

THE  
STATUTES OF CALIFORNIA,

PASSED AT THE

Twelfth Session of the Legislature,

1861:

BEGUN MONDAY THE SEVENTH DAY OF JANUARY, AND ENDED ON MONDAY,  
THE TWENTIETH DAY OF MAY.



SACRAMENTO:  
CHARLES T. BOTTS, STATE PRINTER.  
1861.

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BOUND BY F. FOSTER, SACRAMENTO.



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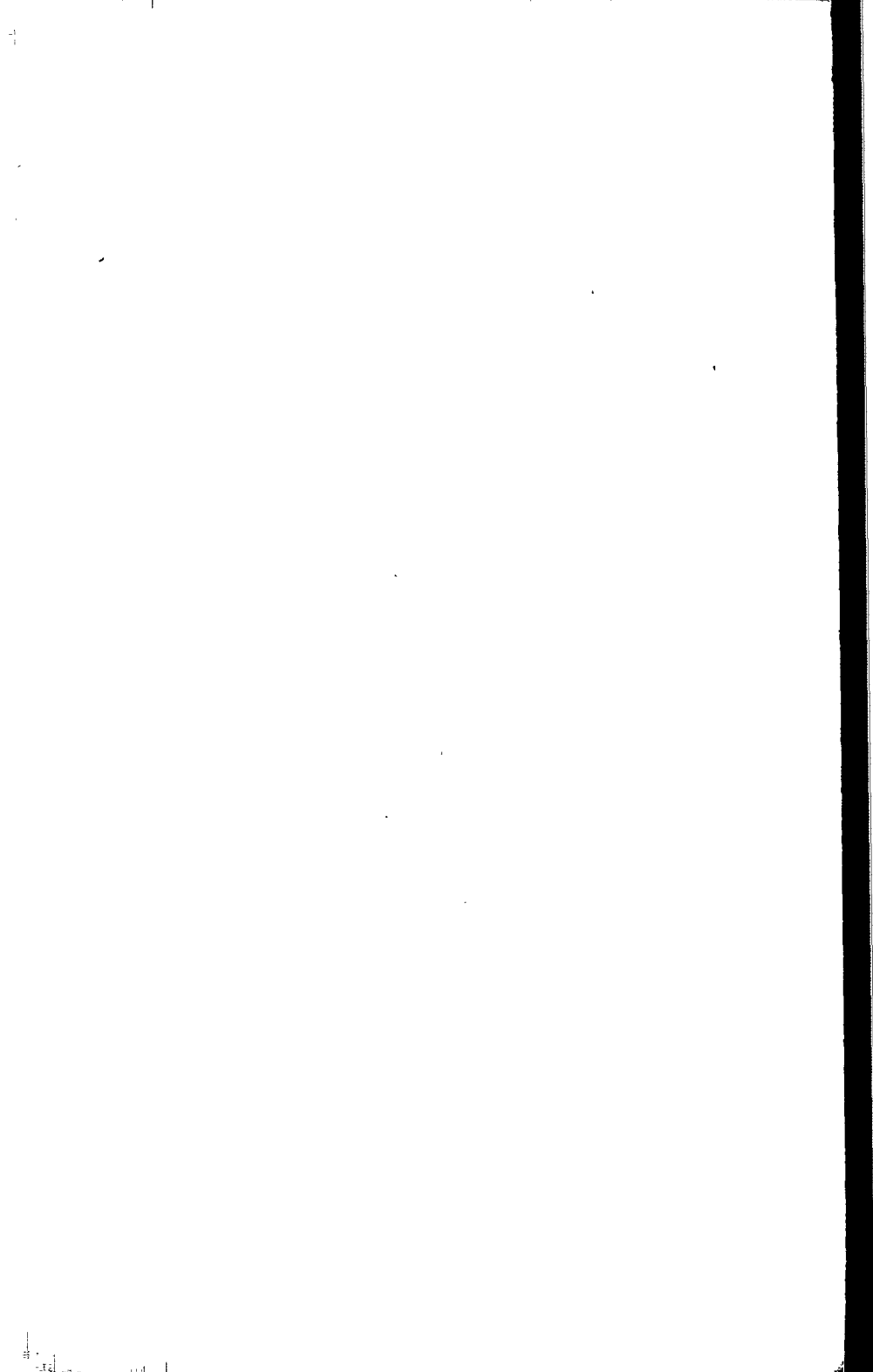
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# LIST OF OFFICERS.

## NAMES AND RESIDENCE

*Of State Officers, Senators, Members of Assembly, and Presiding Officers of both Houses, in Office at the time of the passage of the Laws contained in this Volume.*

NAMES.	OFFICIAL POSITION.	RESIDENCE.
JOHN G. DOWNEY .....	Governor .....	Los Angeles .....
Pablo de la Guerra.....	Lieutenant-Governor .....	Santa Barbara.....
Johnson Price.....	Secretary of State .....	Sacramento.....
Samuel H. Brooks.....	Controller.....	Stockton .....
Thomas Findley.....	State Treasurer.....	Grass Valley.....
Thomas H. Williams.....	Attorney-General.....	Coloma .....
Horace A. Higley.....	Surveyor-General.....	Oakland.....
Charles S. Fairfax.....	Clerk of Supreme Court.....	Sacramento.....
Chas. T. Botts.....	State Printer.....	Sacramento.....
Wm. C. Kibbe.....	Quartermaster and Adjutant-General .....	Sacramento.....
Andrew J. Moulder.....	Superintendent Public Instruction .....	San Francisco.....

## SENATORS.

R. IRWIN.....President *pro tem*.

NAMES.	COUNTIES REPRESENTED.	RESIDENCE.
Burbank, Caleb.....	San Francisco and San Mateo .....	San Francisco .....
Crittenden, R. D.....	El Dorado .....	Diamond Springs .....
Chase, S. H.....	Nevada .....	Nevada.....
Clark, R. C.....	Sacramento .....	Sacramento City.....
Denver, A. St. C.....	El Dorado .....	Coloma .....
Dickinson, W. B.....	El Dorado .....	Spanish Flat.....
De Long, Chas. E.....	Yuba .....	Marysville.....
Eagan, John A.....	Amador .....	Ione City.....
Edgerton, Henry.....	Napa.....	Napa City .....
Franklin, J. J.....	Tuolumne .....	Sonora .....
Gallagher, P. A.....	Calaveras .....	Campo Seco .....
Haynes, John P.....	Klamath, Siskiyou, and Del Norte.....	Crescent City.....
Harvey, O.....	El Dorado .....	Placerville.....
Heacock, E. H.....	Sacramento .....	Sacramento City.....

