, petit larceny, and all crimes and misdemeanors punishable by fine, not to exceed five hundred dollars, or imprisonment not to exceed three months, or by both such fine and punishment, subject to an appeal as in other cases to the Court of Sessions. He shall have power to perform generally all such duties as may be prescribed by law, and the ordinances of the city. He shall be allowed a Clerk.

SEC. 13. Whenever there shall be a vacancy in the office of Mayor, or the Mayor shall be absent from the city, or shall be unable from sickness, or any other cause, to attend to the duties of his office, the President of the Board of Aldermen shall perform the duties, receive the compensation, and possess all the rights and powers of Mayor during such vacancy, absence or disability; *provided*, however, that if any such vacancies shall occur in the office of Mayor, within six months after the commencement of any term of office, the Common Council shall within ten days thereafter call a special election to fill such vacancy.

SEC. 14. It shall be the duty of the Controller to report to the Common Council, monthly, a full and detailed statement, verified by his oath or affirmation, of all the receipts, expenses and payments of the City Government since his last previous report, and the state of each appropriation made by the Common Council, showing the amount expended, and that remaining unexpended on each. To countersign all licenses and receipts for moneys paid to the Tax Collector for taxes, licenses,

Same.

assessments or otherwise, at the same time making a registry thereof in a book to be provided for that purpose. He shall at the end of each fiscal year, publish a full and detailed statement of the receipts and expenditures of the city during said year, specifying the different sources of revenue, the several amounts received from each, and the several appropriations made by the Common Council, the objects for which the same were made, and the amount expended under each, the amount and character of the indebtedness of the city, and of the property of the city. He shall have a book in which he shall register all bills and accounts against the city, which shall have been duly audited by the Common Council and certified by the Clerk thereof, certifying the names of the persons in whose favor such bill or accounts have been audited, the consideration of such bills or accounts, their amounts, dates and the appropriation against which each is charged. He shall so regulate his accounts that his books shall show from day to day the amount of cash to the credit of each appropriation in the hands of the Treasurer. Every warrant or draft upon the Treasury, shall be signed by the Controller, and countersigned by the Mayor, and shall specify the appropriation under which it is drawn, the date of the Ordinance making such appropriation, and from what fund, and for what purpose the amounts specified is to be paid. Every warrant drawn on the Treasurer shall be presented within five days from the date and issuance of it, and shall be void after the expiration of that period, if not so presented: which condition shall be expressed in every such warrant. All warrants shall be registered in the same manner as audited bills and accounts (as in this section provided) and each warrant shall refer intelligibly to the book and page of its registry; but no warrant or draft shall ever issue unless against an equal amount of cash actually in the Treasury; and when the cash fund of any appropriation is exhausted, the Controller shall register the audited bills and accounts, as provided in this section, in the order in which the same are presented; (at the same time numbering said bills and accounts according to the folio of their registry,) so that whenever the cash receipts into the Treasury to the credit of the proper funds, shall allow, he shall draw warrants according to the registry of the audited bills and accounts, in favor of the original holder thereof. Nor shall any warrant or draft be issued by the Controller, unless the same shall have been specifically authorized by an ordinance directing the issue of the same: its amount, to whom payable, and on what account. Every bill or account audited and allowed by the Common Council, or by any committee thereof, shall be subject to the supervision of the Controller, who shall make no entry of such bill or account on the books of his office, nor shall he sign any warrant based upon such bill or account, unless he is satisfied of the correctness of such bill or account; and he shall be liable on his official bond in double the amount of any bill or account audited, allowed or registered, contrary to the provisions of this section. His books shall be opened at all times, during business hours, to the inspection of the public. He shall be allowed a Clerk, whose salary shall not exceed two thousand dollars per annum.

Same.

Clerk's]

Duties of
Tax Collector.

SEC. 15. It shall be the duty of the Tax Collector to collect and receive all moneys for taxes, assessments, whether for streets or otherwise, and licenses belonging to the city, and to pay the same each day into the Treasury, in the specific fund, without substitution or change, in which he shall have received the same, and in making such collections he shall receive nothing but current coin, at its legal value. It shall be his duty from day to day, or as often as he may be required, to communicate to

the Controller the condition of his cash account in the Treasury. During the last week of each quarter of his official term, he shall make a full settlement of his accounts with the Treasurer for such quarter, under oath, and shall file a duplicate of such account with the Controller. Of all amounts paid to him he shall make and keep a registry in a book to be provided for that purpose, expressing the sum paid and the purpose for which it has been paid. Each receipt shall be countersigned by the Controller, as hereinbefore provided. In lieu of a salary for his services, Compensation. he shall receive at the rate of one-half of one per cent. on all moneys paid by him into the Treasury: which shall be in full of all compensation for his services. In all matters appertaining to his office, he shall have power to administer oaths and affirmations, but without fee.

SEC. 16. The Treasurer shall receive and safely keep all money of the city. He shall pay out the same only upon the warrant of the Controller, lawfully drawn and specifically authorized by an ordinance directing the issue of same, the amount of each, to whom payable and for what object, signed and countersigned, as hereinbefore provided. He shall keep an account of all his receipts and disbursements, with their sources and objects respectively; and of the several funds, showing the amount expended and unexpended of each, and the condition of each as to the balance on hand in cash. He shall make monthly to the Common Council, verified by his oath or affirmation, a transcript of such accounts in detail, which shall be published in a daily newspaper of the city. At the time each warrant is paid by him he shall cancel it, by an endorsement made upon the original warrant.

SEC. 17. It shall be the duty of the Marshal to supervise, direct Duties of Marshal. and regulate the Police force of the city, and be Keeper of the City Prison, under such regulations as the Common Council may prescribe; to execute all process issued by the Mayor, or directed to him by a competent authority in criminal cases. To attend upon the Mayor's court; to arrest and bring before the Mayor all persons guilty of a breach of the peace, or violation of the city ordinance.

SEC. 18. The Attorney shall transact and conduct the law business of the city, or of any of the Departments, and when directed by the Common Council shall transact and conduct any business in which the city has an interest; and he shall give his opinion in writing to the Mayor or Common Council, or to any Executive officer, whenever required, and shall render such services in his profession as may be needed for the interests of the city. He shall examine into, and certify the legality or illegality of all ordinances passed by the Common Council, prior to the approval of the same by the Mayor. He shall Clerk. be allowed a Clerk, who shall be an Attorney, admitted to practice in the Supreme Court of this State.

SEC. 19. It shall be the duty of the Surveyor to supervise, manage Duties of Surveyor. and regulate the streets, highways, wharves, public buildings and places of the city, under the ordinances of the Common Council, to have in his office a correct profile drawing of each street and highway of the city, after the same shall have been surveyed and sanctioned by the Common Council, with a view to the permanent grade of the city. To give the line or lines of lots fronting on all streets, squares or public ways, whenever called upon for that purpose. Also, the line and grade of sidewalks and foot-ways within the city, under the ordinances of the Common Council, and to furnish a map or certificate thereof, in writing, when required. And he alone shall be authorized to give the official grade of the streets of the city, and certify to the

same. He shall have power to remove all incumbrances and obstructions to the streets, alleys, highways, public squares, places, sidewalks and footways within the city; and all structures and erections projecting beyond the line of said streets, alleys and public ways. He shall keep in his office a book, in which he shall make a daily report of violations of the Ordinances, and record all matters touching the execution of his duties; which book shall be subject at all times to public inspection. He shall make all plans and estimates of work required in his Department by the city, under the direction of the Common Council, and report to them everything relating to the making and repairing of streets, wharves, public grounds and places within the city limits; he shall superintend and examine the execution of all work done for the city, in his Department, and see that such work has been well and faithfully performed. He shall be allowed a Deputy, whose salary shall be two thousand dollars a year. Neither the Surveyor nor his Deputy shall receive (for his or their use) any fee or emolument for any services performed or connected with said Department, other than the salaries assigned to each, in this Act. He shall give an official bond in the sum of twenty-five thousand dollars.

Deputy.
Salary.

Bond.
Duties of
Ward Assessors.

SEC. 20. There shall be elected, annually, by the qualified electors in the several wards of the city, at the time of the election for municipal officers, one Assessor, in and for each of the said wards, who shall be a resident therein, and whose duty it shall be, within such time and in such manner as the Common Council may by ordinance direct, to make out a correct list of all the taxable persons, and real and personal property within his ward not exempt by law from taxation, and by actual personal inspection, assess all such property, under its appropriate head, at its actual cash market value; giving an accurate description of each parcel of real estate, by the number of the lot and the dimensions and boundaries of each part thereof, when less than a whole lot; or when such lot is subdivided, or is owned or claimed by more than one person or company; and within twenty days after such assessment is completed, certify and return the same, under oath, to the Mayor. Each Assessor shall, immediately after having completed his assessment list, notify the inhabitants of his ward, by posting up a notice in at least three public places therein, and by publication in some daily city newspaper, that he has completed his assessment list, and that his books will remain open for inspection by all persons interested therein, for fifteen days from the date of such notice; and that within five days thereafter, such assessment list will be returned to the Mayor. It shall be the duty of all such Assessors to meet together at such time and place within the city as the Mayor may direct, and examine the valuations made by them respectively; and if any owner or owners of any property so assessed, be dissatisfied with such assessment, he or they may appeal to such Board, to have such assessment corrected; and if a majority of said Board shall deem any valuation or assessment incorrect, they shall have the power to alter the same; and any person dissatisfied with such decision made by said Board, may, within ten days thereafter, appeal to the Board of Aldermen, whose decision therein shall be final. Each of said Assessors shall have power to administer oaths or affirmations for the purpose of ascertaining the full and true amount of each person's personal property: but no person shall be permitted to assess or value his own real property. Such valuation shall be made by the Assessor or Assessors only. The compensation

of the Assessors shall be five hundred dollars per annum each. They shall give bonds for the faithful and prompt performance of their respective duties, in the sum of three thousand dollars each.

SEC. 21. The legislative power of the city of San Francisco shall be vested in a Board of Aldermen and a Board of Assistant Aldermen, which, together, shall constitute the Common Council. The Board of Aldermen shall consist of one member from each ward, who shall be elected by the qualified voters of their respective wards, for the term of one year. Legislative power how vested.

SEC. 22. The Board of Assistant Aldermen shall consist of one member from each ward, who shall be elected by the qualified electors of their respective wards. Their term of office shall be one year. No person shall be a member of either Board, except while he is a resident of the ward for which he was elected. Assistant Aldermen. Term of office.

SEC. 23. Each Board shall elect one of its own members as President, and may appoint a Clerk and a Sergeant-at-Arms. The Clerk of the Board of Aldermen shall be *ex officio* Clerk of the Common Council, and his salary, in both capacities, shall be fixed by ordinance, and shall not exceed three thousand dollars a year; the salary of the Clerk of the Board of Assistant Aldermen shall also be fixed by ordinance, and shall not exceed two thousand dollars a year. The salary of the Sergeant-at-Arms of each Board shall be fixed in like manner, and shall not exceed one thousand two hundred dollars a year, each. President. Clerk. Salary of Clerk. Sergeant at Arms

SEC. 24. Each Board shall keep a journal of its proceedings, be judge of the election returns and qualifications of its own members, and shall determine contested elections, and have power to call elections to fill vacancies in its own body. Journal.

SEC. 25. The majority of all the members elected to each Board, shall constitute a quorum for doing business; but a less number may adjourn from time to time, and may compel the attendance of absent members, in such manner and under such penalties as each Board may prescribe. The Boards shall sit in separate chambers, of which the doors shall be kept open, except when the public welfare requires secrecy. Quorum. Sittings.

SEC. 26. Each Board may determine the rules of its proceedings; punish its members for disorderly conduct; and, by resolution passed with the concurrence of two-thirds of all the members elected, expel a member, after opportunity given him of being heard in his own defense; but such resolution shall be of no effect, unless it contain a provision for a special election, to be held within two weeks, to fill the vacancy, whenever two months of the term of the member thus expelled is still unexpired; no member of either Board shall, during the period for which he was elected, be appointed to any office of emolument or profit under this Act, or to any office that may hereafter be created by the Common Council. Rules, &c. No member appointed, &c.

SEC. 27. The two Boards shall, in all cases, except in cases of election, act as separate bodies, and shall appoint no joint committees, except as hereinafter provided. Boards separate bodies. †

SEC. 28. Either Board may originate, amend, concur in, or report any ordinance or resolution; but no ordinance shall be passed unless it have in each Board a majority of all the members elected to such Board; but a resolution may be adopted, a majority of the members present voting for the same; and on the final passage of every ordinance, the yeas and nays shall be taken, and entered upon the journal, Ordinances. Yeas and nays.

with the name of every member voting for or against the same. All ordinances or resolutions not passed in accordance with the provisions of this section, shall be void as against the city.

Passage of
ordinances.

SEC. 29. Every ordinance passed by the two Boards, shall be presented to the City Attorney for his examination ; and it shall be the duty of the City Attorney, within five days after such ordinance is so presented to him, to transmit the same, with his opinion in writing, of its legality or illegality, to the Mayor for his approval. If the Mayor approve it, he shall sign it; if not, he shall return it, with his written objections, to the Board in which it originated, within ten days thereafter ; or if such Board be not then in session, at its next stated meeting ; the Board shall enter the objections upon its journals, and publish them in some city daily newspaper. At any stated meeting within two weeks thereafter, such Board shall proceed to consider said ordinance and message. If after such reconsideration, two-thirds of all the members elected to such Board shall agree to pass said ordinance, notwithstanding the objections of the Mayor, it shall be sent to the other Board, by which the same shall, in like manner, be reconsidered ; and, if approved by two-thirds of all the members elected to such Boards, it shall take effect as an ordinance of the city. In all such cases, the votes of both Boards shall be determined by yeas and nays, and the names of those voting for and against the passage of such ordinance reconsidered, shall be entered upon the journal of each Board, respectively ; every ordinance duly passed by both Boards, presented to the City Attorney, and by him certified to be legal, and not returned by the Mayor, as hereinbefore provided, shall take effect as though he had signed it, unless the close of the session of the Common Council and the expiration of its term shall prevent its return, in which case it shall not take effect as an ordinance of the city, until ten days after the first session of the new Common Council, and until it has been reconsidered and approved by two-thirds in each Board, as in the case of an ordinance returned with the Mayor's objections.

Votes
determined.

Unlawful
appropriations.

SEC. 30. It shall not be lawful, except by ordinance to provide for the appropriation or expenditure of public moneys, or to make any order respecting any work or matter involving such expenditure or appropriation, or for the sale, disposition or appropriation of the public property, for any specific improvement, the laying of any tax, impost or assessment, or imposing any new duty or penalty ; and every such ordinance shall, before the same is sent from the Board in which it originated, to the other Board, and also before being sent to the City Attorney for his examination, and to the Mayor for his signature, be published with the yeas and nays, and the names of those voting for and against the same, in the regular issue of at least one daily newspaper in the city. No ordinance or resolution which shall have passed one Board, shall be acted upon by the other Board on the same day, except by unanimous consent.

Publication
of ordinance.

Appropriations.

SEC. 31. Annual and other appropriations of money shall be made by the Common Council by ordinance, for every branch and object of city expenditure ; no more than one such appropriation shall be made in any one ordinance ; and every ordinance making new appropriation, or continuing or reviving an old one, shall distinctly specify, without reference to any other act or ordinance, the sum appropriated, and the object to which it is to be applied. No money shall be drawn from the Treasury, unless the same shall have been previously

appropriated to the purpose for which it was drawn, nor unless the appropriation shall have been based upon specific and detailed estimates and statements, furnished, in writing, for their respective departments, duly verified on oath or affirmation, by the several executive officers; and it shall be the duty of any executive officer, when required by the Common Council, to furnish such statement and estimate. Every warrant drawn upon the Treasury, shall specify the appropriation under which it is drawn, and the date of the ordinance making such appropriation, as well as the date of the ordinance directing the issue of such warrant; nor shall any warrant or draft upon the Treasurer be issued by the Controller, or signed by the Mayor, unless the issue of the same has first been authorized by an ordinance which shall specify the amount of such warrant or draft, the person to whom such amount is payable, and for what object it is paid.

Duty of executive officers.

Warrants to specify, &c.

SEC. 32. The Common Council shall not create nor permit to accrue any debt or liability which, in the aggregate with all former debts, or liabilities exclusive of the funded debts shall exceed the sum of twenty-five thousand dollars, over and above the estimated annual revenue of the city at the time of incurring such debt or liability; and each member of the Common Council, who shall vote for any ordinance which becomes a law, which is intended or does directly or indirectly increase the indebtedness of the city, contrary to the provisions of the section above recited, shall be liable for the sum or sums specified in said ordinance, in his individual capacity; and upon conviction of a violation of the provisions of this section, shall be liable to a fine, in a sum not less than two thousand dollars, and to imprisonment in the County Jail, for a term not exceeding six months, or to both such fine and imprisonment; and any other city officer, who shall assist in carrying out any such ordinances, shall be equally liable as the Alderman and Assistant Alderman, who vote for the same, and all or any of them, may be sued for such amount, as in other cases, and their official bonds shall be liable therefor; and for this purpose, every ordinance involving the expenditure of public money, or providing for any matter or thing to be paid for out of the Treasury, shall by its terms limit to a sum specified the amount of the expenditure to be made, or the liability to be incurred, by virtue of such ordinance. Immediately upon the passage of any such ordinance, by the Common Council, the Clerk thereof shall furnish to the Controller a certified copy of such proposed ordinance; and the Controller shall thereupon certify to the Mayor, under his oath or affirmation a statement of the then outstanding debts and liabilities of the city incurred or to be incurred under the then existing ordinances. If the amount specified in such proposed ordinance shall, taken in the aggregate with the outstanding debts and liabilities of the city incurred or to be incurred under such existing ordinances, exceed the limit of twenty-five thousand dollars (exclusive of the funded debts) it shall be the duty of the Mayor to withhold his signature from such proposed ordinance, and the same shall not take effect in any way, nor shall any debt or obligation sought to be created under it have any validity as against the city; and every tax or assessment levied upon any person or property within the city for the payment of, or providing for any debts or liability created or attempted to be created, in contravention of the provisions of this section, shall be absolutely null and void.

Debts limited.

Members liable.

Other officers liable.

Expenditures limited.

Duty of Clerk and Controller.

Mayor to withhold signature.

Tax null and void.

SEC. 33. The Common Council shall not borrow money on the

Council not to borrow, &c.

Construction of section.

credit of the city, and shall have no power to emit bills of credit, or to issue or put in circulation any paper or device as a representative of value or device of indebtedness, or to award damages for non-performance or failure on their part of any contract, [or] to loan the credit of the city, to subscribe to the stock of any association or corporation; but this section shall not be construed to prohibit the auditing and certifying of accounts by the proper officer to the creditors of the city; *provided*, the amount of such audited and certified accounts shall not, in the aggregate, exceed the sum of the twenty-five thousand dollars specified in the last preceding section. No such audited or certified accounts shall draw interest, nor shall the Common Council appropriate or expend money for any public exhibition or celebration, except by a two-thirds vote of all the members elected to each Board.

Committee of accounts.

SEC. 34. There shall be elected annually a joint committee of accounts, to consist of three members from each Board, who shall meet at least once a month and examine all accounts of the several officers having the receipt or disbursement of money, and report thereon in writing to the Common Council.

Further power of Council.

First.

Second.

Third.

Fourth.

Fifth.

Sixth.

Seventh.

Eighth.

Ninth.

Tenth.

Eleventh.

Twelfth.

Thirteenth.

Fourteenth.

Fifteenth.

Sixteenth.

Seventeenth.

SEC. 35. The Common Council shall further have power by ordinance: First. To provide for the care and maintenance of the indigent sick of the city, unless otherwise provided for by law. Second. To make regulations to secure the general health of the inhabitants, and to prevent and remove nuisances. Third. To provide the city with water; to erect hydrants, fire-plugs, cisterns and pumps in the streets for the convenience of the inhabitants thereof. Fourth. To provide for the opening, altering, extending, grading, paving, or otherwise improving and regulating streets, avenues, lanes, alleys and sewers, and for freeing the same from encroachment or incumbrance. Fifth. To provide for lighting the streets. Sixth. To erect market-houses; to establish markets and market-places, and to provide for the government and regulation thereof. Seventh. To provide for the purchase or erection of all needful buildings for the use of the city. Eighth. To provide for inclosing, improving and regulating all public grounds belonging to the city. Ninth. To provide for the erection, repair and regulation of wharves and docks, and fix the rates of wharfage thereat. Tenth. To license and regulate all such callings, trades and employments as the public good may require, and as are not prohibited by law. Eleventh. To license and regulate hackney coaches, carriages and other public vehicles, and to fix the rates to be charged for the same for the transportation of persons and property. Twelfth. To suppress all callings, occupations, houses, places, amusements and exhibitions which are against good morals and contrary to public order and decency. Thirteenth. To prohibit the erection of wooden buildings in any part of the city; to regulate or prevent the sale, storage or use of gun-powder, or other explosive or combustible materials and substances, and to make all needful regulations for the protection of the city against fire. Fourteenth. To make such regulations as to the erection of buildings as may be needful for the safety of citizens. Fifteenth. To erect a work-house, house of refuge or house of correction, and provide for the regulation and government of the same. Sixteenth. To prevent and restrain any riot, rout, noise, disturbance, or disorderly assemblage in any street, house or place in the city. Seventeenth. To impose fines, forfeitures and penalties, for the breach of any ordinance; and

provide for the recovery and appropriation of such fines and forfeitures, and the enforcement of such penalties; but no penalty to be imposed shall exceed a fine of one thousand dollars, or six months imprisonment, or both. Eighteenth. They shall have power to provide by ordinance for the regulation of the city police; but it is hereby provided that the police force of the city of San Francisco, with the exception of the Marshal, (who shall be elected as hereinbefore provided), shall be appointed by a Board of Police Commissioners, to consist of the Mayor, President of the Board of Aldermen, President of the Board of Assistant Aldermen and Marshal of the city of San Francisco, who, with their successors, are hereby created as such Board, and shall be liable to removal only after trial before the Board of Police Commissioners. The Common Council is hereby required, within three months after its first meeting under this Act, to pass an ordinance providing for the regulation and government of the police department, prescribing the mode of suspension of members of the department, to be appointed as hereinbefore provided; to prescribe their pay, and to make such other provisions as may be necessary for the good government of the police department not inconsistent with the requirements of this section. Nineteenth. To provide for the summary and forcible abatement and suppression of nuisances to health, comfort and decency; and, by ordinance, to define such nuisances, and provide the mode of their abatement, and designate the officer who shall be intrusted with the same; and to provide for the summary collection of the expenses of such abatement and suppression.

SEC. 36. They shall have power to direct and control the Fire Department, and make all needful rules and regulations for the government of the same, not otherwise provided by law.

SEC. 37. They shall regulate the fees and charges to be made for certificates of surveys for building or other purposes in the public streets; and the same shall be collected by the surveyor, and by him paid into the city treasury on the morning of Saturday of each week.

SEC. 38. They shall, within three months after their installation, pass such ordinances as may be necessary to carry the several provisions of this Act into full force and complete effect.

SEC. 39. The compensation of the officers in this Act, shall be as follows: Of the Mayor, six thousand dollars a year; and of his clerk, twenty-five hundred dollars; and said clerk shall not demand or receive any further fees or compensation for any service or process issued by him in his official capacity; of the Controller, four thousand dollars a year; of the Treasurer, four thousand dollars a year; of the Marshal, four thousand dollars a year; of the Attorney, four thousand dollars a year; of his clerk, two thousand five hundred dollars a year; of the Surveyor, four thousand dollars a year; the salary of Aldermen and Assistant Aldermen shall be one thousand dollars a year each.

SEC. 40. The above sums shall be in full for all services connected with any of the offices above named respectively, whether rendered by the said officers, their clerks or deputies. No other clerks shall be allowed than is in this Act provided; and no further or extra compensation, whether for office rent, clerk hire, or any other matter or thing whatever, shall be allowed; and if the same should be allowed, those members or officers of the city government voting,

- Members liable.** allowing, auditing, disbursing or receiving the same, shall be liable, jointly and severally, to the city, in a civil action for the recovery of the amount thus unlawfully paid; and their sureties on their official bonds shall also be liable.
- No expenditure without appropriation.** SEC. 41. No expenditure shall be incurred as against the city by any officer, whether the same shall have been authorized by the Common Council or not, unless an appropriation shall have been previously made to meet such expenditures, under the penalty provided in the last foregoing section.
- No member to be interested.** SEC. 42. No executive officer or his clerk, nor member of the Common Council, nor any subordinate officer, or other officer of the corporation, shall be directly or indirectly interested, nor shall he be security for any person who may be so interested in any contract, work, or business, or the sale of any article or thing whatever, the expense, price, amount or consideration of which is payable from the city treasury, or by any assessments levied under an ordinance of the Common Council, or for which the city is to be liable; nor in the purchase or lease of any property belonging to the corporation, or of any property, unless his own, which shall be sold for taxes or assessments. Every contract made in violation of this section, whether made before or after the commencement of the official term of any party thereto, shall be absolutely void as against the city.
- Office made vacant.** SEC. 43. If any officer under this Act, or member of the Common Council, shall remove from the city, or absent himself therefrom for more than twenty days, or shall fail to qualify by taking the oath of office as prescribed by law, or to file his official bond whenever such bond is required, within ten days from the time his election is duly ascertained and declared, his office shall be thereby absolutely vacated, and the Common Council shall thereupon order an election to fill the vacancy.
- Filing bonds.** SEC. 44. The following officers shall, before entering upon the duties of their offices, file with the clerk of the Common Council their official bond, viz: the Controller, Tax Collector, Treasurer, Surveyor, Marshal, Attorney and Assessors. Such bonds shall be subject to the provisions of law respecting the bonds of officers; and shall be made payable to the City of San Francisco, and shall be in such amount as shall be fixed by the Common Council; they shall be approved by the Mayor before filing; but no bond shall be approved by him unless there be at least two sureties thereon, who shall justify in a sum equal, in the aggregate, to double the amount of the bond, and each of whom shall be a householder or freeholder within the city, and shall be worth at least one half of the amount of his justification in real estate within the County of San Francisco, at the assessed valuation for the current year. The affidavit of the sureties shall be annexed to the bond. Such bond shall be renewed whenever the Common Council shall require; but no surety shall be released for want of renewal.
- Description of bonds.**
- Sureties.**
- Affidavit of sureties.**
- Term of office** SEC. 45. The officers elected under this Act, except the Board of Aldermen, shall continue in office for the term of one year, and until their successors are elected or appointed and qualified.
- Penalty for violation.** SEC. 46. Any officer under this Act who shall wilfully violate any of its provisions, or commit any fraud, or convert any of the public property to his own use, or permit any other so to convert it, shall be deemed guilty of a misdemeanor, to be tried before the Court of Sessions of the County upon an indictment found as in

other criminal cases, for which he shall forfeit his office and be forever disqualified from receiving or holding any office under this Act; and, on conviction thereof, he shall be punished by a fine not to exceed five thousand dollars, or imprisonment not to exceed one year, or by both such fine and imprisonment; and any person or officer who shall wilfully swear falsely in any matter in making any affidavit provided for in this Act, shall be deemed guilty of the crime of perjury, and shall be liable to indictment and punishment therefor. It shall be the duty of the Mayor and of the City Attorney to take care that this section shall be enforced against all offending persons.

For swearing falsely.

Duty of Mayor and Attorney.

SEC. 47. It shall be the duty of every executive officer under this Act to make up and transmit to the Common Council, at its first meeting in each month, through the Controller, an estimate, verified by his oath or affirmation, of the probable expenses of his office for the then current month, for fuel, lights and stationery, specifying item by item. The Common Council shall appropriate a sum to each officer, not exceeding the monthly estimate thus made by him; but they may reduce the same. No further amount shall be allowed on account of expenses. The estimate for the monthly expenses of the Common Council and each Board thereof, shall be made by the clerk of the Common Council, through the Controller in the same manner and subject to the same provisions as the other estimates for expenses.

Estimates of officers.

Estimate of Council, &c.

SEC. 48. All city officers in receipt of fines, fees or other moneys belonging to the city, shall pay the same weekly, on the morning of Saturday, under oath, into the Treasury, and report the same to the Controller; and no officer shall be entitled to receive his salary until he shall have filed with the Controller a written affidavit, according to a form to be prepared by the City Attorney, that he has faithfully accounted for and paid over all moneys for which he was or is liable to account and pay over, within the month for which he draws his salary.

Payment of fees.

Oath of officers.

SEC. 49. The members of the Common Council and the other officers to be elected or appointed under this Act, shall, before entering upon their respective duties, take the oath of office as prescribed by law; and they may, by ordinance not inconsistent with law, further provide the duties of the several officers in this Act named.

Oath of office.

SEC. 50. The style of the ordinances of the city shall be, "The people of the City of San Francisco do ordain as follows." All ordinances shall, within five days after their passage, be published in at least one daily newspaper of the city, and may be proven by the seal of the corporation, and when printed and published by authority of the corporation, the same shall be received in evidence in all courts and places in this city, without further proof. They also may be read as evidence from any written or printed copy thereof, certified under the seal of the city and the certificate of the clerk of the Common Council, to be a copy of an existing ordinance, with the date of its passage.

Style of ordinances.

Publication.

SEC. 51. The Common Council shall have power, and it is hereby made their duty, to provide and maintain free Common Schools within the city; to raise, annually, for school purposes, by tax upon all the real and personal property within the city, subject to taxation, valued according to the City Assessor's list, whatever amount of money may be requisite, not exceeding one half of one per cent. on the valuation, in addition to all other taxes; out of which fund they may appropriate, annually, for

Tax for Common Schools.