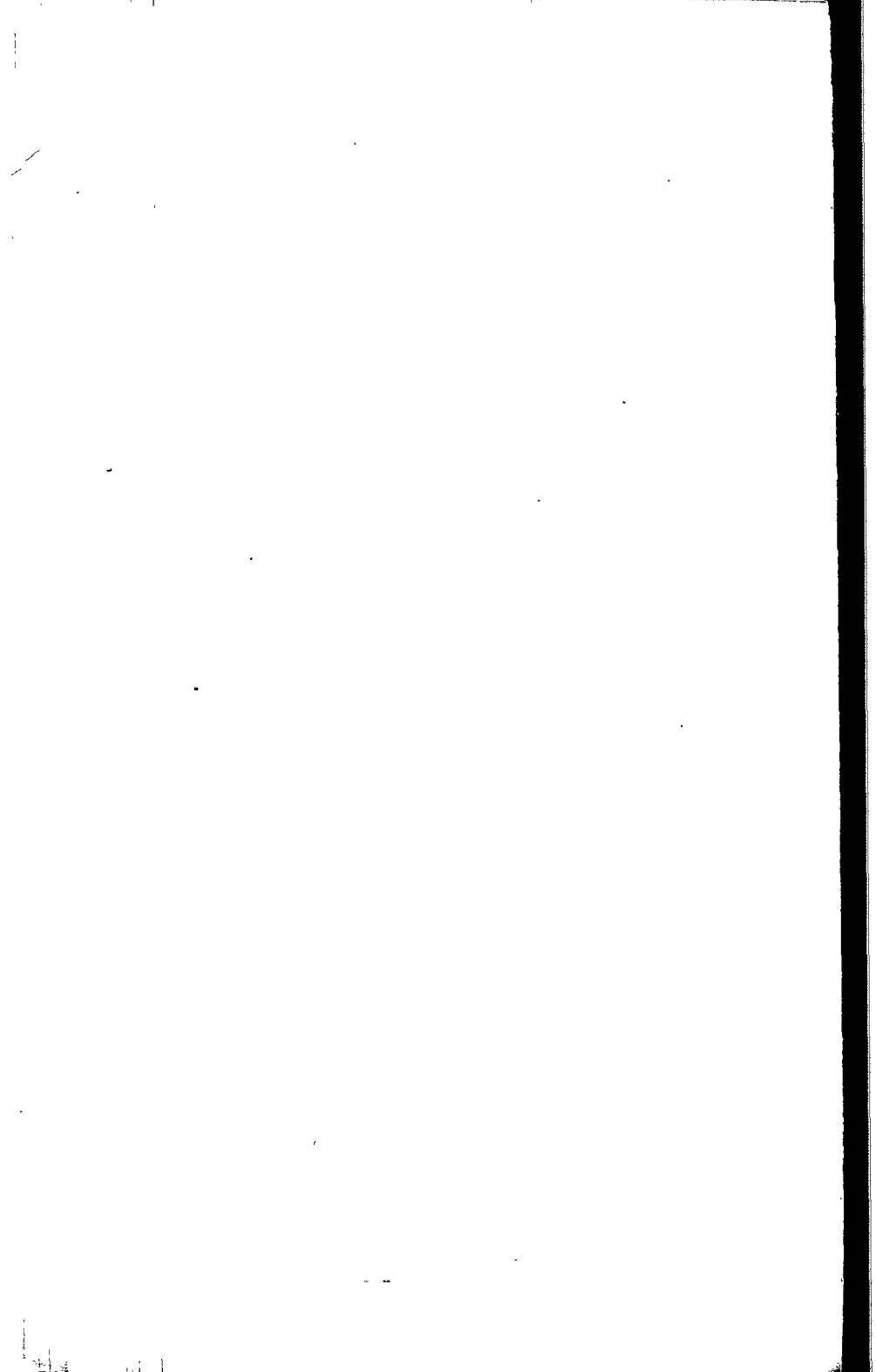
NAMES.	COUNTIES REPRESENTED.	RESIDENCE.
Hill, John H.	Sonoma, Marin, and Mendocino	Sonoma Valley
Leet, S. T.	Placer	Michigan Bluff
Logan, J.	Shasta, Tehama, and Colusa	Red Bluff
Merritt, Samuel A.	Mariposa, Merced, Tulare, and Fresno	Mariposa
Phelps, T. G.	San Mateo and San Francisco	San Mateo
Parks, W. H.	Sutter and Yuba	Sutter
Pico, Andres	Los Angeles	Los Angeles
Ryan, James T.	Humboldt and Trinity	Eureka
Rhodes, A. L.	Alameda and Santa Clara	San José
Shafter, Jas. McM.	San Francisco and San Mateo	San Francisco
Sharp, Sol. A.	San Francisco and San Mateo	San Francisco
Thomas, Phillip W.	Placer	Auburn
Thornton, Jr. Harry I.	Sierra	Downieville
Vance, James M.	Butte and Plumas	Thompson's Flat
Watkins, H. P.	Yuba	Marysville
Watson, John H.	Santa Cruz and Monterey	Watsonville
Watt, William	Nevada	Grass Valley
Warmcastle, F. M.	Contra Costa and San Joaquin	Pacheco
Williamson, C. V.	Tuolumne	Big Oak Flat

## REPRESENTATIVES.

R. BURNELL.....Speaker.

Avery, J. M.	Nevada	Red Dog
Adams, Amos	Sacramento	Franklin
Amyx, Fleming	Tuolumne	Big Oak Flat
Bueil, W. M.	Klamath	Forks of Salmon
Baechtel, Martin	Mendocino	Little Lake Valley
Blair, A. W.	Monterey	San Juan
Banks, J. A.	San Francisco	San Francisco
Bradley, L. E.	San Joaquin	Stockton
Briggs, H. W.	Santa Clara	San José
Childs, William	Calaveras	Murphy's
Conness, John	El Dorado	Georgetown
Coleman, William	El Dorado	Diamond Springs
Coltrin, C. W.	El Dorado	Kelsey
Councilman, E. W.	Nevada	Woolsey's Flat
Curtis, N. Greene	Sacramento	Sacramento
Crocker, Charles	Sacramento	Sacramento
Cherry, John W.	San Francisco	San Francisco
Clark, Robert	San Francisco	San Francisco
Campbell, Alexander	San Francisco	San Francisco
Covarrubias, J. M.	Santa Barbara	Santa Barbara
Chandler, T. J.	Tuolumne	Jacksonville
Durst, D. P.	Colusa	Colusa
Denniston, Jas. G.	San Mateo	Half Moon Bay
Dougherty, John	Sierra	Howlen Flat
Eastman, J. C.	Nevada	Moore's Flat
Flanders, Alvan	San Francisco	San Francisco
Fargo, Frank F.	Alameda	Oakland
Ford, Charles	Santa Cruz	Watsonville
Foster, Theron	El Dorado	Duroc
Gregory A. J.	Mariposa	Mariposa City
Gordon, Upton M.	Marin	San Rafael
Gillette, M. G.	Tuolumne	Columbia
Green, J. J.	El Dorado	Coloma
Horrell, T. M.	Amador	Volcano
Harris, F. H.	Butte	Oroville
Henderson, Robert	El Dorado	Fair Play
Hill, Samuel	El Dorado	Mud Springs
Hunter, Alex.	El Dorado	Placerville
Hagans, W. B.	Humboldt	Bucksport
Harrison, W. J.	Placer	Last Chance
Harriman, W. D.	Placer	Dutch Flat
Holman, D. B.	Solano	Rockville
Hanson, J. H.	Yuba	Hansonville
Haun, D. L.	Yuba	Honcut
Johnson, Charles H.	San Luis Obispo	San Luis Obispo