- the purchase of the necessary building sites for school houses, a sum not exceeding twenty thousand dollars; for the erection of permanent buildings thereon, a sum not exceeding thirty thousand dollars; and further, to provide, by ordinance, for the collection, custody and disbursement of all school moneys to all schools entitled by law to receive the same, and for drawing from the State and County Treasurers any such moneys to which the city may be entitled; to provide, by ordinance, for the election, by the people at large, and at the time of the general election, of at least *eight* persons, or whatever larger *even* number may be deemed necessary, to constitute a Board of Education, of which the Mayor shall be "ex officio" President; also, for the election of a Superintendent of Public Schools, whose duty shall be prescribed and salary fixed by ordinance, not to exceed two thousand five hundred dollars per annum. The said Board of Education shall, at their first meeting, after the first election under this Act, draw each a ballot from a ballot box, in which a number of ballots equal to the number of elected members shall have been placed, on one half the number of which the word *odd* shall have been inscribed, and on the other half the word *even*. Those drawing the word *odd* shall hold office for one year and those drawing the word *even* for two years. At all succeeding general elections members shall be elected for two years.
- Collection of school moneys.** The said Board of Education shall make all necessary rules and regulations for the government of the Public Schools, not inconsistent with the laws of this State, and for the division and classification of the same into grades and departments; and all money received into the city treasury, for school purposes, shall be kept as a special deposit, and shall only be paid out in pursuance to an ordinance expressing particularly for what school purposes the same is appropriated, and conform in other respects to the provisions of this Act; *provided, however*, that the rate of taxation shall not exceed two dollars on each hundred dollars.
- Board of Education.**
- Salary. Duty.**
- Ballot for term of office.**
- Further duty.**
- Disbursement of school money.**
- Proviso.**
- Tax for annual expenditures.** SEC. 52. They shall have power to levy and collect such a sum of money or revenue as shall be requisite to meet the annual expenditure of the City Government, by an equal and uniform tax upon all the property, real and personal, within the city limits, which is, by law, subject to taxation for State and county purposes.
- Power to lay out streets, &c.** SEC. 53. They shall have power, by ordinance, to provide for the laying out, surveying, opening, grading, regulating, planking, paving, sewerage, or in any other way or manner improving or constructing all or any public streets, ways or grounds within said city, as hereinafter provided.
- Assessment of costs.** SEC. 54. The cost and expenses of all such works shall be assessed upon the property particularly benefitted thereby, in proportion to the benefit received from such work by said property, exclusive of the general benefit shared by said property, in common with the rest of the city.
- Private property.** SEC. 55. They shall have the power to take private property for public purposes, after having ascertained, according to law, the damages to be paid to the owner or owners thereof, which damages the city shall pay before such property shall have been so taken and appropriated.
- Damages, how ascertained.** SEC. 56. The damages mentioned in the last section shall be ascertained by the Commissioner of Assessments, who shall have power to take testimony and make their decision in writing; due notice of the time and place of session being given to the owner or his agent; an appeal may be taken by either party, within ten days, and

not afterwards, to a District Court of the county of San Francisco, upon complying with the requirements of law for an appeal to the said Court. On appeal, the question of damages shall be tried by a jury, and the said Court shall have power to bring up all proceedings below by "certiorari" to compel the attendance of witnesses, and issue all other necessary legal process. The judgment of the said Court shall be final, except where a matter is sent back for a new determination by the Commissioners of Assessment.

Appeals to
Dist. Court.

Power and judgment of Court.

Exception.

SEC. 57. It shall be the duty of the Commissioners of Assessment, to ascertain the cost and expenses of any work mentioned in section fifty-three, and, in making such inquiry, they shall take into consideration the expenses of surveys and engineering, and shall assess and apportion such cost and expenses as is provided in section fifty-four.

Duty of Commissioners.

SEC. 58. When such assessment and apportionment is concluded, a statement thereof, fairly written, and endorsed with the name of the street and every street on which property fronts which is therein assessed, together with a map thereof, shall be filed in the office of the County Recorder; and, from the time of the filing thereof, as aforesaid, such assessments shall be and remain liens upon the real estate affected thereby, and shall take precedence of all subsequent liens.

Statement of assessment.

SEC. 59. Any party affected by such assessment may have the like appeal as is provided in section fifty-six.

Appeal.

SEC. 60. The city shall not be assessed with nor pay any part of the expense of such work, except for so much thereof as is done at the intersection or crossing of streets, or in constructing public sewers, or for so much as is properly assessed upon real estate, under section fifty-four, which is owned by the city.

Work paid for by city.

SEC. 61. Whenever the owners of two thirds of the land fronting on any street, or proposed street, or way, shall present their petition to the Common Council, praying for any work mentioned in section fifty-three, the Common Council shall order the same to be done.

Order of Council.

SEC. 62. Whenever the Common Council, either upon its own motion or upon the petition of any person or persons interested, shall deem it advisable that any such work should be done, they shall give notice, by advertisement in a daily city newspaper, for twenty successive days, of their intention to have such work done, and unless, at the expiration of said twenty days, the owners of more than one third of the land fronting on the proposed improvements, shall, in writing, object thereto, the Common Council shall have power to order the said work to be done, the expenses being assessed as provided in section fifty-four. When the Common Council shall determine, according to the provisions of this section, to order such work to be done, they shall give notice by advertisement in a daily newspaper published in the City of San Francisco for ten days, that they will, at their next regular meeting after the expiration of said ten days, receive proposals for the erection of said work. Said proposals shall, at such meeting, be opened by a joint committee composed of three members of each Board, who shall award the contract for such work, to the lowest responsible bidder, if they shall deem the bid a reasonable one, who shall, by virtue of such award, be authorized to proceed to complete such work in a reasonable time, and shall be entitled to recover compensation therefor in the manner hereinafter provided. The Common Council shall not have power to enter into any written contract with such contractor, nor to issue any warrants or other evidence of city indebtedness in favor of such contractor, except as hereinafter provided; but the sole recourse

Notice of work.

Power of Council.

Notice for proposals.

Award of contract.

Recourse of contractor.

of such contractor for his compensation for the work done, shall be upon the property on such street so graded, planked or otherwise improved, or on such property immediately adjacent thereto as shall appear, by the decision of the Commissioners of Assessments, to be benefited thereby, in the proportion of such assessed benefits; or upon the owner or owners thereof, who shall be liable to the individual suit of the contractor; and all such written contracts entered into, or warrants issued by the Common Council, for such purposes, shall be absolutely null and void as against the city, except when issued as is hereinafter provided.

Contracts of Council.

Duty of Collector.

SEC. 63. Whenever it shall appear to the Tax Collector, by the affidavit of any contractor, that a demand in writing has been made upon the owner or owners of any property assessed for the payment of the assessment thereon, or, if a non-resident, upon his authorized agent if he has one, or that diligent search has been made for such owner or agent, and that he or they are unknown or absent, and that such assessment has remained unpaid for more than twenty days after such demand or diligent search; or, where no personal service has been made, that such written demand has been, for the like time, conspicuously posted on the assessed premises, it shall be the duty of the said Tax Collector to sell such assessed premises in the same manner and with the like notice as in case of real estate under execution. Upon such sale the Tax Collector shall sell such assessed premises for the lowest term for which any person will take the same in consideration of paying the assessment with all expenses thereon; and the Tax Collector shall give such purchaser a certificate of such sale, which shall be *prima facie* evidence of the regularity and sufficiency of all preliminary proceedings and shall entitle the purchaser to the possession of said land and the rents, issues, and the profit thereon for the term for which it was sold, unless the owner thereof, or some person in his behalf, shall, within six months from the day of sale, pay to the purchaser, or to the Tax Collector for his use, the amount paid by him to the Tax Collector, with interest at the rate of twenty-four per cent. per annum, with all legal charges thereon. And it shall be the duty of the Common Council to order the issue of warrants in favor of any contractor, whenever the Tax Collector shall certify to them that he has collected all the assessments, as hereinbefore provided upon any street on which work has been done on the contract of such contractor, payable out of the specific fund so collected as assessments on such street, and none other.

Certificate of sale.

Council to issue warrants.

Commissioners of Assessment.

SEC. 64. The Chairman of the Board of City Assessors and the Chairman of the Committee on Streets from each Board of Aldermen shall constitute the Commissioners of Assessment.

Council to confirm title, etc.

SEC. 65. The Common Council shall have power to confirm, dispose of and make all needful rules and regulations respecting the title to lands or other property of the city, except as hereinafter or otherwise provided by law.

Property exempt from taxation.

SEC. 66. All public buildings belonging to the city, together with the furniture, (including fire engine houses and apparatus), and the lands occupied by them if owned by the city, and all public squares, lands and plazas, ships and basins of the city, shall be forever exempt from sale on execution and from taxation; and the interest of the city in all public wharves, piers and docks, shall be exempt from sale on execution forever.

Fiscal year.

SEC. 67. The fiscal year of the city shall commence on the first Monday of July.

Taxation.

SEC. 68. Taxation shall be uniform throughout the city.

SEC. 69. All contracts for work or supplies of any kind for the City of San Francisco, and for the city printing, shall be let to the lowest responsible bidder after due notice given through the public newspapers. Contracts.

SEC. 70. The Common Council shall have no power to grant exclusive privileges, or to pass any ordinance to require the weighing, measuring, gauging or inspecting any merchandize, produce, manufacture or commodity by any city officer; but nothing in this section shall prevent the passage of any ordinance essential to the protection of the public health or morals. Exclusive privileges.

SEC. 71. All salaries allowed under this Act shall be payable monthly. Salaries.

SEC. 72. The powers granted by this Act to the Common Council, or either Board thereof, or to any officer of the city government, shall be to the exclusion of all further and other powers, except those directly necessary to carry out the powers by this Act granted. Common Council.

SEC. 73. The Act entitled "An Act to re-incorporate the City of San Francisco," passed April fifteenth, eighteen hundred and fifty-one, is, and all other Acts and parts of Acts, inconsistent with the provisions of this Act, are hereby declared inapplicable to San Francisco; *provided*, that nothing herein contained shall be construed to impair the obligation of any valid contract executed under any of said Acts, or divest the City of San Francisco of any rights in property, or under any valid contract, which have heretofore accrued or vested in said city under the same. Acts declared inapplicable. Proviso.

CHAPTER CXCVIII.

AN ACT

To provide for the Purchase of the San Francisco Law Library, for the use of the State.

[Approved May 5, 1855]

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

SECTION 1. The sum of seventeen thousand two hundred and fifty dollars (\$17,250 00) is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the purchase of the San Francisco Law Library, for the use of the State. Amount appropriated. Library.

SEC. 2. The Secretary of State is hereby authorized and empowered to receive said library, and place the same in the State Library; and the Judges of the Supreme Court shall at all times have the use of said library, under the same rules and regulations that now govern and control the State Library; and the Secretary of State shall receive for the same. Judges.

Warrants. SEC. 3. The Controller of State is hereby authorized and directed to draw warrants on the Treasurer of State in favor of William B. Olds, payable out of the General Fund, for the amount herein above specified, upon the production to him of a certificate from the Secretary of State that said library has been received by him.

CHAPTER CXCIX.

AN ACT

To prevent the Improper and Criminal Use of Deadly Weapons.

[Approved May 6, 1856.]

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

Using weapon. SECTION 1. That any person in this State having, carrying or procuring from another person any dirk, dirk-knife, bowie-knife, sword, sword-cane, pistol, gun or other deadly weapon, who shall, in the presence of two or more persons, draw or exhibit any of said deadly weapons in a rude, angry and threatening manner, not in necessary self-defense, or who shall, in any manner, unlawfully use the same, in any fight or quarrel, the person or persons so offending, upon conviction thereof in any criminal court in any County of this State, shall be fined in any sum not less than one hundred, nor more than five hundred dollars, or imprisonment in the County Jail not less than one nor more than six months, at the discretion of the Court, or both such fine and imprisonment, together with the costs of prosecution ; which said costs shall, in all cases, be computed and collected in the same manner as costs in civil cases; *provided*, however, that both fine and imprisonment shall not be inflicted unless so determined by the verdict of a jury.

Penalty

How collected.

Proviso.

Fines. SEC. 2. All fines and forfeitures arising under the provisions of this Act, shall be paid into the County Treasury of the county wherein such offense was committed, for County purposes; *provided*, nevertheless, that no Sheriff, Deputy Sheriff, Marshal, Constable or other peace officer, shall be held to answer under the provisions of this Act, for drawing or exhibiting any of the weapons hereinbefore mentioned, while in the lawful discharge of his or their duties.

Proviso.

Officers. SEC. 3. It shall be the duty of all military, civil and peace officers in this State, to be vigilant in carrying the provisions of this Act into full force and effect, as well, also, as all Grand Juries or Grand Jurors, to inquire into and make presentments of each and every offense under this Act which shall come under or within their knowledge.

Judges. SEC. 4. It shall and is hereby made the duty of all Judges in this State to give this Act in charge to the Grand Juries at each term of

their respective Courts; and also to all trial juries, empannelled for the trial of any of the offenses hereinbefore mentioned in this Act.

CHAPTER CC.

AN ACT

To amend an Act entitled "An Act to Regulate Proceedings in Criminal Cases," passed May 1st, 1851.

[Approved May 5, 1855.]

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

SECTION 1. Section one hundred and sixty-two of an Act entitled *Sec. repealed* "An Act to Regulate Proceedings in Criminal Cases," be and the same is hereby repealed.

SEC. 2. Section five hundred and seventeen of an Act entitled *Section 517* "An Act to Regulate Proceedings in Criminal Cases," is hereby *amended.* amended so as to read as follows: Section five hundred and seventeen. The qualifications of bail are as follows: *Bail.* First. Each of them *First.* must be a resident and a householder or freeholder within the State; but the Court or Magistrate may refuse to accept any person as bail, *Second.* who is not a resident of the county where bail is offered. Second. They must each be worth the amount specified in the recognizance, exclusive of property exempt from execution; but the Court or Magistrate, on taking bail, may allow more than two bail to justify severally in amounts less than that expressed in the recognizance, if the whole justification be equivalent to that of sufficient bail.

CHAPTER CCI.

AN ACT

To purchase the Portrait of Major General John Augustus Sutter, and to provide for taking the Portrait of Major General John E. Wool, U. S. A.

[Approved May 5, 1855]

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

Sum appropriated.

SECTION 1. That the sum of two thousand and five hundred dollars is hereby appropriated out of any money in the State Treasury not otherwise appropriated, for the purchase, from William S. Jewett, Esquire, the full-length Portrait of Major General John Augustus Sutter, now suspended in the Hall of the Assembly.

Portrait of Wool.

SEC. 2. That the Controller of State is hereby required to draw his warrant or warrants to the amount of said sum of two thousand and five hundred dollars upon the State Treasurer in favor of the said William S. Jewett, for the purchase aforesaid. The said Jewett is hereby authorized to take a Portrait of General Wool, and apply to the Legislature of eighteen hundred and fifty-six for an appropriation in payment therefor.

CHAPTER CCII.

AN ACT

Authorizing the Construction of a Bridge across Mission Creek, in the County of San Francisco.

This bill having remained with the Governor ten days (Sundays excepted,) and the Senate and Assembly being in session, it has become a law this fifth day of May, A. D. 1855.

J. W. DENVER, Secretary of State,
By W. H. R. WOOD, Deputy Secretary of State.

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

F. D. Cottle authorized.

Proviso.