NAMES.	COUNTIES REPRESENTED.	RESIDENCE.
Kungle Charles H.	Yuba	Strawberry Valley
Kurtz, D. B.	San Diego	San Diego
Lippincott, Benj. S.	Calaveras	Mokelumne Hill
Laspeyre, Thos.	San Joaquin	Stockton
Lalor, E.	Yuba	Timbuctoo
Morrison, Murray	Los Angeles	Los Angeles
Miller, N. C.	Nevada	North San Juan
Munday, P.	Placer	Iowa Hill
Morgan, J. H.	Santa Clara	Santa Clara
Magruder, Lloyd	Yuba	Marysville
Montgomery, Zach	Sutter	Yuba City
O'Brien, Thomas	Calaveras	Angels
Porter, C. B.	Contra Costa	Alamo
Powell, Joseph	Sacramento	Sacramento City
Piercy, Charles W.	San Bernardino	San Geronio Pass
Patrick, G. Washington	Tuolumne	Sonora
Ross, William	Sonoma	Santa Rosa
Smith, O. K.	Tulare	Visalia
Stearns, Abel	Los Angeles	Los Angeles
Showalter, Dan	Mariposa and Merced	Horse Shoe Bend
Scott, J. B.	Napa	Napa City
Spence, E. F.	Nevada	Nevada
Smith, L. G.	Placer	Secret Ravine
Sorrell, F.	Siskiyou	Yreka
Tilton, S. S.	San Francisco	San Francisco
Tilden, W. P.	Butte	Chico
Tittel, F. G. E.	San Francisco	San Francisco
Wood, A.	Plumas	Humburg
White, John	Shasta	Red Bluff
Walden, Miner	Stanislaus	La Grange
Walter, F.	Trinity	Weaverville
Wood, W. C.	Yolo	Sink of Putah
Wright, Thomas	Sierra	Forest City
Willey, O. F.	San Francisco	San Francisco



## COMMISSIONERS OF DEEDS,

WITH NAME, RESIDENCE, DATE OF APPOINTMENT, AND DATE OF FILING  
OATH OF OFFICE.

### ALABAMA.

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
November 2.....1858	Douglass, Sid. T.....	Mobile .....	March 24.....1859

### CONNECTICUT.

October 18.....1859	Hammersly, Wm .....	Hartford .....	December 15.....1859
September 1.....1859	Sheldon, Joseph.....	New Haven .....	December 15.....1859
October 13.....1859	Whitery, Chas.....	Hartford .....	December 15.....1859
August 6.....1860	Bishop, A. L .....	New Haven .....	September 4.....1860
May 30.....1860	Goodman, Edward.....	Hartford .....	September 1.....1860
April 8.....1861	Palmer, Franklin A.....	Stonington .....	.....

### FLORIDA.

October 18.....1859	Hart, Oscar.....	Jacksonville.....	.....
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### GEORGIA.

May 12.....1859	Montgomery, W. W .....	Augusta.....	July 30.....1859
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### INDIANA.

July 17.....1857	Willey, Wm. S.....	Indianapolis.....	November 25.....1857
July 11.....1859	Severance, Wm. N.....	South Bend .....	.....

### ILLINOIS.

July 21... ..1858	Hayne, Phil. A .....	Chicago .....	October 21.....1858
September 18.....1858	Forman, Gerhard.....	Chicago .....	December 16.....1858
January 17.....1859	Smith, Samuel C.....	Chicago .....	.....
July 5.....1859	Scott, Ira.....	Chicago .....	November 1.....1859

### KENTUCKY.

January 17.....1860	Kinthead, Joseph B .....	Louisville .....	.....
May 16.....1860	Thompson, C. L.....	Louisville .....	June 16.....1860

LOUISIANA.

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
July 1.....1858	Claiswell, Charles De	New Orleans	February 1.....1859
November 10.....1858	Mitchell, D. T.	New Orleans	April 18.....1859
March 13.....1859	Margarcrau, Adolph	New Orleans	
December 31.....1857	Shannon, Wm.	New Orleans	April 1.....1858
July 27.....1858	Stansbury, Wm. S.	New Orleans	February 3.....1859
December 2.....1857	Peters, Walter H.	New Orleans	April 14.....1858
July 20.....1859	Ogden, Henry D.	New Orleans	
October 23.....1857	Grayham, James	New Orleans	April 1.....1858
February 13.....1860	Stringer, Charles	New Orleans	

MAINE.

February 2 .....1858	Child, Jas. L.	Augusta.	April 1 .....1858
May 29.....1858	Nicholas, Asaph R.	Augusta.	August 23 .....1858

MARYLAND.

April 1.....1859	Burgess, H. H.	Baltimore	
July 17.....1857	Dalrymple, William.	Baltimore	August 16.....1858
March 25.....1858	Whelan, Thos. J.	Baltimore	July 15.....1859
April 19.....1859	Kenly, John R.	Baltimore	July 2.....1859
May 10.....1860	Sprague, E. R.	Baltimore	June 13.....1860
November 29.....1859	Bedford, J. R. D.	Towsontown	
May 4.....1861	Latimer, James B.	Baltimore	

MASSACHUSETTS.

October 23.....1857	Angel, Geo. T.	Boston	December 30.....1858
March 9.....1859	Burbank, Robert J.	Boston	July 19.....1859
October 1.....1858	Gardner, Edward M.	Nantucket.	February 14.....1859
August 1.....1859	Allen, E. F.	New Bedford.	September 30.....1859
May 18.....1859	Currier, Benj. H.	Boston.	July 18.....1859
October 28.....1859	Cook, John.	Newburyport.	June 18.....1859
November 7.....1859	Chamberlain, A. W.	Boston.	
October 5.....1859	Randall, O. G.	Worcester.	
December 28.....1859	Whitman, W. D. A.	Boston.	March 10.....1860
July 13.....1860	Billings, O. P. C.	Boston.	November 22.....1860
March 21.....1860	Suter, Hales W.	Boston.	April 30.....1860
April 8.....1861	Adams, Charles B. F.	Boston.	
July 16.....1860	Curtis, Sam'l S.	Boston.	August 14.....1860
January 22.....1861	Fiske, John M.	Boston.	February 26.....1861
August 1.....1860	Hale, George S.	Boston.	September 21.....1860
February 23.....1861	Johnson, Charles G.	Boston.	April 17.....1861
October 1.....1860	Osgood, J. B. F.	Salem.	November 19.....1860
November 13.....1860	Randall, Otis Grey.	Boston.	December 18.....1860
April 8.....1861	Todd, Paul P.	Boston.	May 6.....1861

MICHIGAN.

August 16.....1858	Stockton, T. B. W.	Flint.....	December 3.....1858
September 19.....1859	Waterman, Wm. J.	Detroit.....	December 1.....1859
April 29.....1861	Booker, F. A.	Kalamazoo.....	

MISSISSIPPI.

September 24.....1857	Brown, W. H.	Jackson.....	January 24.....1858
February 7.....1860	Turner, Jas. H.	Columbus.....	April 25.....1860

MISSOURI.

Sept. 29.....1857	Tillson, Charles H.	St. Louis.....	Dec. 30.....1857
April 14.....1858	Teegarden, Thomas H.	St. Louis.....	Aug. 16.....1858
May 13.....1859	Hali, James.	Kansas City.....	Oct. 28.....1859
Oct. 18.....1859	Harper, Joel G.	St. Louis.....	December 10.....1859
Dec. 8.....1859	Reilly, John.	St. Louis.....	Jan. 14.....1860
Feb. 13.....1860	Rawie, S. P.	St. Louis.....	March 15.....1860
Dec. 13.....1860	Mantz, Chas. E.	St. Louis.....	

NEW HAMPSHIRE.

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
April 8.....1861	Brewster, George Gaines...	Portsmouth.....	
September 12.....1860	Cogswell, Francis.....	Woscowen.....	

NEW JERSEY.

Aug. 29.....1860	Andruss, Isaac M.....	Newark.....	
July 13.....1860	Brush, John.....	Patterson.....	Aug. 17.....1860

NEW YORK.

February 2.....1858	Busteed, N. William.....	City of New York.....	April 30.....1858
May 21.....1858	Baldwin, A. Dewit.....	City of New York.....	August 6.....1858
June 17.....1858	Rushnell, Chas. J.....	City of New York.....	September 17.....1858
October 6.....1858	Burney, Wm.....	City of New York.....	January 27.....1859
February 21.....1859	Berry, John.....	Upper Sandusky.....	June 3.....1859
March 18.....1859	Banks, Henry C.....	City of New York.....	June 3.....1859
June 25.....1857	Cook, Josiah.....	Buffalo.....	August 25.....1857
June 25.....1857	Connell, E. W.....	City of New York.....	June 16.....1858
June 27.....1858	Cooly, Randolph M.....	City of New York.....	December 16.....1858
March 18.....1859	Callan, John F. Jr.....	City of New York.....	
March 31.....1859	Cook, W. A.....	City of New York.....	June 3.....1859
August 3.....1858	Dugan, A. J. H.....	City of New York.....	March 18.....1859
February 22.....1858	Gibbs, Geo. O.....	City of New York.....	May 17.....1858
July 9.....1858	Hurd, John C.....	City of New York.....	October 1.....1858
September 1.....1858	Hurst, Lewis.....	Brooklyn.....	November 2.....1858
March 23.....1859	Houghton, Frederick E.....	City of New York.....	June 3.....1859
March 24.....1859	Harnotte, Jas. C.....	City of New York.....	June 3.....1859
March 26.....1859	Hitchcock, A. H.....	City of New York.....	June 3.....1859
September 8.....1857	Lay, Sylvester.....	City of New York.....	December 1.....1857
December 23.....1858	Lee, Frederick R.....	City of New York.....	August 31.....1858
January 24.....1858	Lee, Cyrus P.....	Buffalo.....	
July 2.....1857	Morrison, Charles T.....	City of New York.....	September 20.....1857
February 14.....1859	Nettleton, Charles.....	City of New York.....	April 18.....1859
June 18.....1857	Ostrander, Alexander.....	City of New York.....	June 16.....1858
June 5.....1858	Platt, Zepaniah.....	City of New York.....	November 16.....1858
July 21.....1858	Peck, W. W.....	City of New York.....	April 19.....1859
August 30.....1858	Phillips, Alfred A.....	City of New York.....	November 2.....1858
December 18.....1857	Rankin, Benjamin.....	City of New York.....	February 27.....1858
May 10.....1858	Rice, Clinton.....	City of New York.....	March 17.....1859
November 18.....1857	Stevenson, W. W.....	City of New York.....	February 16.....1858
September 1.....1858	Seixas, Daniel.....	City of New York.....	November 2.....1858
April 4.....1859	Smith, Thomas E.....	City of New York.....	September 16.....1859
March 15.....1858	Thompson, Charles H.....	Brooklyn.....	May 15.....1858
July 1.....1858	Taylor, Nelson.....	City of New York.....	August 31.....1858
June 7.....1858	Vernon, Thomas.....	City of New York.....	October 1.....1858
March 15.....1858	Wentworth, Delos.....	Rochester.....	May 31.....1858
July 17.....1858	Williams, J. B.....	City of New York.....	August 31.....1858
July 16.....1858	Ward, Wm. R. L.....	City of New York.....	October 18.....1858
April 19.....1859	Brown, Wm. H.....	City of New York.....	May 28.....1859
April 19.....1859	Waddell, Wm. Coventry H.....	City of New York.....	December 1.....1859
May 8.....1860	Anderson, John L.....	City of New York.....	July 5.....1860
April 19.....1859	Brown, W. H.....	City of New York.....	May 26.....1859
June 14.....1859	Bissell, Edward.....	City of New York.....	August 16.....1859
July 25.....1859	Brown, Morris S.....	City of New York.....	September 30.....1859
December 1.....1859	Bissell, John.....	City of New York.....	December 29.....1859
December 15.....1859	Bagg, J. L.....	Syracuse.....	January 30.....1860
December 15.....1859	Brewster, H. A.....	City of New York.....	
October 19.....1859	Carrinton, J. W.....	City of New York.....	November 11.....1859
April 14.....1860	Cushman, A. F.....	City of New York.....	October 1.....1860
August 29.....1859	Devlin, John E.....	City of New York.....	March 13.....1860
February 15.....1860	Fish, Jesse T.....	City of New York.....	March 15.....1860
January 14.....1860	Gibbs, James S.....	Buffalo.....	March 16.....1860
November 7.....1859	Hilton, Robert S.....	Albany.....	January 9.....1860
December 10.....1859	Hale, James W.....	City of New York.....	
February 15.....1860	Hall, F. A.....	City of New York.....	March 21.....1860
January 16.....1860	Livingston, John.....	City of New York.....	February 16.....1860
April 5.....1860	Maclay, Moses B.....	City of New York.....	May 31.....1860
January 16.....1860	Nones, Joseph B.....	City of New York.....	February 13.....1860

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
April 3	1860 Priest, Albert	City of New York	
April 17	1860 Pratt, Jabez D.	City of New York	May 16
July 5	1859 Rutherford, Allen	City of New York	August 30
April 19	1859 Waddell, W. C. II	City of New York	December 1
February 8	1860 Wadsworth, George	Buffalo	March 20
May 8	1860 Anderson, John L.	New York City	July 5
May 31	1860 Bowman, Francis C.	New York City	July 14
November 8	1860 Bailey, Thurbur	New York City	December 19
February 19	1861 Bostwick, Henry H.	Auburn	March 27
March 15	1861 Bartol, Samuel F.	New York City	
December 31	1860 Beno, Cole H.	New York City	
April 8	1861 De Witt, Henry R.	New York City	
April 11	1861 Davis, George L.	Elmira	
February 6	1861 Hacker, J. K.	New York City	March 7
March 27	1861 Hill, James H.	New York City	
May 30	1860 McMillan, Robert H.	New York City	June 29
October 17	1860 Merrill, Edward B.	New York City	November 15
April 4	1861 McMahon, Jas P.	New York City	
August 23	1860 Northrup, Calvin M.	New York City	October 17
April 5	1861 Noyes, George F.	New York City	
February 20	1861 O'Reilly, John Brooks.	Rochester	
August 1	1860 Parmelee, Irving	New York City	
October 20	1860 Pratt, Henry C.	New York City	December 11
April 8	1861 Pond, Daniel B.	New York City	
April 29	1861 Pomeroy, Julius R.	Brooklyn	
March 27	1861 Selding, Edward F. De.	New York City	
April 4	1861 Sinclair, Wm. J.	New York City	May 7
January 26	1861 Thornell, Thomas L.	New York City	March 9
May 22	1861 Wilcox, Franklin A.	New York City	