SECTION 1. Franklin D. Cottle and such others as he may associate with him, are hereby authorized and empowered to build a draw-bridge across Mission Creek, at the point where Brannan street intersects the same ; *provided*, said "bridge," built in a good and substantial manner, shall be completed and ready for the use of

the public within three months from the passage of this Act ; and *provided further*, that no toll shall be charged for persons crossing over, or boats going through said " Bridge," nor for persons passing along the street leading thereto in the city of San Francisco ; also the road leading therefrom into and through the County of San Francisco.

SEC. 2. The Board of Supervisors of the County of San Francisco are hereby authorized and required to manage, control and keep in good repair said " Bridge," and cause the same to be so managed that the free navigation of said creek shall at no time be obstructed ; but nothing herein shall be so construed as to allow said Board to make said Bridge a Toll-Bridge.

Duty of
Supervisors.

How managed.

Toll-Bridge.

CHAPTER CCIH.

AN ACT

To Legalize certain Records in the County of San Luis Obispo.

[Approved May 5, 1855.]

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

SECTION 1. The records of all deeds, mortgages or other documents of whatever description, which by law are required to be recorded, and which are recorded in the Recorder's office of San Luis Obispo County, in books other than those specified in the " Act concerning County Recorders," passed March twenty-second, one thousand eight hundred and fifty-one, are hereby legalized and are declared to have the same force and effect as though they were recorded in the books specified in the Act aforesaid concerning Recorders, and in accordance with its provisions.

Records
legalized.

Force and effect
of same.

CHAPTER CCIV.

AN ACT

To amend an Act entitled "An Act to Create a Board of Supervisors for the County of San Diego, and to define their duties," approved May 3d, 1852.

[Approved May 5, 1855.]

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

Sec. 11 of Act relating to Supervisors concerning San Diego county repealed.

SECTION 1. The eleventh section of an Act entitled "An Act to create a Board of Supervisors for the County of San Diego, and to define their duties;" shall be so amended as to read as follows: The sixty-ninth section of an Act entitled "An Act concerning Courts of Justice in this State and Judicial officers," approved March eleventh, eighteen hundred and fifty-one; and the twenty-ninth, thirtieth, thirty-first, and thirty-second sections of an Act entitled "An Act concerning County Recorders," approved March twenty-sixth, eighteen hundred and fifty-one, in so much as they may apply to the County of San Diego, or conflict with this Act, are hereby repealed.

CHAPTER CCV.

AN ACT

To Legalize the Acts of the County Recorder of the County of San Diego while acting as County Auditor, since the third day of May, eighteen hundred and fifty-two.

[Approved May 5, 1855.]

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

Records legalized.

SECTION 1. All acts done by the County Recorder of the County of San Diego, while acting as County Auditor since the third day of May, one thousand eight hundred and fifty-two, are hereby legalized.

CHAPTER CCVI.

AN ACT

For the Relief of Annie V. R. Wells.

[Approved May 5, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and re-^{Appropriation.} quired to draw his warrant on the Treasurer, for the sum of thirteen hundred and thirty-three dollars and thirty-three cents, in favor of Mrs. Annie V. R. Wells, widow of Judge Alexander Wells, the same being the balance of pay which would have been due Judge Wells at the close of the year eighteen hundred and fifty-four.

CHAPTER CCVII.

AN ACT

To provide for the Erection of a Jail in the County of San Luis Obispo.

[Approved May 5, 1855.]

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

SECTION 1. The Board of Supervisors of the County of San Luis Obispo are hereby required and authorized, after the passage ^{Supervisors to levy tax.} of this Act, to levy a special tax upon the taxable property in the County, not exceeding one per cent. on the valuation; and all money collected under this Act shall be set apart and held as a Special Jail Fund, to be used only as herein provided.

SEC. 2. Said Board may advertise for, and receive, plans, speci-^{Plans, estimates etc.} fications and estimates, for constructing a County Jail, and shall adopt such plans and specifications as may be deemed best for the County; reference being had to the probable expenses, and after adopting the plan and specifications, said Board shall give notice by posting in at ^{Notice for proposals.} least three public places in the County, and by advertisement in some newspaper of general circulation, for at least thirty days, that sealed proposals will be received at a place to be specified, for building a County Jail according to the plan and specifications adopted.

- Contract.** SEC. 3. After thirty days' notice, and at the time and place to be specified in the notice, said Board shall open all bids and proposals for building and completing the County Jail, according to the plans and specifications, and within such reasonable time as may be fixed by said Board; and the contract shall be awarded to the lowest responsible bidder who will give sufficient security for the prompt and faithful performance of the contract. But such Board shall not accept any bid or proposal which in their judgment is higher than a fair and just compensation for the performance of the contract.
- Bids not accepted.**
- Payment for notices, etc** SEC. 4. All payments for notices and advertisements made necessary by this Act, and for constructing and furnishing said Jail, shall be made by warrants drawn on the Special Jail Fund; and said warrants shall be paid in the order of their presentation to the County Treasurer; but no payment shall be made out of said fund for salary, allowance or compensation to any officer or to any person as agent or overseer, architect or superintendent, or for any purpose other than that specified in this Act.
- Warrants drawn.** SEC. 5. Warrants for seventy per cent. of the estimated value of the work done on said Jail may be drawn as the Jail progresses; at least thirty per cent. of the whole amount to be paid being reserved until the completion of the Jail, as additional security for the performance of the contract.
- Warrants reserved.**
- Effect of Act.** SEC. 6. This Act shall cease to be of effect when said Jail shall be completed, furnished and paid for. And should any surplus money then remain in said special fund, it shall be turned over into the General Fund of the County.
- Surplus fund.**
- Tax.** SEC. 7. The special tax authorized by this Act, shall be collected at the same time, and in the same manner as the ordinary State and County Taxes. The Sheriff shall receive five per cent. on all moneys by him collected and paid over to the County Treasurer under the provisions of this Act; and the County Treasurer shall receive four per cent. on the amount of moneys by him disbursed under the provisions of this Act.
- Percentage for Sheriff.**
- For Treasurer.**

CHAPTER CCVIII.

AN ACT

Amendatory of an Act, passed May the fifteenth, one thousand eight hundred and fifty-four, entitled an Act to amend an Act entitled "An Act to Regulate proceedings in Criminal Cases," passed May the first, one thousand eight hundred and fifty-one.

[Approved May 7, 1855.]

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

SECTION 1. Section three hundred and sixty-two of an Act entitled "An Act to regulate proceedings in Criminal Cases," passed May the first, one thousand eight hundred and fifty-one, is hereby amended so as to read as follows : Section three hundred and sixty two ; the Jury having been empanelled and sworn, the trial shall proceed in the following order. First. If the indictment be for felony, the Clerk must read the indictment and state the plea of the defendant to the Jury. In all other cases this formality may be dispensed with. Second. The District Attorney or other counsel for the people must open the cause and offer the evidence in support of the indictment. Third. The defendant or his counsel may then open the defense, and offer his evidence in support thereof. Fourth. The parties may then respectively offer rebutting testimony only, unless the Court, for good reasons, in furtherance of justice, permit them to offer evidence upon their original cause. Fifth. When the evidence is concluded, unless the case is submitted to the Jury on either side, or on both sides, without argument, the counsel for the people must open and may conclude the argument. Sixth. The Judge shall then charge the Jury if requested by either party ; he may state the testimony and declare the law ; but shall not charge the Jury in respect to matters of fact ; such charge shall be reduced to writing before it is given ; and in no case shall any charge or instructions be given to the Jury, otherwise than in writing, unless by the mutual consent of the parties.

Sec. 2. This Act shall take effect and be in force from and after the first day of June next.

Sec. 362 of Act of May, '51, amended.

Order of trial.

First.

Second.

Third.

Fourth.

Fifth.

Sixth.

When to take effect.

CHAPTER CCIX.

AN ACT

To permit John J. Ellet to construct a Canal across the overflowed lands from Belmont to the Bay of San Francisco.

[Approved May 7, 1855.]

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

- Power conferred.** SECTION 1. John J. Ellet is hereby authorized to construct, use and continue a Canal at Belmont, in the County of San Francisco, for the term of ten years after the passage of this Act, upon the payment of one dollar per annum for the use of the land upon which said Canal shall be located, to the Treasurer of State ; the said Canal to commence at a point where the highland meets the swamp or overflowed lands belonging to the State, and from thence extending seven hundred yards, more or less, across said overflowed lands into the Bay of San Francisco.
- Location of canal.**
- Freightage.** SEC. 2. The owner of said Canal may charge and collect such rates for the carrying of goods, merchandise, and other freight as may be reasonable and customary, not to exceed such rates as may hereafter be fixed or approved by the Board of Supervisors of the County ; *provided*, that nothing in this Act shall be so construed as to confer any right, title or control, over more than a belt of the swamp lands, not to exceed sixty feet in width, or over any lands adjacent to the swamp or overflowed lands ; and *provided further*, that nothing in this Act shall be so construed to grant to said John J. Ellet any right, title or control over said belt sixty feet wide, for a longer time than ten years after the passage of this Act.
- Proviso.**

CHAPTER CCX.

AN ACT

To authorize the Construction of a Wharf at Half-Moon Bay, in the County of San Francisco.

[Approved May 7, 1855.]

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

SECTION 1. J. G. Ward is hereby authorized and empowered to build, use, and continue a Wharf at Half Moon Bay, on or near the Miramontes Ranch, in the County of San Francisco for the term of twenty-five years, upon the payment of one dollar per annum for the use of the land upon which said wharf is situated, to the Treasurer of State; commencing at a point where the overflowed lands connect with the main lands, and running into the Bay formed by the Pacific Ocean, one thousand feet more or less; *provided*, said Wharf shall not in any manner obstruct the navigation of said bay or ocean.

SEC. 2. The State hereby grants to the said J. G. Ward, the use of the overflowed lands on both sides of said Wharf for the distance of one hundred and fifty feet (150) from each side of it, for twenty five years from the passage of this act.

SEC. 3. The said J. G. Ward, or his assigns, shall within one year from the passage of this "Act" commence to construct and build upon said lands, a Wharf of sufficient dimensions to accommodate the commerce and trade of that neighborhood, and shall from time to time as the business of the neighborhood may require, enlarge said Wharf, and keep the same in good repair.

SEC. 4. The said J. G. Ward or his assigns, may when said Wharf shall be fully completed, collect such rates of toll and wharfage on the same, as may be affixed from time to time by the Board of Supervisors of San Francisco County.

SEC. 5. Nothing in this Act shall be so construed as to interfere in any manner whatever with public or private rights heretofore obtained.

CHAPTER CXXI.

AN ACT

To Authorize the Board of Trustees of the City of San Diego, to make regulations to prohibit the obstruction or placing of rubbish or filth, or slaughtering of animals in the streets or alleys of that part of said city known as Old San Diego, and for sweeping and cleaning the Plaza thereof.

[Approved May 7, 1855.]

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

Regulations of Trustees.

SECTION 1. The Trustees of the City of San Diego are by this Act, authorized to make such regulations, not inconsistent with its provisions, as they, or a majority of them may deem necessary, to prevent the obstruction of any street or alley, or the placing of any rubbish or filth, or the slaughtering of any beef or other animal therein, in that part of said city known as Old San Diego, according to the survey and plat thereof, made by Lieutenant Cave G. Coats, of the U. S. Army, in the year one thousand eight hundred and forty-nine; they shall also have authority to make from time to time such orders as may be necessary for the sweeping and cleaning the Plaza of Old San Diego; but no fine or penalty shall be imposed by such regulations or orders, other than such as are allowed by the provisions of this Act.

Sweeping Plaza.

SEC. 2. If any person shall place any obstruction, or place any rubbish or filth, or slaughter any beef or other animal, or cause the same to be done in any street or alley in said city of San Diego as described by the first section of this Act, contrary to the regulations established by the Board of Trustees prohibiting the same, he, she, or they, for obstructing such street or alley, shall, for the first offense, be fined in a sum not to exceed twenty, nor less than five dollars, and for the second, and each subsequent offense, in a sum not to exceed fifty, nor less than ten dollars; for placing any rubbish or filth, or slaughtering any beef or other animal, or causing the same to be done, in any such street or alley, he, she or they, shall be fined for the first offense the sum of fifty cents, and for the second and each subsequent offense, in a sum not to exceed ten nor less than two dollars.

Fine.

Same.

Notice to remove filth.

SEC. 3. If any person shall place any obstruction, rubbish or filth, in any such street or alley, or cause the same to be done, the President of the Board of Trustees shall give such person notice in writing to remove the same, and if the notice shall not be complied with as specified in the regulations made by the Board of Trustees, the President of said Board may order the Marshal to have the same removed at the expense of the party refusing or neglecting to comply with the notice given to remove the same; and the amount properly so expended, or any fine imposed under the provisions of this Act, may be recovered of the party before any Justice of the Peace in the

At expense of party.

Township of San Diego, in the County of San Diego, and the Justice of the Peace of the said Township shall have full and complete jurisdiction thereof.

SEC. 4. The Constable of the Township of San Diego in the County of San Diego, shall be *ex-officio* Marshal of that part of the City of San Diego, known as Old San Diego; but in case there shall be no Constable in said Township, the Board of Trustees may appoint some suitable person to act as Marshal, and it shall be the duty of the Marshal to perform such duties as the regulations established by the Board of Trustees may prescribe; and for the performance of such duties, he shall receive no regular salary, but shall from time to time receive such compensation as the Board may deem just and proper; it shall also be his duty to serve any and all papers that may be issued by a Justice of the Peace for the recovery of any fine imposed, or expenses incurred under the provisions of this Act.

SEC. 5. For all papers issued by any Justice of the Peace under this Act, and served by the Marshal, they shall be allowed to tax and collect from the defendant, the same costs as may be allowed by law for similar services in other cases, but if the decision of the Justice shall be against the Board of Trustees, no costs shall be allowed.

SEC. 6. All fines imposed and collected under the provisions of this Act, shall be first applied to pay the Marshal, for such services as the Board of Trustees may allow him compensation; and the balance, if any, shall be applied to the payment of the salary of the teacher of the Common School of that Township.

CHAPTER CCXII.

AN ACT

To Legalize the City Assessment of the City of San Francisco for the Fiscal Year 1854-55.

[Approved May 7, 1855.]

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

SECTION 1. That the assessment of taxes for municipal purposes for the fiscal year commencing July first, eighteen hundred and fifty-four, and ending June thirtieth, eighteen hundred and fifty-five, made by the Assessors of the City of San Francisco, in pursuance of a joint-resolution of the Common Council of said city, number four hundred and fifty, and certified by said Assessors, and presented to the Common Council on the twelfth day of March, A. D. eighteen hundred and fifty-five, after correction and approval by the Common Council, be and the said assessment so corrected and approved is hereby ratified, confirmed and legalized.