## OHIO.

March 10	1858 Carpenter, Samuel S.	Cincinnati	May 17
September 25	1857 Davenport, W. H.	Cincinnati	August 31
August 18	1858 Mauldin, James	Columbus	November 2
November 10	1858 McGuffey, Alex H.	Cincinnati	October 18
November 18	1857 Perry, H. G.	Cleveland	January 14
March 5	1860 Goddard, Charles	Zanesville	April 17
January 16	1860 Hannum, S. B.	Columbus	February 22
December 15	1859 Pratt, John H.	Cincinnati	January 20
October 6	1860 Brownner, G. P.	Fremont	October 8

## PENNSYLVANIA.

April 14	1858 Burton, A. M.	Philadelphia	November 2
May 25	1858 Badger, Edmund R.	Philadelphia	November 2
October 25	1858 Birney, David B.	Philadelphia	December 30
March 9	1859 Blood, Benj. F.	Philadelphia	July 18
December 31	1858 Barney, Benj. B.	Philadelphia	March 2
December 3	1858 Frick, John H.	Philadelphia	February 1
August 3	1858 Jenkins, George, Jr.	Philadelphia	October 1
July 17	1857 Taylor, Samuel C.	Philadelphia	October 5
September 24	1857 Terrell, Hugh W.	Philadelphia	December 17
March 15	1858 Wistra, Isaac	Philadelphia	May 17
July 1	1858 Wollenweber, L. A.	Philadelphia	October 18
February 18	1860 Dunn, Wm. T.	Pittsburgh	
July 25	1859 Harper, Samuel	Pittsburgh	December 15
December 16	1859 McCrea, Henry	Philadelphia	
May 19	1860 Eldridge, G. M.	Philadelphia	
December 18	1860 Jermon, Wagner J.	Philadelphia	
April 8	1861 Linn, John B.	Lewisburg	
February 15	1861 Oster, Herman, Jr.	Philadelphia	January 16
September 12	1860 Rand, Theodor D.	Philadelphia	October 16
December 15	1860 Sperry, Joshua	Philadelphia	February 5

## RHODE ISLAND.

November 2	1858 Hays, Wingate	Providence	
March 27	1858 Martin, Henry	Providence	June 24
March 30	1860 Hollaway, D. W.	Newport	May 8



SOUTH CAROLINA.

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
March 24.....1858	Hall, Samuel J.....	Charleston.....	May 31.....1858
July 31.....1860	Vincent, Hugh E.....	Charleston.....	

TENNESSEE.

March 8.....1859	Harrison, J. H.....	Memphis.....	May 7.....1859
March 7.....1859	Temple, James E.....	Memphis.....	October 25.....1859
June 22.....1859	Boyers, Thomas.....	Gallatin.....	
January 31.....1861	Bostick, Harden P.....	Nashville.....	
April 15.....1861	Bostwick, J. L.....	Nashville.....	
January 24.....1861	Raworth, E. A.....	Nashville.....	
January 23.....1861	White, John M.....	Lebanon.....	March 1.....1861

TEXAS.

April 5.....1860	Johnson, Robert D.....	Galveston.....	
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VIRGINIA.

October 6.....1858	Lee, James R.....	Richmond.....	December 30.....1858
May 22.....1860	Suigon, Alex. B.....	Richmond.....	June 20.....1860

WISCONSIN.

July 12.....1858	Gardner, Henry C.....	Milwaukee.....	March 12.....1859
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DISTRICT OF COLUMBIA.

July 2.....1857	Thaw, John.....	Washington.....	December 1.....1857
March 2.....1858	Selding, Chas. D.....	Washington.....	December 30.....1858
January 9.....1859	Browne, E. F.....	Washington.....	August 16.....1859
March 7.....1860	Brandenburg, L. G.....	Washington.....	
October 4.....1849	Callan, N.....	Washington.....	December 10.....1859
December 15.....1859	Hyde, Anthony.....	Georgetown.....	December 15.....1859
May 18.....1859	Williams, Wm. P.....	Washington.....	
November 8.....1860	Spalding, H. C.....	Washington.....	December 13.....1860

ARIZONA TERRITORY.

March 21.....1861	McCloskey, Calvin.....		
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KANSAS TERRITORY.

February 12.....1861	Steck, Amos.....	Denver City.....	
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NEVADA TERRITORY.

April 5.....1861	Battaile, T. G.....	Virginia City.....	April 12.....1861
May 4.....1861	Breckett, Geo. E.....	Virginia City.....	
May 4.....1861	Billet, R. W.....		
May 7.....1861	Fell, Wm.....	Virginia City.....	May 13.....1861
March 30.....1860	Grier, John W.....	Silver City.....	April 6.....1861
March 30.....1861	Hanna, Thomas.....	Gold Hill.....	April 18.....1861
April 4.....1861	King, Samuel D.....	Carson City.....	June 1.....1861
May 4.....1861	Mills, S. Beldin.....		
May 4.....1861	Van Winkle, P. W.....	Carson City.....	
March 16.....1861	Waterman T. A.....	Virginia City.....	
May 29.....1861	Whitney, Wm. J.....		May 28.....1861

TERRITORY OF NEW MEXICO.

March 27.....1861	Cooper, J. C.....		
March 12.....1861	Squire, H. N.....		

## UTAH TERRITORY.

Date of Appointment.	Name.	Residence.	Date of Filing Oath of Office.
September 10... 1858	Allen, Richard N.....	Genoa.....	September 17... 1858
April 7..... 1860	Bolton, C. C.....	Salt Lake City.....	.....
April 12..... 1860	Boyd, Alexander.....	.....	.....
March 30..... 1860	Campbell, W. C.....	Virginia City.....	May 7..... 1860
March 30..... 1860	Hall, G. D.....	Carson City.....	April 12..... 1860
April 4..... 1860	Hermann, Lucien.....	Virginia City.....	April 30..... 1860
April 19..... 1860	Jones, Herbert C.....	.....	April 26..... 1860
February 22..... 1860	King, Sam'l D.....	Carson City.....	August 31..... 1860
March 30..... 1859	Mason, W. F.....	Carson City.....	April 25..... 1860
March 22..... 1860	Sanders, E. J.....	.....	.....
October 25..... 1860	Atwell, Joseph F.....	Virginia City.....	November 1..... 1860
December 13..... 1860	Brickett, George E.....	Virginia City.....	December 17..... 1860
December 24..... 1860	Billet, R. W.....	Virginia City.....	December 31..... 1860
February 26..... 1861	Fail, W. H. H.....	Aurora.....	March 15..... 1861
November 13..... 1860	Mills, S. Belden.....	Carson City.....	.....
January 3..... 1861	Mahew, John S.....	Esmeralda.....	.....
May 5..... 1861	Pierson, O. H.....	Carson City.....	March 14..... 1861
May 21..... 1860	Rising, D. B.....	Virginia City.....	.....
February 18..... 1861	Schoemaker, Frank.....	Aurora.....	.....
December 24..... 1860	Van Winkle, P. W.....	Carson City.....	January 1..... 1861
October 22..... 1860	Waterman, Thos. A.....	Virginia City.....	.....