- Force of assess-
ment.** **SEC. 2.** That said assessment so confirmed and legalized shall be and remain as a judgment and valid lien upon the property assessed, and have the force and effect of an execution against the owner of the same, and all other property held by such owner; and that the
- Duty of
Collector.** Collector of the City of San Francisco is hereby authorized and required to seize and sell in like manner, and with the same fees as are allowed for advertisement and sale under execution, any property the taxes upon which shall not have been fully paid on or before the first day of June, A. D. eighteen hundred and fifty-five, or any property liable to such seizure or sale by virtue of said assessment, or sufficient thereof to satisfy said taxes and costs of collection, by giving
- Notice of sale.** ten days' notice by advertisement in some public newspaper published in the said City of San Francisco; and the said sale and the certificates and deeds executed thereon shall, in all respects, not otherwise provided for in this Act, be made and executed in accordance with
- Force and effect
of deeds.** the provisions of law now in force; and the certificates of sale and deeds so executed, shall have the same effect as evidence as other deeds upon tax sales under the provisions of law now in force.
- Record of
assessment.** **SEC. 3.** In any and all legal proceedings that may hereafter arise in any of the Courts of Justice in this State, involving the legality or validity of the said assessment, the record of said assessment shall be received and recognized by said Courts of Justice, or any of them, as conclusive evidence of the facts therein contained, and of the regularity and validity of said assessment and lien.
- Construction of
Act.** **SEC. 4.** This Act shall be so construed as not to compel the payment of any greater amount of taxes by any tax-payer of the City of San Francisco, than such tax-payer could be compelled to pay under the assessment made for the fiscal year commencing July first, eighteen hundred and fifty-four, and ending June thirtieth, eighteen hundred and fifty-five, by the City Assessors' from the County Assessors' books, had such assessment been legal, immediately preceding the present City Assessors of said city, except in cases wherein lands and personal property appear on the assessment list, mentioned in the first section of this Act, which were not assessed by the City Assessors immediately preceding the present City Assessors of said city.
- Exception.**

CHAPTER CCXIII.

AN ACT

To provide for the Selection of Lands donated by the United States to the State of California for the support of Common Schools, and for the Erection of Public Buildings.

[Approved May 7, 1855.]

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

SECTION 1. It shall be the duty of the Surveyor General of this State, and he is hereby authorized and required : First. To select, in lots not less than three hundred and twenty acres in one body, from such lands as have been granted to this State by an Act of Congress, approved April 4, 1841, entitled "An Act to appropriate the Proceeds of the Sales of the Public Lands and to grant Pre-emption Rights," and applied by the Constitution of this State, article 9, section 2, to the support of Common Schools, and not heretofore selected and located. And such selections shall be made as soon as practicable, after the lands have been surveyed by the United States Surveyor General (or sooner, if allowed by the laws of the United States.) Second. To select, in legal subdivisions of not less than a quarter section of any of the unsold, unoccupied and unappropriated public lands in the State, the quantity of ten entire sections, granted to the State of California for the purpose of erecting public buildings, by an Act of Congress, approved March third, one thousand eight hundred and fifty-three. Third. That when any settlement by the erection of a dwelling-house or the cultivation of any portion of land, shall be made upon the sixteenth or thirty-sixth sections in each township, granted to the State of California for the purpose of Common Schools, by an Act of Congress, approved March 3d, 1853, or when said sections, or either of them, shall happen to come on lands owned by virtue of a valid Spanish grant, then and in that case said Agents shall select other public lands in the same quantity : and if they cannot be found unoccupied in the same township, then an equal quantity of unoccupied Government land may be selected in any adjoining township. The selection in the fractional townships shall be made pursuant to an Act of Congress, approved on the 20th of May, 1836, entitled "An Act to appropriate Lands for the Support of Schools in certain Townships, and fractional Townships, not before provided for," and which shall be subject to approval by the Secretary of the Interior, to wit : for each Township or fractional Township containing a greater quantity of land than three-quarters of an entire township, two sections ; for a fractional township containing a greater quantity of land than one-half and no more than three-quarters of a township, one section and a half ; for a fractional township containing a greater quantity of land than one-quarter and not more than one-half of a Township, one section ; and for a fractional Township, containing a greater quantity of land than one en-

Duty of Surveyor General.

Lands for erection of Buildings

Lands selected.

Gov't land.

Lands granted to fractional townships.

tire section and not more than one-quarter of a township, one half section of land.

Duty of County Surveyor.

SEC. 2. The County Surveyor in each and every county within which public lands are situated, shall, when called upon, aid or assist the Surveyor General in selecting the lands described in this Act, and shall receive for their services not exceeding ten dollars per diem, for the time actually employed by him in making such selections, and his account for such services shall be verified by an oath, and shall be paid out of the County Treasury in the same manner as other county officers are paid.

Duty of Surveyor General.

SEC. 3. Upon the passage of this Act the Surveyor General of the State shall, from time to time, procure of the United States Surveyor General certified copies of the surveys mentioned in this Act, to be used as a guide in the selection of lands to which the State of California is entitled. All necessary expenses incurred in procuring copies of said surveys from the United States Surveyor General, for the purposes mentioned in this Act, shall be audited and paid by the Controller out of the General Fund.

Expenses.

Report of Surveyor General.

SEC. 4. The Surveyor General of this State shall make a monthly report to the Governor of the State, of the selections he has made, accompanied by plats of the lands; which reports shall state the quantity, quality, locality and estimated value of the lands, together with any other information he may consider necessary; after which, the Governor shall notify the United States Register of the proper land office, of the selections thus made, and furnish him with a plat or plats of the same.

Quantity, locality, etc.

Notification of Governor.

Surveyor General's annual report.

SEC. 5. The Surveyor General shall embrace in his annual report a full statement of the quantity, quality, location and estimated value of the lands selected, together with plats of the same.

CHAPTER CXXIV.

AN ACT

To provide for Payment for Extra Work done on the State Prison Building.

[Approved May 7, 1855.]

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

Amount appropriated.

SECTION 1. The Controller of State is hereby authorized and required to draw his warrant on the Treasurer of State in favor of the San Francisco Manufacturing Company, for the sum of ten thousand five hundred and thirty-five dollars and ninety cents, to pay for extra work done in constructing the State Prison Building; and the Treasurer is required to pay the same out of any money in the Treasury not otherwise appropriated.

CHAPTER CCXV.

AN ACT

Supplementary to an Act entitled "An Act making Appropriations to Defray the Ordinary Civil Expenses of the Government of this State, from the first day of February, A. D. 1855, to the first day of February, A. D. 1856," passed April 27th, 1855.

[Approved May 7, 1855.]

WHEREAS, by mistake, an Act entitled "An Act making Appropriations to Defray the Ordinary Civil Expenses of the Government of this State, from the first day of February, A. D. 1855, to the first day of February, A. D. 1856," passed April 27th, 1855, failed to appropriate the amount required by law for the payment of the salary of the Quartermaster General, now, therefore,

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

SECTION 1. The sum of one thousand dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay the compensation of the Quartermaster General; this sum, in addition to the amount already appropriated, being the amount required by law to be appropriated for the salary of the Quartermaster General.

Amount appropriated for Quartermaster Gen'l.

CHAPTER CCXVI.

AN ACT

To provide for the Payment of the Amount remaining due for Express Charges for the Fifth Session of the Legislature of this State.

[Approved May 7, 1855.]

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

SECTION 1. The Controller of State is hereby authorized and required to draw his warrant on the Treasurer of the State for the sum of three thousand three hundred and seventeen dollars and thirty-nine cents, in favor of Wells, Fargo & Co., [payable] out of any moneys in the

Amount appropriated.

Treasury not otherwise appropriated, for the purpose of paying the amount remaining due to the said Wells, Fargo & Co. for express charges for the Fifth Session of the Legislature.

CHAPTER CCXVII.

AN ACT

Supplementary to an Act entitled "An Act to Separate the Office of Collector of Taxes from the Office of Sheriff, in the County of Yuba," passed April 27th, 1855.

[Approved May 7, 1855.]

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

Construction of Act.

SECTION 1. None of the provisions of the Act entitled "An Act to separate the Office of Collector of Taxes from the Office of Sheriff in the County of Yuba," passed April 27th, 1855, shall be construed so as to apply to the collection of State, County and Foreign License Taxes, to be collected previous to the first day of March, 1856, but shall be in full force on and after said first day of March, 1856.

CHAPTER CCXVIII.

AN ACT

Explanatory of and supplemental to an Act entitled "An Act to Re-Incorporate the City of San Francisco."

[Approved May 7, 1855.]

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

Time Act of April will take effect.

SECTION 1. The Act entitled "An Act to Re-Incorporate the City of San Francisco," passed April twenty-eighth, eighteen hundred and fifty-five, shall not be construed to take effect, nor to operate as a repeal of an Act entitled "An Act to Re-Incorporate the City of San Francisco," passed April fifteenth, eighteen hundred and fifty-one, prior to

the election and qualification of the officers provided to be elected under the Act first above mentioned. Section 54 of said Act shall be construed so as to require that one of the eight persons to be elected as members of the Board of Education, under the provisions of said section, shall be elected from each ward of the City of San Francisco as now divided, and that the Superintendent of Common Schools shall be elected from the city at large.

Sec. 54, how construed.

CHAPTER CCXIX.

AN ACT

To provide for Funding the Legal and Equitable Debt of the City of San Francisco, and for the final Redemption of the same.

[Approved May 7, 1855]

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

SECTION 1. The Common Council of the City of San Francisco, to be elected at the first election under an Act entitled "An Act to Re-Incorporate the City of San Francisco," passed April twenty-eighth, eighteen hundred and fifty-five, shall provide, by ordinance, for funding, at a rate of interest not to exceed six per cent. per annum, all the outstanding indebtedness of the City of San Francisco, which may be existing as a legal and equitable claim against said city at the time of their election and qualification. They shall provide, in the same ordinance, for the annual or semi-annual payment of the interest to accrue on said funded debt. The bonds for said debt shall be made payable within twenty years, in the City of New York or the City of San Francisco, at the option of the bond-holders. No indebtedness against said city, except the funded debt, shall draw interest.

Funding outstanding debt.

Payment of interest.

Bonds.

Sec. 2. For this purpose the Common Council shall appoint, by ordinance, three persons, not members of the City Government, citizens of said city, as a Board of Examiners. It shall be the duty of said Board to examine all accounts and claims against the city, and to report to the Common Council such as they may consider legal or equitable indebtedness against said city. The Board of Examiners shall, before entering upon their duties, execute good and sufficient bonds, to be approved of by the Common Council, in the penal sum of fifty thousand dollars, each, for the faithful performance of their duties; and shall, on making their report, affirm under oath, that all indebtedness, as reported by them, is correct and in accordance with the provisions of the next preceding section of this Act. The official bonds of the Board of Examiners shall be cancelled on the expiration of the term for which they were appointed; provided, they are found by the Council to have complied

Board of Examiners.

Bonds of Board.

Bonds, when cancelled.

Provide.

with the requirements of this Act; otherwise, they shall be prosecuted on their bonds, and be deemed guilty of malfeasance in office, and punishable with imprisonment in the State Prison for one year. They shall have power to send for persons and papers, to administer oaths and affirmations, and to punish as for contempt a refusal to appear and answer. They may continue in session from day to day, until the first day of September next, unless their examination be sooner concluded, and shall receive such compensation as the Common Council may determine.

Power of Board.

Compensation.

Basis of claims.

SEC. 3. The Ordinances of the Common Council duly passed, and a valuable consideration received by the city, shall be deemed the only proper basis of claims by the Examiners in making their report; and no scrip, Controller's warrant, or certified or audited accounts shall be received by them as evidence of indebtedness against the city, sufficient to entitle the holder thereof to the benefit of this Act, without proof or evidence *aliundi* connecting such warrant, scrip or account with the original debt upon which it was issued: and no claim based upon any fraudulent contract or without consideration, shall be funded under this Act.

Report of Examiners.

SEC. 4. When the report of said Examiners shall have been made to the Common Council, said Council shall have power by ordinance, to confirm or reject the same, or to confirm in part and reject the balance; said report, if confirmed, or if confirmed only in part, then as to such part as may be confirmed, shall be taken to be a correct account and statement of the debts of said city that are entitled to be funded under this Act.

Tax to pay interest.

Where payable.

SEC. 5. The Common Council shall provide by ordinance, by a tax upon the taxable property within the limits of said city, for the semi-annual payment of the interest to accrue on said funded debt, payable in the City of San Francisco or the City of New York; the first interest due upon the bonds to be issued under this Act, shall be payable on the first day of January, A. D. eighteen hundred and fifty-six; and thereafter, the interest shall be payable, semi-annually, on the first day of July and January of each year. The Common Council shall at the expiration of ten years from and after the passage of this Act, by ordinance provide for raising by tax on the property within the city limits, such an amount, annually, as shall be deemed sufficient to pay, at maturity, the bonds issued under this Act. It shall also be the duty of the Commissioners, after having created the sinking fund herein provided, annually to invite proposals for the surrender of bonds, and advertise at least ninety days in two daily papers in the City of San Francisco, for the same. The Commissioners shall publish all the bids received by them, and shall accept the best for the city; but, in no case shall any bid be accepted above par value. All bonds purchased, the dates, numbers and amounts of the same, shall be entered by the Controller in a book to be kept by him for that purpose, and shall be by him endorsed so 'Cancelled;' after which, the Commissioners shall file such bond as cancelled, and keep the same in some safe depository as their vouchers. But if bonds cannot be purchased, as herein provided, then the Fund Commissioners shall from time to time invest all money in their hands in State or United States securities, and shall so continue to invest until sufficient amount is in their possession to pay off all the bonds issued under this Funding Act.

Payment of bonds at maturity.

Further duty of Commissioners.

Publication of bids.

Indorsement of Controller.

Investment.

Board of Fund Commissioners.

SEC. 6. The Mayor, Controller and Treasurer of the City of San Francisco, and their successors in office, are created, under this Act,

a Board of Fund Commissioners, and shall receive twelve hundred dollars, each, per annum, for their services as such Funding Commissioners. The bonds to be issued shall bear interest, as provided for Interest of bonds by the first section of this Act, from the date of the passage of this Act; and shall be signed by each member of the Commission in his official capacity, and countersigned by the Chairman of the Board of Examiners. Each coupon shall be signed by the Chairman of the Board of Commissioners. The Board of Commissioners shall cause all moneys paid into the City Treasury, collected by tax, as provided Collections. in section five of this Act, to be applied to the payment of the semi-annual interest of the debt funded by this Act. The Fund Commis- Commissioners held liable. sioners shall carry out all the provisions of this Act; shall be held individually liable, and also liable on their official bonds for the faithful performance of their duties under this Act.

CHAPTER CCXX.

AN ACT

To Re-Locate the County Seat of Yolo County, by the Qualified Voters of said County.

[Approved May 7, 1855.]

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

SECTION 1. The qualified voters of Yolo County shall, at the Election. general election, in September, eighteen hundred and fifty-five, elect, by ballot, some point or place to be the County Seat of Yolo County.

SEC. 2. The form of ballot to be used at said election shall be as Form of ballot. follows: "For County Seat," naming the place voted for; and the said ballots shall be counted at the same time and in like manner as those cast for officers to be chosen at the said election.

SEC. 3. The returns of the voters [votes] so cast for a County Seat of Returns of votes. said County, shall be made to the County Clerk of said county, in the same manner as provided by law for the election of officers at the General Election.

SEC. 4. After the returns shall have been made and canvassed, it shall be the duty of the County Judges [Judge] of said county, to declare Duty of Judge. that place which shall have received a number of votes equal to a majority of all the votes cast, to be the County Seat of Yolo County; and shall cause the same to be certified to the Secretary of State.

SEC. 5. If at any such election there shall not be a number of Majority of votes. votes cast equal to a majority of all the votes cast, for any one point or place, the County Seat of said county shall remain at its present location.

Notice of clerk.

SEC. 6. The County Clerk of said county shall give at least thirty days' notice of such election ; which shall be posted up in at least three of the most public places in each election precinct in said county ; which notice shall state the manner of voting.

Part of Act
repealed.

SEC. 7. So much of an Act entitled " An Act to provide for the permanent location of the seats of justice (for the permanent location of seats of justice) of the several counties of this State, passed April eleventh, eighteen hundred and fifty, as conflicts with the provisions of this Act, is hereby repealed.

CHAPTER CCXXI.

AN ACT

Amendatory of an Act entitled " An Act concerning County Judges," passed April 4th, 1854 ; and also an Act which passed April 25th, 1855, amendatory of the above recited Act.

[Approved May 7, 1855.]

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

Sutter County.

SECTION 1. The County of Sutter is hereby excluded from the operations of an Act amendatory of an Act entitled " An Act concerning County Judges," passed April twenty-fifth, eighteen hundred and fifty-five.

CHAPTER CCXXII.

AN ACT

To Fund the Debt of the County of Yolo and provide for the payment of the same, which accrued from and after the first day of January, one thousand eight hundred and fifty-three, to the first day of April, one thousand eight hundred and fifty-five.

[Approved May 7, 1855.]

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

SECTION 1. In order to fund the debt of the County of Yolo which accrued from and after the first day of January, one thousand eight hundred and fifty-three, to the first day of April, one thousand eight hundred and fifty-five, and provide for the payment thereof, the County Clerk of said county shall cause to be prepared bonds to the amount of fifteen thousand dollars, in denominations of twenty, one hundred, and five hundred dollars each, bearing interest at the rate of seven per cent. per annum from the date of their issue. Said bonds shall be payable at the office of the County Treasurer of said County, on the first day of January, one thousand eight hundred and sixty. The interest accruing on said bonds shall be due and payable on the first day of July, one thousand eight hundred and fifty-six, and annually thereafter, until the bonds issued under this Act are liquidated. Said bonds shall be signed by the County Judge, countersigned by the County Recorder, and be indorsed by the County Treasurer, with the county seal thereon.

Clerk to prepare bonds.

Denomination and interest.

Where payable.

By whom signed.

SEC. 2. The Auditor and Treasurer of said county shall examine the original book of record of warrants issued within the time mentioned in the first section of this Act, and fund all warrants legally issued and entered on said Auditor's book, and no others.

Duty of Auditor and Treasurer.

SEC. 3. The County Treasurer shall indorse the amount of interest paid on any bonds, and take a receipt for the same in a receipt book kept by him, from the holder thereof, giving the date thereof.

Indorsement of Treasurer.

SEC. 4. The County Treasurer shall pay out of any money not otherwise appropriated, all expenses the County Clerk may incur in having said bonds prepared, not exceeding one hundred dollars.

Pay for bonds.

SEC. 5. From and after the passage of this Act, all persons holding county warrants so legally issued shall, upon the presentation thereof to said Treasurer, receive in exchange therefor a bond or bonds of the County of Yolo, as provided for in this Act. The Treasurer shall indorse on the back of each bond or warrant redeemed by him, date of redemption, from whom received, and keep a record of the same, giving the number, date and amount of the bond or warrant.

Persons holding bonds.

Indorsement of Treasurer.

SEC. 6. It shall be the duty of the County Judge and Auditor, once in sixty days, to appear at the Treasurer's office and examine

Duty of County Judge and Auditor.

all bonds and warrants redeemed, and cause the same to be registered and cancelled in such manner as to prevent their re-issue or circulation.

Special tax. SEC. 7. There shall be an additional tax of ten cents on each one hundred dollars of taxable property, assessed and collected in the same manner as county taxes, [as] a special interest tax which shall be collected and paid over to the County Treasurer in the same funds as required by the revenue law, which shall be kept separate from other funds and applied only to the interest on the bonds issued under this Act; *provided*, any surplus for any year shall be paid over into the sinking fund hereinafter provided for.

Sinking Fund. SEC. 8. The surplus interest fund, and any surplus in the County Treasury of the County fund, on the first day of April, one thousand eight hundred and fifty six, and annually thereafter, after paying the ordinary annual expenses of the county, shall constitute a Sinking Fund, and shall be set apart by the Treasurer to pay the principal and interest of said bonds, and the remainder, if any, shall be paid into the County Fund.

Advertisement. SEC. 9. If at any time five hundred dollars shall accumulate in the Sinking Fund, the County Treasurer shall advertise in some newspaper of the county, if any; and by posting notices one in each township in the county, and in some weekly paper published in the City of Sacramento, for three weeks, for sealed proposals for the redemption of said bonds. The Treasurer and County Judge shall

Duty of Treasurer and Judge. open the sealed proposals, and shall pay the same; *provided*, they be not for more than par value; and *provided further*, when funds accumulate as aforesaid to pay the bonds issued under this Act, the Treasurer shall publish in like manner, for four weeks, for the redemption of said outstanding bonds, after which time they shall not draw interest.

Account of Sinking Fund. SEC. 10. A full account shall be kept of said Sinking Fund by the Treasurer, open to inspection to all persons during office hours; and the Auditor and Treasurer shall exhibit their books containing any record or account required to be kept by this Act, on request of the Grand Jury, and cause a concise statement of the same to be published annually on the first of March.

Unlawful to liquidate debt. SEC. 11. It shall not be lawful for the County Treasurer to pay or liquidate any of the indebtedness of said county which accrued within the time mentioned in the first section of this Act, in any other manner than provided for in this Act.

Meaning of bond or bonds. SEC. 12. Wherever the word bond or bonds occur in this Act, it shall be construed to mean bond or bonds issued under this Act.

CHAPTER CCXXIII.

AN ACT

To authorize Isaac E. Davis and A. P. Jordan, and such others as they may associate with them, to construct a Wharf at Santa Cruz into the Bay of Monterey.

This bill having remained with the Governor ten days, (Sundays excepted), and the Senate and Assembly being in session, it has become a law this seventh day of May, A. D., 1855.

J. W. DENVER, Secretary of State.

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

SECTION 1. Isaac E. Davis and A. P. Jordan, and such others as they may associate with them, or their assigns, are authorized, at their own expense, to construct a wharf at the foot of Fremont street in the town of Santa Cruz, running southerly into the bay of Monterey, three hundred feet. Davis and others authorised.

SEC. 2. All the right, title and interest of the State of California in and to the overflowed land at the foot of said Fremont street, the width of the street, sixty feet, to the extent of three hundred feet into the bay, is hereby released to the said Isaac E. Davis and A. P. Jordan, and such others as they may associate with them, and their assigns, so long as the same shall be used for the purpose of a wharf, and no longer. Land released.

SEC. 3. The said wharf shall be completed within three years from the passage of this Act.

SEC. 4. The said Isaac E. Davis and A. P. Jordan, and such others as they may associate with them, or their assigns, shall have power to collect such tolls and wharfage as shall be established by the Board of Supervisors of Santa Cruz County, from and after its commencement until the expiration of twenty years; such rates of toll to be fixed annually by said Board of Supervisors; *provided*, that nothing in this Act shall be construed as granting wharf privileges exceeding twenty-three years from and after the passage of this Act. Completion of wharf. Power to collect toll, etc. Rates of toll. Proviso.

CHAPTER CCXXIV.

AN ACT

To provide for the Government of the State Prison.

[Approved May 7, 1855.]

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

- Directors.** SECTION 1. The government and supervision of the State Prison shall be vested in a Board of three Directors, to be elected by the Legislature in Joint Convention, whose term of office shall expire on the first day of January next. The members of the Board thus elected shall determine which of the number shall be Chairman thereof.
- How elected.** There shall be elected at the next general election in this State, a Board of Directors consisting of three members, whose term of office shall continue three years from the first of January, A. D., eighteen hundred and fifty-six ; *provided*, however, that the three Directors elected at the said next general election, shall be so classified that one of their number shall go out of office on the first day of January of each year thereafter—which classification shall be made by lot under the supervision of the Governor and Secretary of State. There shall be an election for one Director at each general election succeeding that of the year eighteen hundred and fifty-five, whose term of office shall continue for three years ; after the first day of January, eighteen hundred and fifty-six, the member of the Board of Directors having the then shortest term of office remaining to be served out shall be *ex officio* Chairman of said Board.
- Term of office.**
- Proviso.**
- Chairman.**
- Oath.** SEC. 2. Before entering upon the duties of his office, and within ten days after his election, each Director shall take the oath required by the Constitution, for the faithful performance of his official duty's, [duties] which oath shall be filed in the office of the Secretary of State, and each Director shall give bond payable to the people of the State of California, in the sum of ten thousand dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful performance of his duties. A majority of the Board shall constitute a quorum for the transaction of business.
- Bond.**
- Quorum.**
- Misconduct.** SEC. 3. The Legislature shall have the power to remove any Director elected under the provisions of this Act, for misconduct or malversation in office, giving to such Director a copy of the charge against him, and an opportunity of being heard in his defense ; and shall have power to fill such vacancy.
- First meeting.** SEC. 4. The Board of Directors shall hold their first meeting at the State Prison on the first Monday of June, eighteen hundred and fifty-five. They shall appoint one of their number President of the Board, one of their number Clerk, and one of their number Warden of the prison.
- Residence and duties.** SEC. 5. Each of the Board of Directors shall reside at the prison, visit the prisoners in their cells, and at their work, and examine and inquire into all matters connected with the government, discipline,

and police of the prison ; the punishment, employment, health, cleanliness, and general condition of the convicts, the financial concerns, and contracts for work, the purchase of all articles provided for the prison, or sold on account thereof. They shall also enquire into the conduct of the officers of the prison, and require from them reports in relation to any or all of the matters above mentioned.

SEC. 6. The Board of Directors shall have the power and it shall be their duty: First. To reject or confirm as they may think best, the nominations of such subordinate officers, guards or keepers, as the Warden may present for their approval. Second. To appoint a Physician and Chaplain, or either of them as they may think necessary. Third. To adopt such by-laws and regulations for the government and management of the prison as they may deem expedient, not inconsistent with the laws of this State, or of the United States, and to enforce the observance of the same, or alter or amend them at their pleasure. Fourth. They shall require all such laws to be printed and posted up in conspicuous places in the prison, and a copy thereof to be furnished to each officer of the prison. Fifth. To enquire into any improper conduct of any officer or guard, and for that purpose they shall have power to issue subpoenas, to compel the attendance of witnesses, and the production before them of papers, and shall have power to administer oaths, and to take affidavits and verbal testimony in all matters pertaining to the prison. Sixth. To remove from office any subordinate officer for misconduct. Seventh. To exercise a general control over the officers, prisoners, buildings, and business of the prison. Eighth. To make on or before the fifteenth day of January in each year, an annual report to the Legislature, of the state and condition of the prison, and of the convicts confined therein, embracing the county in which the conviction was had, when committed, place of birth, (if known) name, age, sex, occupation, term of sentence, when the same has or will expire, and such other matters as may be of general interest, including a copy of the by-laws adopted for the government and regulation of the prison. Ninth. To make a quarterly report to the Governor of all moneys received during the quarter, and from what source received, how much thereof has been expended and for what purpose expended, and a certified copy of all contracts for work, or for the purchase of materials for the prison, or for the feeding and clothing of the prisoners therein.

SEC. 7. The directors may, if they deem best and most advantageous for the interest of the State, cause the provisions and fuel for the use (of the use) of the prison, to be supplied by contract, at a fixed price per day for each person connected with the prison ; or they may, at their option, authorize the Warden of the prison to furnish the rations by purchase ; said contracts shall not be for a longer term than one year, and the articles of food and the quantities of each kind, shall be prescribed by the Directors, and be inserted in the contract. The officers necessarily residing at the prison, shall be supplied with fuel and provisions out of the stock supplied for the general use of the prison.

SEC. 8. The Board of Directors shall, as soon as practicable after the taking charge of the prison, cause to be commenced, and diligently prosecuted until finished, the erection of a wall around the prison house at San Quentin Point, of the following dimensions and description : The wall to enclose a square of five hundred feet on each side ; to be four feet thick at the base, twenty feet high, and two feet thick at the

top, and surmounted with a flat stone coping, six inches thick and three feet broad on top; the lower half of the wall ten feet high, to be built of rough rubble stone set in cement, and the upper half of brick set in mortar; the top of the wall shall be level, and the base shall be extended downwards to accommodate the inequalities of the natural surface of the bedrock; there shall be a small guard tower erected at each corner of the wall; one large iron gate shall be made for entrance into the prison yard; the stone and brick shall be furnished by the prisoners, and as far as practicable, the prisoners shall be employed in laying up said wall.

THE DUTIES OF WARDEN.

Duties of
Warden.

SECTION 9. First. It shall be the duty of the Warden to reside at the prison; and he shall have the entire control and management of the discipline, police and labor of the prison, subject to the rules and regulations adopted by the Board of Directors, and they [he] shall be held responsible for the manner in which the prison is conducted. Second. He shall have power to appoint all the subordinate officers of the prison, except the Physician and Chaplain, subject to the approval or rejection by the Board of Directors. Third. He shall give the necessary directions to the subordinate officers, and guards, and examine whether they have been diligent in the discharge of their duties. Fourth. He shall examine daily into the state of the prison, and into the health, condition and safe-keeping of the convicts; and inquire into the justice of any complaints made by the convicts relative to their provisions, clothing and treatment by the subordinate officers. Fifth. He shall keep a daily journal of the proceedings of the prison, in which he shall note every infraction of the rules and regulations, and every punishment inflicted on a convict and by whom, and all other important occurrences in the management of the prison. Such journal shall be kept open at all times to the examination of the Board of Directors. Sixth. He shall attend to the receipt and discharge of all prisoners, in accordance with the requirements of their commitments, and shall cause an exact record to be kept of the same, and an accurate description of the prisoner to be noted by the Clerk.

Moneys, etc.

SEC. 10. The Warden shall take charge of all money or other articles brought to the prison by convicts, and cause the same immediately on the receipt thereof to be entered by the Clerk among the receipts of the prison; which money or other articles, whenever the convict from whom the same was or were received, shall be discharged from prison, or the same shall be otherwise legally demanded, shall be returned by the Warden to such convict or other person legally entitled to receive the same. A separate account shall also be kept by the Clerk of all such money and other articles so received from convicts.

Return of same.

Clerk's account.

Oath of office.

SEC. 11. Each officer or guard of the prison shall before entering upon the duties of his office, take and subscribe the oath of office provided by the Constitution of the State, which oath may be taken and subscribed before any officer duly authorized by law to administer an oath, and shall be filed with the Clerk of the County in which the prison is situated. The Warden shall give additional bonds in the sum of fifty thousand dollars, with two or more sureties, to be

Bonds of
Warden.

approved by the Governor, for the faithful performance of his duties as prescribed in this Act.

SEC. 12. No officer or guard of the prison shall be in any manner interested, directly or indirectly, in any contract for the employment of the convicts, or the supply of provisions, or the purchase of materials: Nor shall any officer of the prison employ the labor of any convict, or other person employed in prison on any work, building or farm in which such officer shall be interested. Officers not to be interested.