## WASHINGTON TERRITORY.

October 4..... 1858	Dennison, B. F.....	Whatecom.....	November 23..... 1857
July 14..... 1858	Wadsworth, J. C. L.....	Whatecom.....	September 7..... 1858
March 15..... 1859	Waterman, O. C.....	Walla Walla.....	March 17..... 1859

## VANCOUVER ISLAND.

September 10..... 1858	Crosby, E. O.....	Victoria.....	October 18..... 1859
August 5..... 1858	Wallace, George.....	Victoria.....	November 12..... 1858
April 17..... 1860	Pearkes, George.....	Victoria.....	May 30..... 1860

## REPUBLIC OF CHILE.

February 24..... 1855	Hobson, W. L.....	Valparaiso.....	.....
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## REPUBLIC OF MEXICO.

January 26..... 1860	Boggs, John M.....	Guaymas.....	.....
March 16..... 1861	Cameron, Daniel E.....	Guaymas.....	.....
January 17..... 1861	Jenks, John L.....	Guaymas.....	January 25..... 1861
January 23..... 1861	Kelly, John.....	Mazatlan.....	.....

## SANDWICH ISLANDS.

August 14..... 1860	Paty, John.....	Honolulu.....	October 30..... 1860
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# STATUTES OF CALIFORNIA,

PASSED AT THE

TWELFTH SESSION OF THE LEGISLATURE.

CHAPTER I.—*An Act to extend the Time for collecting Taxes in the Counties of Napa, Sutter, Tulare, and Contra Costa.*

[Approved January 18, 1861.]

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

SECTION 1. The Sheriffs of the counties of Napa, Sutter, Tulare, and Contra Costa, are hereby authorized and empowered to continue the collection of State and county taxes due therein, until Wednesday the first day of April next; and also to extend the time for making the sale of property attached for delinquent taxes; and, for such purposes, they shall have all the powers given to Sheriffs by the Act to provide Revenue for the support of the Government of this State, and in said collection they shall be governed in all respects by said act; and they shall not be required to make their final settlement, or to return their delinquent lists, until the first day of April next; *provided*, they shall make settlement, in accordance with the provisions of said act, of all taxes collected before proceeding under this act.

Time extended.

Limit.

SEC. 2. This act shall expire on the fifteenth day of April next; and, during its continuance, all provisions of laws in conflict or inconsistent with this act are hereby suspended.

Expiration of act.

SEC. 3. Before the extension herein given or granted shall take effect, the said Sheriffs shall file with the Clerk of the Board of Supervisors of each of said counties a new bond, conditioned in the sum of ten thousand dollars, for the faithful discharge of the duties imposed upon them by this act.

To file new bond.

CHAP. II.—*An Act to extend the Time for collecting Taxes in the County of San Luis Obispo.*

[Approved January 25, 1861.]

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

Time  
extended.

SECTION 1. The Sheriff of the county of San Luis Obispo is hereby authorized and empowered to continue the collection of State and county taxes due in said county, on the assessment roll of eighteen hundred and sixty, until the first Monday in May next; and, for such purpose, he shall have all the powers given to Sheriffs by the Act to provide Revenue for the support of the General Government of this State; and in said collection he shall be governed in all respects by said act, and he shall not be required to make his final settlement, or to return his delinquent list until the first Monday in May next; *provided*, he shall make settlement, in accordance with the provisions of said act, of all taxes collected before proceeding under this act.

Expiration  
of act.

SEC. 2. This act shall expire on the thirteenth day of May next, and during its continuance all provisions of laws in conflict or inconsistent herewith, are hereby suspended.

CHAP. III.—*An Act authorizing the Treasurer of the County of Fresno to Transfer certain Funds.*

[Approved January 25, 1861.]

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

Transfer  
of funds.

SECTION 1. The Treasurer of the county of Fresno is hereby directed, authorized, and required, to transfer any and all funds, now in the Building Fund of said county, to the General Fund of said county of Fresno.

Disposition  
of funds  
transferred.

SEC. 2. The funds so transferred, as authorized by section one of this act, shall be paid out of the General Fund, in redemption of county warrants, drawn on the General Fund of Fresno County, according to the date of presentation and registry of said warrants.

To take  
effect.

SEC. 3. This act to take effect from and after its passage.

CHAP. IV.—*An Act to authorize The Masonic Hall Association of the City of San Francisco to Sell, Mortgage, and Convey, certain Real Estate.*

[Approved January 25, 1861.]

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

WHEREAS, In the year one thousand eight hundred and fifty-nine, an association was formed in the city and county of San Francisco, for the purpose of purchasing a suitable lot of ground in said city and county, and erecting thereon a building, to be known as "The Masonic Temple," to be rented for Masonic and other purposes, or be otherwise disposed of as might be directed by the stockholders; and, *whereas*, on the nineteenth day of September, in said year, the said association filed in the office of the County Clerk of the said city and county of San Francisco, a certificate of incorporation for the purposes aforesaid; and, *whereas*, afterward, on the nineteenth day of November, in said year, James Lick sold and conveyed to the said, The Masonic Hall Association of the city of San Francisco, a lot of ground, situate in the city and county of San Francisco, which lot is a portion of the original fifty vara lots numbered five hundred and seventy-four and five hundred and seventy-five on the official map or plan of said city, and is bounded and described as follows, viz: Commencing at the intersection of the western line of Montgomery Street with the northern line of Post Street, and running thence along the said northern line of Post Street, westerly, one hundred and sixty (160) feet to a new street, to be opened by James Lick, from Post to Sutter streets; thence, along the eastern line of said new street, northerly, and parallel with Montgomery Street, seventy-five (75) feet; thence, at a right angle, on a line parallel with Post Street, easterly, one hundred and sixty (160) feet, to the western line of Montgomery Street; and thence, along said last named line, southerly, seventy-five (75) feet, to the place of beginning; and, *whereas*, it has since been discovered that the existing laws did not authorize the incorporation of such association; and, *whereas*, it has become necessary to raise money on mortgage of said lot of ground, to complete the building heretofore begun to be erected thereon; and, *whereas*, the shareholders in such association are very numerous, and, by reason of the death and absence of many of them, it is impossible to procure the signatures of all to any mortgage or conveyance which may be necessary to be made of the said lot of ground, therefore—

Preamble  
and description  
of  
property.

SECTION 1. Alexander G. Abell, Adolphus Hollub, and William Melvin Smith, are hereby authorized and empowered to execute in the name of, and for and in behalf of, the said The Masonic Hall Association of the city of San Francisco, and for and in behalf of the shareholders in said association, a mortgage upon the above described lot of land and the building now being erected thereon, and also to execute any evidences of indebtedness upon which such mortgage may be based, for such sum of money

To execute  
a mortgage.

as may be necessary for the purpose of completing said building ; such mortgage to be made only after a meeting of the shareholders in such association shall have been called by a notice to such shareholders by advertisement of at least two weeks, in every issue, in one or more of the daily newspapers published in the city and county of San Francisco, setting forth the time, place, and object, of the meeting, and after the majority, in value, of such shareholders at such meeting shall have authorized the said mortgage to be made.

Publication  
required.

Authority  
to convey.

SEC. 2. The said Alexander G. Abell, Adolphus Hollub, and William Melvin Smith, are hereby authorized and empowered to convey the fee simple of said lot of ground to such Trustees of said association as may be chosen by the majority, in value, of the shareholders of said association, at a meeting to be called in the manner prescribed in the first section of this act.

Validity of  
conveyance.