SEC. 13. Any officer violating the provisions of the preceding section of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be punished by fine of not exceeding five thousand dollars, or imprisonment in the County Jail not exceeding one year, or by both such fine and imprisonment, at the discretion of the court before whom such person shall be tried and convicted. Penalty.

SEC. 14. Female prisoners shall not be employed in company with male prisoners, but may be otherwise employed, as the Warden may direct, and said female prisoners shall be provided with separate and distinct buildings, and receive their food separate and apart from the male prisoners. Female prisoners.

SEC. 15. Whenever any prisoner or prisoners escape, it shall be the duty of the Governor to offer such reward for his or their apprehension and delivery to prison, as he in his judgment may think advisable, which reward may be audited and paid by the Controller upon the certificate of the Warden of the prison of the arrest and delivery of such escaped convict. Reward.

SEC. 16. All subordinate officers and employees who shall enter into agreement with the Warden or Board of Directors, to perform any of the duties prescribed by this Act, shall give to the Warden at least two weeks' notice of any intention to quit the duties engaged in by him, and any such officer or employee who shall leave without giving such notice, shall, on conviction before any Justice of the Peace or other officer having competent jurisdiction, forfeit all pay then due him, and be confined in the County Jail not less than thirty days nor more than six months, and such fine as may be imposed by the Court, not exceeding five hundred dollars. Subordinates. Forfeiture.

SEC. 17. The compensation of each Director shall be thirty-five hundred dollars per year, which shall be in full for all services, including mileage and contingencies. The compensation of the Physician shall be fixed by the Board of Directors, not exceeding twenty-five hundred dollars per year. Of the Deputy Warden, eighteen hundred dollars per year. The Captain of the Guard, not to exceed one hundred and fifty dollars per month. Of the Lieutenant of the Guard, not to exceed one hundred dollars per month. And the monthly pay of all other subordinate officers shall be fixed by the Board of Directors, but shall in no case exceed that allowed to the Lieutenant of the Guard. Compensation of Directors. Of Physician. Captain and Lieutenant. Subordinates.

SEC. 18. The salaries of all the officers and employees may be paid monthly out of any funds in the Treasury of the prison, by an order from the Board of Directors, and any deficiency not provided for by funds in the Treasury of the prison, shall be audited and settled quarterly by the Controller of State, on the presentation of the proper vouchers by the Board of Directors, for which he is authorized to draw warrants on the Treasurer of State, to be paid out of the "General Fund." Salaries—how paid.

SEC. 19. The Governor and Controller, and Secretary of State, are constituted a Board of Inspectors of the State Prison, and shall, when-

ever they deem it necessary, visit the State Prison and examine into its affairs. They shall also have authority to alter the regulations of the prison, and give direction for the management of its affairs to the Board of Directors.

Take effect.

SEC. 20. This Act shall take effect and be in force from and after the first day of May next, and the Directors shall take possession of the prison property and convicts on the first day of June, eighteen hundred and fifty-five, and all Acts and parts of Acts heretofore passed, conflicting with the provisions of this Act, are hereby repealed.

Acts conflicting.

CHAPTER CCXXV.

AN ACT

Supplementary to an Act entitled "An Act to regulate Elections," passed March twenty-third, one thousand eight hundred and fifty.

[Approved May 7, 1855]

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

Molesting
ballot box, etc.

SECTION 1. Any person who shall directly or indirectly, secretly, by force, or otherwise, molest, injure, or destroy, or cause to be molested, injured, or destroyed, any ballot box, while in use at any election authorized by law, or shall fraudulently insert or cause to be inserted, in said ballot box, or abstract, or cause to be abstracted any votes therefrom, or shall in any way maliciously get possession of, detain, mutilate, destroy or dispose of any returns of any election authorized by law, shall for each offense, upon conviction thereof, be fined in any sum not exceeding two thousand dollars, to which may be added imprisonment in the County Jail not exceeding one year.

Fine.

CHAPTER CCXXVI.

AN ACT

Concerning the State and County Treasurers,

[Approved May 7, 1855.]

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

SEC. 1. The State Treasurer and County Treasurers of the different Counties of this State, are hereby required to keep all moneys ^{Treasurers} ~~to keep money.~~ belonging to this State, or to any county of this State, in their own possession; and they are hereby forbidden and prohibited from placing the same in the possession of Banker or Bankers, or Banking firm, or any person or persons whatever, to be used by them for any purpose, whatever, for their own benefit, or for the benefit of any other person; and they are further forbidden and prohibited from loaning, borrowing, or in any manner using the moneys belonging to this State, or any County of this State, or permit any other person or persons to use the same, either with or without interest, or other compensation, for any purpose whatever; except as provided by law.

SEC. 2. If the State Treasurer or any County Treasurer shall violate ^{Penalty.} any of the provisions of section first of this Act, they shall be deemed guilty of felony, and upon conviction in a court of competent jurisdiction shall be sentenced to the State Penitentiary for a period not less than one year, nor more than five, at the discretion of the Judge presiding, or by fine not less than five hundred dollars, nor more than twenty thousand; *provided*, nothing in this section shall be so construed as to prevent the County Treasurers from making special deposits ^{Proviso.} for the safe keeping of the public moneys.

CHAPTER CCXXVII.

AN ACT

Explanatory of an Act entitled "An Act regulating Marriages," passed April 22d, 1850.

[Approved May 7, 1855.]

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

Section 9
amended.

SECTION 1. Section nine of an Act entitled "An Act regulating Marriages," passed April twenty-second, eighteen hundred and fifty, is hereby amended so as to read as follows ; Section (9) nine ; the Recorder shall record all such returns of Marriages in a book to be kept for that purpose, within one month after receiving the same, and shall be allowed for each entry of the same one dollar, to be paid to him by the parties to the Marriage. If any Recorder shall neglect or refuse to record, within the said time any return to him made, he shall forfeit one hundred dollars to be recovered with costs, by any person who will prosecute for the same.

Recorder's duty.

Forfeiture.

CHAPTER CCXXVIII.

AN ACT

To amend an Act entitled "An Act Concerning the Office of Public Administrator, and making it elective," passed April 15th, 1851.

[Approved May 7, 1855.]

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

Section 2
amended.

SECTION 1. Section second of an Act entitled "An Act concerning the office of Public Administrator, and making it elective," passed April fifteenth, eighteen hundred and fifty-one, is hereby amended so as to read as follows : Section second ; Before entering upon the duties of his office, he shall execute a bond with sureties, to be approved by the Probate Judge, in a sum not less than thirty thousand dollars, and which may at any time be increased, in the discretion of the Probate Judge, conditioned for the faithful performance of all the duties enjoined upon him by law, and particularly that he will

Bond.

account for, and pay over all moneys and property that may come into his hands, as such Public Administrator; *provided*, that the Probate Judge may in his discretion, for good reason shown, fix the amount of the bond to be given by the Public Administrator at any sum not less than fifteen thousand dollars.

SEC. 2. Section fifth of said Act is hereby amended so as to read as follows: Section fifth; The Public Administrator shall once in every six months, make to the Probate Judge, under oath, a return of all estates of deceased persons, which have come into his hands, the value of the same, the expenses, if any, paid thereon, and the balance, if any, remaining in his hands. Said return to be published six times in some newspaper in the County, or if there be no newspaper published in the County, then it shall be posted, legibly written, or printed, in the office of the County Clerk of the County; and he shall after a final settlement of the affairs of any estate, if there be no heir or heirs, or other claimant thereof, pay over to the County Treasurer, to be by him paid into the State Treasury all moneys and effects in his hands, belonging to said estate; and in the event of all or any such moneys and effects having escheated to the State, the same shall be disposed of as other escheated estates.

Return of Public Administrator.

Publication.

Final settlement.

CHAPTER CCXXIX.

AN ACT

Amendatory of, and Supplementary to an Act entitled "An Act to regulate the Settlement of the Estate of Deceased Persons," passed May 1st, 1851.

[Approved May 7, 1855.]

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

SECTION 1. Section seventy-six of said Act, is amended so as to read as follows: Section seventy-six; in all cases where bonds are required by this Act, the sureties must justify on oath before the judge or clerk of some Court having a seal, to the effect that they are householders, or freeholders, resident within this State, and worth the amount justified to, over and above their debts and liabilities, exclusive of property exempt from execution; such justification shall be in writing, signed by the person justifying and certified to by the Judge or Clerk who takes the same, and attached to, and filed with the bond. Whenever the penal sum of the bond amounts to more than two thousand dollars, the sureties may be allowed to become liable for portions of said penal sum, making in the aggregate the whole penal sum of such bond.

Justification of sureties.

SEC. 2. Section one hundred and fifty-two of said Act is amend-

Sale of personal property. ed so as to read as follows : Section one hundred and fifty-two ; the sale of personal property shall be made at public auction, and after public notice given for at least ten days, unless for good reason shewn the Probate Judge, shall order a private sale ; but no private sale shall be effectual for any purpose till the same shall be approved by the Probate Judge. Public sales of such property shall be made at the Court House door ; at the residence of the deceased ; or at some other public place to be mentioned in the notice ; and no sale shall be made of any property which is not present at the time of selling.

Public sales—when made.

Citation and requirements of Judge.

SEC. 3. Before the Probate Judge approves any bond required by said Act, he may of his own motion, or at any time after the approval of such bond, upon the motion of any person interested in said estate, supported by affidavit that any one or all of such securities, are not worth as much as they have justified to, order a citation to issue, requiring such security or securities to appear before him, at a particular time and place, to testify touching his or their property, and its value; and the Judge shall at the time such citation is issued, cause a notice to be issued to the executor or administrator, and requiring his appearance at the return of said citation. Upon the return of the citation, the Judge may swear the securities and such witnesses as may be produced touching the property of such securities and its value, and if upon such investigation the Judge is satisfied that the bond is insufficient, he may require sufficient additional security, within such time as may be reasonable, not less than five days.

Additional security.

Right ceases.

SEC. 4. If sufficient security is not given within the time fixed by the Judge's order, the right of such Executor or Administrator to the administration shall cease, and the person next entitled to the administration on the estate, who will execute a sufficient bond, shall be appointed to the administration.

Section 204 amended.

SEC. 5. Section two hundred and ninety-four of the Act entitled "An Act to regulate the estates of deceased persons," passed May first, eighteen hundred and fifty-one, is amended so as to read as follows : Section two hundred and ninety-four ; issues of fact joined in the Probate Court, shall be certified by the Probate Judge to a District Court of the same County for trial, on the application of any person interested in, or to be affected by the decision thereof, in the cases following : First. On granting or revoking letters testamentary or of administration. Second. On admitting a will to Probate. Third. On revoking the Probate or determining the validity of a will. Fourth. On setting apart property, or making allowances for a widow or child. Fifth. On application for the sale or conveyance of real property. Sixth. On the settlement of an Executor or Administrator. Seventh. On declaring, allowing, or directing the payment of a debt, legacy, claim or distributive share, of the estate.

Issues of fact.

Section 295 amended. Duty of Probate Judge.

SEC. 6. Section two hundred and ninety-five of said Act, is amended so as to read as follows : Section two hundred and ninety-five ; a Probate Judge shall certify to a District Court for trial, any issue of fact mentioned in the preceding section, when a motion or application is made therefor, to the Probate Court, in the manner following. First. On motion made in open Court after notice and publication (if any is required) of the hearing or trial of the issue in the Probate Court, shall have been given and made according to law; an entry of which motion shall be made in the minutes. Second. On filing a written notice with the Clerk of the Probate Court, at any

time within ten days after trial, and decision therein by the Probate Court, to the effect that the applicant requires the issue to be certified to a District Court for trial; *provided*, if said trial has been had since the first day of October, eighteen hundred and fifty-four, said notice may be given at any time within thirty days after the passage of this Act. Proviso.

SEC. 7. Section two hundred and ninety-six of said Act is amended so as to read as follows: Section two hundred and ninety-six; an issue certified by a Probate Court, to a District Court, shall be tried like any other issue of fact in the District Court; and at the trial, like objection and exception to the decisions of the Court may be taken and settled; after the trial of such issue, the District Court shall remit the proceedings upon such trial, together with the finding and decision, to the Probate Court, which shall form part of the record of the cause in the Probate Court. The Probate Court shall render judgment according to the finding and decision in the District Court. Section 296 amended. Issues from Probate Court. Duty of District Court. Judgment of Probate Court.

SEC. 8. Section two hundred and ninety-seven of said Act is amended so as to read as follows: Section two hundred and ninety-seven; an appeal may be taken to the Supreme Court, from an order, decree or judgment of the Probate Court where the estate or amount in dispute exceeds two hundred dollars, in the following cases: First. For or against granting or revoking letters testamentary or of administration. Second. For or against admitting a will to Probate. Third. For or against the validity of a will, or revoking the Probate thereof. Fourth. For or against setting apart property, or making an allowance for a widow or child. Fifth. For or against directing the sale or conveyance of real property. Sixth. On the settlement of an Executor or Administrator. Seventh. For or against declaring, allowing, or directing the payment of a debt, claim, legacy, or distributive share. Section 297 amended. Appeal to Supreme Court.

SEC. 9. Section two hundred and ninety-eight of said Act is amended so as to read as follows: Section two hundred and ninety-eight; The appeal may be taken within sixty days after the order, decree or judgment, is made and entered in the minutes of the Court; it shall be made by filing with the Clerk of the Probate Court, a notice stating the appeal from the order, decree or judgment, or some specific part thereof, and by executing an undertaking, or giving surety on such appeal in the same manner, and to the same extent as upon an appeal to the Supreme Court from the District Court; *provided*, the appeal of an Executor or Administrator, who has given an official bond shall be complete and effectual without the undertaking; *provided also*, from an order, decree or judgment, made since the first day of October, eighteen hundred and fifty-four; the appeal may be taken within sixty days after the passage of this Act. After the appeal is determined, suit may be brought and prosecuted to judgment, on the undertaking in the name of any party beneficially interested therein. Section 298 amended. Appeal. How made. Proviso.

SEC. 10. Section two hundred and ninety-nine of said Act is amended so as to read as follows: Section two hundred and ninety-nine; when a party who has a right to appeal, wishes a statement of the case to be annexed to the record, he shall prepare and file the same within twenty days after the entry of the order, decree or judgment; *provided*, if the order, decree or judgment has been made since the first day of October, eighteen hundred and fifty-four, he shall Section 299 amended. Proviso.

prepare and file such statement within twenty days after the passage of this Act.

Section 300
amended.
Provisions.

SEC. 11. Section three hundred of said Act is amended so as to read as follows : Section three hundred ; the provisions as amended of Chapter I, Title IX, of the Act entitled "An Act to regulate proceedings in civil cases in the Courts of Justice in this State," passed April twenty-ninth, eighteen hundred and fifty-one, so far as the same do not conflict with the provisions of this Act, shall be applicable to appeals from the Probate Court.

Section 301
amended.

Duty of Clerk.

Clerk of
District Court.

SEC. 12. Section three hundred and one of said Act is amended so as to read as follows : Section three hundred and one ; when an issue is certified for trial, the Clerk of the Probate Court shall transmit all papers and records necessary for the trial of the issue, to the District Court. After such trial the Clerk of the District Court shall return the same with the proceedings of the Court, to the Probate Court.