SEC. 3. Any mortgage or deed of conveyance, made and executed in pursuance of this act, shall have the like force and effect as if made and executed by all the shareholders in said association.

To take  
effect.

SEC. 4. This act shall take effect from and after its passage.

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#### CHAP. V.—*An Act to Transfer certain Funds.*

[Approved January 26, 1861.]

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

Transfer  
of funds.

SECTION 1. The Controller of State is hereby authorized and required to order the Treasurer of State to transfer one hundred thousand dollars, of the money known as the Swamp Land Fund, into the General Fund.

When to  
be repaid.

SEC. 2. The Controller of State is hereby authorized and required to repay to said Swamp Land Fund, the one hundred thousand dollars, drawn from it by this act, out of the first money received into the General Fund of the State, on or after the second Monday in November, A. D. eighteen hundred and sixty-one.

To take  
effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAP. VI.—*An Act amendatory of an Act, entitled An Act amendatory of, and supplementary to, An Act to Repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April nineteenth, eighteen hundred and fifty-six, approved April eighteenth, eighteen hundred and fifty-seven.*

[Approved January 31, 1861.]

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

SECTION 1. Subdivision eleven of section seven, of said act, is hereby amended, so as to read as follows:

Eleventh. To determine the fines, forfeitures, and penalties, that shall be incurred for the breach of the regulations established by said Board of Supervisors, and also for a violation of the provisions of this act, where no penalty is affixed thereto, or provided by law; but no penalty to be imposed, shall exceed the amount or value of one thousand dollars, or six months' imprisonment, or both; and every violation of any lawful order, or regulation, or ordinance, of the Board of Supervisors, of the city and county of San Francisco, is hereby declared a misdemeanor, or public offense, and all prosecutions for the same, shall be in the name of The People of the State of California.

Fines, penalties, etc.

SEC. 2. This act shall take effect from and after its passage.

To take effect.

CHAP. VII.—*An Act to extend the Time for Collecting Taxes in the County of Colusa.*

[Approved February 5, 1861.]

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

SECTION 1. The Sheriff of the county of Colusa is hereby authorized and empowered to continue the collection of State and county taxes, due therein, until the last Monday in April next; and, for such purposes, he shall have all the powers given to the Sheriff by the Act to provide Revenue for the support of the General Government of this State; and in said collection he shall be governed in all respects by said act; and he shall not be required to make his final settlement, or to return his delinquent tax list until the first Monday in May next; *provided*, he shall make settlement, in accordance with the provisions of said act, of all taxes collected, before proceeding under this act.

Time extended.

Limit.

SEC. 2. Before the extension herein granted shall take effect, the said Sheriff shall file with the Clerk of the Board of Supervisors a new bond, conditioned in the sum of three thousand dollars, for the faithful discharge of the duties imposed upon him by this act.

To file new bond.

SEC. 3. This act shall expire on the seventh day of May next,

Suspension clause. and during its continuance all provisions of law in conflict, or inconsistent, with this act, are hereby suspended.

CHAP. VIII.—*An Act to extend the Time for the Payment of the Principal of the Purchase Money on Lands sold by the State on a Credit.*

[Approved February 5, 1861.]

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

Time of payment extended

SECTION 1. In all cases, where a person has purchased any land under, and in pursuance of, the act entitled An Act to provide for the sale of Swamp and Overflowed Lands belonging to this State, approved April twenty-eighth, eighteen hundred and fifty-five, or the act entitled An Act to provide for the sale and reclamation of the Swamp and Overflowed Lands of this State, approved April twenty-first, eighteen hundred and fifty-eight, or of any act amendatory of said acts, or either of them, and the term of five years has, or may be about to expire, within which the whole of the purchase money is due and payable, if in such case the United States Land officers shall not have made out or filed certified lists, including such land, with the Governor of this State, in accordance with the rules and regulations of the United States Land Office, then the time for the payment of the amount which may remain unpaid, of such purchase money, is hereby extended to the expiration of one year from the time such land shall be duly certified to the State; *provided*, however, that such purchaser, or his assigns and legal representatives, shall yearly pay to the County Treasurer the interest on such purchase, in accordance with the provisions of the act under which such land shall have been entered or purchased, up to the time of the full payment of such purchase money.

Limit.

Payment of interest.

Purchasers may exchange.

SEC. 2. In the event of any lands sold by the State, as swamp lands, proving to be within the boundaries of a grant, or otherwise not belonging to the State, the legal holder of the certificate of purchase, or patent, shall be entitled to require in exchange therefor from the State Register, a certificate of purchase or patent, according to the act under which he holds, for an equal number of acres, in legal subdivision of unentered swamp land as he may have paid dollars to the State thereon, whether as principal or interest; or, if he so elect, he may apply such certificate or patent for a like amount in making payments on other swamp lands already owned by him and not fully paid for.

Repealing clause.

SEC. 3. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

To take effect.

SEC. 4. This act shall take effect and be in force on and after its passage.



CHAP. IX.—*An Act to confirm and legalize the Tax List and Assessment Roll of the County of Solano, for the Fiscal Year ending June thirtieth, eighteen hundred and sixty-one, and to extend the time for the Sheriff of Solano County to collect the Delinquent Taxes due thereon.*

[Approved February 5, 1861.]

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

SECTION 1. The tax list or assessment roll of the county of Solano, as the same was completed by the Assessor of said county, for the fiscal year ending June thirtieth, eighteen hundred and sixty-one, and delivered to the Board of Supervisors of said county, and corrected by the Board of Equalization, and delivered by them to the County Auditor, and the duplicate thereof delivered by him to the Sheriff of Solano County, and also the supplemental assessments made by the Assessor for said year, and delivered to the Sheriff, are hereby confirmed in the hands of the Sheriff of Solano County as a good and valid tax list and assessment roll, and declared, in all respects, good and sufficient in law as the duplicate assessment roll of said county of Solano, for the fiscal year ending June thirtieth, eighteen hundred and sixty-one; and the same is hereby legalized and declared in all respects a full and sufficient warrant in the hands of the Sheriff of Solano County, to authorize and empower him to collect the taxes therein assessed, and the costs accrued thereon.

Tax list  
legalized.

SEC. 2. The acts and proceedings of the Sheriff of Solano County, in collecting the taxes, and in the levy and publication of the delinquent list, are hereby legalized and confirmed, and shall be in no wise impaired or affected by reason of any conflict between the provisions of the several revenue acts of this State; and all subsequent proceedings to the passage of this act shall be taken under the provisions of the act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty.

Acts of  
Sheriff  
legalized.

SEC. 3. The Sheriff of said county of Solano shall be allowed until the first Monday in March, eighteen hundred and sixty-one, to make his final settlement with the Auditor, as provided by section forty-four of the revenue act of eighteen hundred and sixty, above herein referred to, and, until that time, he shall continue to collect all taxes that may be delinquent on the assessment roll aforesaid; and, for that purpose, he shall, until that time, have and exercise all powers given to Sheriffs and Tax Collectors by the provisions of the Act to provide Revenue for the support of the Government of this State, above herein referred to, and shall not be required to make his final settlement, or return his delinquent list, until the said first Monday in March, A. D. eighteen hundred and sixty-one.

Settlement  
and limit  
of time.

Powers of  
Sheriff.