Section 302
amended.
Costs—now paid.

SEC. 13. Section three hundred and two of said Act is amended so as to read as follows : Section three hundred and two ; Where it is not otherwise prescribed by law, the Probate Court or the Supreme Court on appeal may, in its discretion, order costs to be paid by any party to the proceedings, or out of the estate, as justice may require ; execution for the costs may issue out of the Probate Court.

CHAPTER CCXXX.

AN ACT

To amend an Act entitled "An Act concerning the Courts of Justice of this State and Judicial Officers," passed May 19th, A. D. 1853.

[Approved May 7, 1855]

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

Section 59
amended.
Time of Terms.

SECTION 1. So much of section fifty-nine of an Act concerning the Courts of Justice of this State and Judicial Officers, passed May [19th, 1853] nineteenth, eighteen hundred and fifty-three, as relates to the time of holding the Courts of Sessions of Calaveras County, is hereby amended so as to read as follows : The Court of Sessions in and for the County of Calaveras, shall be held on the second Monday of January, March, May, July, September and November.

Section 69
amended.
Jurisdiction.

SEC. 2. Section sixty-ninth of said Act is hereby amended so as to read as follows ; Section sixty-ninth. These Courts shall also have jurisdiction, except within the limits of the City of San Francisco, of the following public offenses committed within the respective counties

in which such Courts are established: First. Petit Larceny; Second. Assault and Battery, not charged to have been committed upon a public officer in the discharge of his duties, or with intent to kill. Third. Breaches of the Peace, Riots, Affrays, committing a willful injury to property, and all misdemeanors, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment.

CHAPTER CCXXXI.

AN ACT

Amendatory of and supplementary to an Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April 29, 1851.

[Approved May 7, 1855]

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

SECTION 1. Section fourth of said entitled Act is hereby amended so as to read as follows : Every action shall be prosecuted in the name of the real party in interest, except as otherwise provided in this Act; but in suits brought by the assignee of an account, unliquidated demand, or thing in action not arising out of contract, assigned subsequently to the first day of July, 1854, the assignor shall not be a witness on behalf of the plaintiff. Prosecutions.

SEC. 2. Section twenty-two of said entitled Act is hereby so amended as to read, Civil actions in the District Courts, Superior Court of the City of San Francisco, and the County Courts, shall be commenced by the filing of a complaint with the clerk of the court in which the action is brought, and the issuing of a summons thereon; *provided*, that after the filing of the complaint a defendant in the action may appear, answer or demur, whether the summons has been issued or not, and such appearance, answer or demurrer shall be deemed a waiver of summons. Civil actions.

SEC. 3. Section thirty-eight of said entitled Act is so amended as to read, The only pleading on the part of the plaintiff shall be the complaint or demurrer to the defendant's answer, and the only pleading on the part of the defendant shall be the demurrer or the answer. The demurrer or answer of the defendant shall be filed with the clerk of the court, and a copy thereof served upon the plaintiff or his attorney; *provided*, the plaintiff or his attorney reside within the county where the action is pending. Pleading.

SEC. 4. Section three hundred and thirty-nine of said entitled Act is so amended as to read as follows: If the party shall omit to make a statement within the time above limited, he shall be deemed Statement omitted.

to have waived his right thereto: and when a statement is made and the parties shall omit, within the several times above limited, the one party to propose amendments, the other to notify an appearance before the Judge, they shall respectively be deemed, the former to have agreed to the statement as proposed, and the latter to have agreed to the amendments as proposed, and no settlement of the statement or certificate thereto by the Judge shall be required.

Docket of
Justices.

SEC. 5. Section six hundred and eight of said entitled Act is so amended as to read as follows; Any Justice with whom the docket of his predecessor is deposited, may issue execution or other process upon a judgment there entered and unsatisfied, in the same manner and with the same effect as the Justice by whom the judgment was entered might have done. In case of the creation of a new county, or the change of the boundary between two counties, any Justice into whose hands the docket of a Justice formerly acting as such within the same territory may come, shall, for the purposes of this section, be considered the successor of said former Justice.

New counties.

Part of Act
repealed.

SEC. 6. Sections two and five of an Act amendatory of and supplementary to the Act entitled "An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State," passed May 15, 1854, are hereby repealed.

JOINT AND CONCURRENT RESOLUTIONS.

CHAPTER I.

CONCURRENT RESOLUTION

In relation to the Establishment of Light Houses at
Trinidad and Crescent City.

Resolved, the Assembly concurring, That our Senators be in-^{Light houses.}structed, and our Representatives requested, to use their exertions to procure the passage of an Act of Congress, providing for the erection of Light Houses at Trinidad and Crescent City, in this State.

Passed January 31, 1855.

CHAPTER II.

JOINT RESOLUTIONS

In relation to the Board of Land Commissioners.

Whereas, in pursuance of an Act of Congress, entitled "An Act to^{Land claims.} ascertain and settle the Private Land Claims of California," approved March 3d, 1851, the citizens of this State were required to file in the office of the Board of Land Commissioners, organized under the said Act, all their grants and original muniments of title, by virtue of which they claim to be the owner or owners of lands in this State; and *whereas*, they have complied with said re-^{Documents.}quisition, whereby the said Land Commissioners hold in custody all of said documents, and in consequence thereof, the citizens of the

Records.

Decisions.

State are deprived of the means of maintaining or defending their titles to real estate in the Courts of this State, by reason that all their original papers, grants and muniments of title, are out of their possession and beyond their control ; and *whereas*, said documents are all recorded in the office of said Commissioners, in bound books, their furnishing the Government of the United States with official copies of the same ; and *whereas*, the said Commissioners have exhausted their power in a large proportion of said claims, by the delivery of their final decision thereon, and by making out two complete transcripts of their decisions, and filing one in the proper United States District Court for California, and forwarding the other to the Attorney General of the United States, at Washington ; and *whereas*, notwithstanding this, the Board of Land Commissioners cannot, for want of authority, deliver to their owners all or any of said original muniments of title : Therefore, be it

To return papers.

Resolved, by the Senate and Assembly of the State of California, That our Senators and Representatives in Congress, be requested to urge the adoption of such measures, by legislation or otherwise, as will authorize and direct the said Board of Land Commissioners, that when they shall have exhausted their power in any case by the delivery of their final decision upon such claim, to return to the claimant, or to his duly authorized agent, free of cost, all original papers or muniments of title, filed by such claimant in support of his claim.

Resolved, secondly, That the Governor be requested to forward a copy of this Preamble and these Resolutions, to each of our Senators and Representatives in Congress.

Passed February 7, 1855.

CHAPTER III.

JOINT RESOLUTIONS

Praying for the Construction of a Breakwater in the Harbor at Crescent City.

Breakwater at Crescent City.

Resolved, by the Senate and Assembly, That our Senators be instructed, and our Representatives be requested, to use their exertions to procure an appropriation by Congress, of seventy-five thousand dollars, for the construction of a breakwater in the harbor at Crescent City, in this State.

Resolved, That his Excellency the Governor, be requested to transmit a copy of the above Resolution to each of our Senators and Representatives in Congress.

Passed February 8, 1855.

CHAPTER IV.

CONCURRENT RESOLUTIONS

Relative to the Payment of Pensions in the State of California.

Whereas, many persons, entitled to pensions from the United States, ^{Pensions.} reside in this State, and are subjected to the payment of a large part of their pensions as compensation to agents and others for collecting and receiving the same at different points in the Atlantic States : Now, therefore,

Resolved, the Senate concurring, That the proper authorities of the General Government are urgently requested to provide, without delay, for the payment, in California, of all pensions due to residents of this State. ^{Payment of same.}

Resolved, further, That the Governor be requested to forward copies of this Resolution to the President, the Commissioner of Pensions, and to our Senators and Representatives in Congress.

Passed April 4, 1855.

CHAPTER V.

JOINT RESOLUTIONS

Praying the Establishment of Mail Routes in Certain Localities.

Resolved, That our Senators in Congress be instructed, and our ^{Mail routes.} Representatives be requested, to urge upon Congress the passage of a law establishing "Mail Routes" in the State of California, from Trinidad, Klamath County, to Orleans Bar (55 miles,) in same county ; and from Orleans Bar to Bestville, *via* the Forks of Salmon River (44 miles ;) also, from Bestville to Petersville (20 miles) in said county ; also, from Orleans Bar to Happy Camp (45 miles,) in Klamath County, to Yreka (45 miles,) in Siskiyou County.

Resolved, That his Excellency the Governor, be requested to forward a copy of the above resolution to our Senators and Representatives in Congress.

Passed April 4, 1855.

CHAPTER VI.

JOINT RESOLUTIONS

Relative to the Construction and Establishment of
Military and Post Roads across the Plains, &c., &c.

Whereas, The construction and improvement of Military and Post Roads across the Plains, and the establishment of convenient watering places, where they cross the Deserts that intervene between the Atlantic States and our eastern boundary, is of vital importance to the people of this State, and is absolutely necessary for the preservation of the lives and property of emigrants who wish to settle within our borders : Therefore,

- Post roads.** *Resolved*, by the Senate and Assembly of the State of California, That our Senators be instructed, and our Representatives requested, to urge upon Congress the necessity of establishing three or more Military Roads across the Deserts, near our eastern boundary, leading into and through the northern, middle and southern portions of this State. They urge the establishment of one road from the Big Bend of the Humboldt River, through Noble's Pass, to the northern portion of the State ; and one road from Salt Lake City, south of Salt Lake, to Carson Valley, and through Johnson's Cut-off to the middle portion of the State ; and one to extend from the point where the Salt Lake Road enters San Bernardino County through the Tejon or Walker's Pass, to the southern portion of Tulare Valley ; and one from the crossing of the Colorado River, at or near the mouth of the Gila, to San Diego.
- Location.**
- Right of way.** *Resolved*, The right of way be, and is hereby granted to the General Government, for the location and construction of said "Road or Roads" through any portion of the territory of this State, where the location of such Military Road or Roads may be deemed necessary for the protection and convenience of the citizens of our common country.
- Resolved*, That the Governor of this State be, and he is hereby requested to transmit copies of these Resolutions to our Senators and Representatives in Congress.
- Passed April 19, 1855.

CHAPTER VII.

JOINT RESOLUTIONS

Relative to the Establishment of an Additional
Land District in this State.

Resolved, by the Senate and Assembly, That our Senators be instructed, and Representatives in Congress requested, to exercise their influence to procure the establishment of an additional Land District in this State, to embrace all that district of country situated between the third and eighth standard lines south, and being east of the Coast Range of mountains; and that said "Land Office" be established at the Town of Visalia, in Tulare County. Land district.

Resolved, That the Governor be requested to forward a copy of this Resolution to each of our Senators and Representatives in Congress.

Passed April 23, 1855.

CHAPTER VIII.

CONCURRENT RESOLUTION

Praying an Appropriation to Open and Construct a
Military Road from the Sacramento Valley to
Crescent City.

Resolved, the Senate concurring, That our Representatives be requested, and our Senators instructed to use their best endeavors to procure an appropriation of one hundred and fifty thousand dollars, to open and construct a Military Road from the Sacramento Valley to Crescent City, *via* Shasta Valley. Military road.

Passed April 27th, 1855.

CHAPTER IX.

CONCURRENT RESOLUTION

Praying for a Bell Buoy to be placed at the Entrance
of the Harbor of San Francisco.

Bell Buoy.

Resolved, the Senate concurring, That the Honorable the Secretary of the Treasury, at Washington, be requested to cause a "Bell Buoy," of the most approved kind, to be placed at the entrance of the harbor of San Francisco, in this State; and that he be also requested to take steps for the immediate erection of the Light at "Punta de los Reyes," in Marin County; both of which are deemed highly-essential as collateral aids to navigation.

Light.

Passed April 27, 1855.

PROPOSED AMENDMENTS

TO THE

CONSTITUTION OF THE STATE.

The Legislature of the State of California, at its sixth session, commenced on the first day of January, A. D. 1855, propose, as amendments to the present Constitution of this State, the following :

AMENDMENT 1. Section 2 of Article 4 is amended so as to read as follows :
Section 2. The sessions of the Legislature shall be biennial, and shall commence on the first Monday of January next ensuing the election of its members, unless the Governor of the State shall, in the interim, convene the Legislature by proclamation.

AMENDMENT 2. Section 3 of Article 4 is amended so as to read as follows :
Section 3. The members of the Assembly shall be chosen by the qualified electors of their respective districts, on the first Wednesday of September, one thousand eight hundred and fifty-seven, unless otherwise ordered by the Legislature, and biennially thereafter, and their term of office shall be two years.

AMENDMENT 3. Section 5 of Article 4 is amended so as to read as follows :
Section 5. Senators shall be chosen for the term of four years, at the same time and place as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State two years, and of the county or district for which he shall be chosen one year next preceding his election.

AMENDMENT 4. Section 6 of Article 4 is amended so as to read as follows :
Section 6. The number of Senators shall not be less than one third nor more than one half of members of the Assembly, and, at the first session of the Legislature after this amendment takes effect, Senators shall be divided, by lot, as equally as may be, into two classes. The seats of the Senators of the first class shall be vacated at the expiration of two years, so that one half, as nearly as may be, shall be chosen biennially.

AMENDMENT 5. Section 2 of Article 10 is amended so as to read as follows :
Section 2. And if, at any time, two thirds of the Senate and Assembly shall

think it necessary to revise and change this entire Constitution, they shall recommend to the electors at the next election for members of the Legislature to vote for or against a Convention, and, if it shall appear that a majority of the electors voting at such election have voted in favor of calling a Convention, the Legislature shall, at its next session, provide by law for calling a Convention, to be holden within six months after the passage of such law, and such Convention shall consist of a number of members not less than that of both branches of the Legislature. The Constitution that may have been agreed upon and adopted by such Convention shall be submitted to the people at a special election, to be provided for by law, for their ratification or rejection. Each voter shall express his opinion by depositing, in the ballot box, a ticket, whereon shall be written or printed the words "For the new Constitution," or "Against the new Constitution." The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer and Secretary of State, and compare the votes so certified to him. If, by such examination, it be ascertained that a majority of the whole number of votes cast at such election be in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California.

The above amendments passed the Senate, by the constitutional majority, March 20, 1855, and the Assembly April 12, 1855.

The Legislature of the State of California, at its sixth annual session, convened on the first day of January, A. D. 1855, propose, as an amendment to the present Constitution of this State, the following :

AMENDMENT 1. Section 3 of Article 11 of the Constitution of the State of California is hereby amended so as to read as follows : Section 3. Members of the Legislature and all officers elected or appointed shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: I, ———, do solemnly swear that I will faithfully discharge and perform all the duties incumbent on me as ———, agreeably to the Constitution of the United States and of this State, and that, since the adoption of this amendment to the Constitution, I have not fought a duel with deadly weapons, within this State or out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, or aided, or advised, or assisted any person thus offending, so help me God. And no other oath, declaration or test shall be required as qualification for any office of public trust.

The above amendment passed the Senate, by the constitutional majority, April 24, 1855, and the Assembly April 28, 1855.