SEC. 4. The Sheriff shall, within ten days after the passage of this act, file with the Clerk of the Board of Supervisors a bond, in the sum of four thousand dollars, conditioned for the faithful discharge of the duties imposed upon him by the provisions of this act.

To file new  
bond.

To take effect.

SEC. 5. This act shall take effect immediately; and all acts and parts of acts inconsistent with the provisions of this act are hereby suspended until the first Monday in March, eighteen hundred and sixty-one, so far only as they conflict with the provisions of this act.

CHAP. X.—*An Act to fix the times of holding the County Court, Probate Court, and Court of Sessions, in and for the County of Alameda.*

[Approved February 5, 1861.]

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

Time of holding courts.

SECTION 1. In the county of Alameda, there shall be held a term of the County Court, Probate Court, and Court of Sessions, on the third Monday of April, A. D. eighteen hundred and sixty-one, and thereafter on the first Monday of July, October, January, and the third Monday of April of each year.

What cases affected.

SEC. 2. All actions, suits, and proceedings, now pending in each of said courts, shall be heard and determined in the same manner, in all respects, (except as to the terms of said courts,) and with the same force and effect, as if such change of the terms of said courts, as in this act provided, had not been made.

To take effect.

SEC. 3. This act shall be in force and take effect from and after its passage.

CHAP. XI.—*An Act to change the Name of Elise Clara Audin, and to regulate the distribution of certain Property.*

[Approved February 6, 1861.]

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

Name changed.

SECTION 1. The name of Elisé Clara Audin, step-daughter of Pierre G. Venard, of the county of San Francisco, is hereby changed to Elisé Clara Venard.

To inherit.

SEC. 2. It shall be lawful for the said Elisé Clara, to inherit from and share in, and she shall inherit from and share in the estate of the said Pierré G. Venard, as his own child; *provided*, the said Pierre G. Venard shall first execute and acknowledge, before some officer now authorized by law to take the acknowledgment of deeds and conveyances, and, in like manner, as deeds and conveyances are required to be acknowledged, a declaration in writing, that he freely and voluntarily consents and desires that the said Elisé Clara shall inherit from and share in the estate of him, said Pierre G. Venard, as his own child; said declaration shall be recorded in the office of the County Recorder in and for the city and county of San Francisco; and for

To record declaration.

recording the same, the County Recorder shall receive the same fee as is allowed for recording a conveyance.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. XII.—*An Act concerning the Pay of Officers and Employees of the Senate.*

[Approved February 6, 1861.]

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

SECTION 1. Each Committee Clerk, when a committee of the Senate is authorized to employ a Clerk, and the Clerk of Sergeant-at-Arms of the Senate, shall receive for their respective services the sum of six dollars per day, and no more. Per diem.

SEC. 2. This act shall be in force from and after its passage. To take effect.

CHAP. XIII.—*An Act to appropriate Money for Postage and Express Purposes, during the present Session of the Legislature.*

[Approved February 6, 1861.]

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

SECTION 1. The sum of three thousand dollars is hereby appropriated, from any moneys in the treasury not otherwise appropriated, to be used for postage and express purposes for Lieutenant-Governor, Members of the Legislature, Secretary of the Senate, Clerk of the Assembly, Sergeant-at-Arms of the Senate, and Sergeant-at-Arms of the Assembly. Appropriat'n.

SEC. 2. Each officer named in section first of this act, shall be entitled to such sums as he may require for postage and express purposes during the present session of the Legislature, not exceeding twenty-five dollars, to be paid from appropriation made by this act. Pro rata.

SEC. 3. The Controller is hereby authorized and required to draw a warrant in favor of the Sergeant-at-Arms of the Senate and Assembly, in such sums as they may require, not exceeding the amount which may be, by the provisions of this act, disbursed in either House. Duty of Controller.

SEC. 4. The Sergeant-at-Arms of the Senate, and the Sergeant-at-Arms of the Assembly, shall open a postage account with the Lieutenant-Governor, Secretary of the Senate, Clerk of the Assembly, and each Member of the Senate and Assembly, respectively, and shall furnish such postage and express stamps to each Member, and to the Lieutenant-Governor, Secretary of the Senate, and Clerk of the Assembly, as they may require. Manner of keeping accounts.

ing in value twenty-five dollars, and any residue which may result from said appropriation, at the close of the session, shall be returned into the State Treasury to the credit of the General Fund.

To make report.

SEC. 5. The Sergeant-at-Arms of the Senate, and the Sergeant-at-Arms of the Assembly, shall make to their respective Houses, at the expiration of each month, and at the close of the session, an exhibit of the postage account of each person entitled to the benefit of this act.

To take effect.

SEC. 6. This act shall take effect on and after its passage.

CHAP. XIV.—*An Act to authorize Encarnacion Carrillo de Robbins to sell certain Lands in Santa Barbara County, belonging to her infant Children.*

[Approved February 6, 1861.]

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

Authority to sell.

SECTION 1. Encarnacion Carrillo de Robbins, *femme sole*, as Guardian now, or hereafter to be appointed, of her infant children, José Gabriel Robbins, Isabel Robbins, Juan José Robbins, George Washington Robbins, Maria Antonia Robbins, Concepcion Robbins, and Francisca Robbins, is hereby authorized and empowered to sell at public auction, or at private sale, as shall be deemed most advantageous for the interests of said minors, the whole or any individual interest of said minors in any real estate, or chattels real, owned or claimed by said minors.

Report of sales to be made.

SEC. 2. The said Guardian shall make a full report of such sale, or sales, as shall be made by her, to the probate court of the county of Santa Barbara, and the Judge of said court, either in term time, or vacation, shall examine the same and confirm, or set aside, the said sale, or sales, as he may deem just and proper, and for the interest of said minors; and the Guardian aforesaid is hereby authorized, upon the confirmation of any such sale or sales, and upon the compliance on the part of the purchaser with the terms of the sale, to execute, acknowledge, and deliver, to said purchaser a conveyance of the lands sold, which shall absolutely and forever convey to, and vest in, the grantee all the right, title, interest, claim, demand, reversion, and remainder, legal and equitable, of the aforesaid minors, in, and to, the property described in the deed of conveyance; *provided*, however, that no deed of conveyance for the property of said minors shall be valid unless the sale shall have been confirmed by the Probate Judge, previous to the execution of said deed of conveyance; and, *provided*, further, that no such sale shall be approved by said Probate Judge until the said Guardian shall have filed in the Probate Court of said county a bond, with sufficient sureties to the satisfaction of said Judge, in double the amount received for the sale of the estate of said minors, conditioned for the faithful custody and disposition of the funds arising from said sale, for the benefit

To execute conveyance.

To file bond.

of said minors; and, *provided*, the sureties on said bond shall justify, as in cases of bonds given under the Civil Practice Act of this State.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. XV.—*An Act appropriating Money for the pay of Copying done for the Legislature.*

[Approved February 8, 1861.]

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

SECTION 1. The sum of five thousand dollars is hereby appropriated, out of any money in the General Fund not otherwise appropriated, for copying done for the Senate, and five thousand dollars for copying done for the Assembly, to be known as the Copying Fund of the Senate, and the Copying Fund of the Assembly, respectively. Appropriation.

SEC. 2. The sum appropriated by this act is hereby expressly exempted from the provisions of An Act to create a Board of Examiners, to define their Powers and Duties, and to impose certain Duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight, but shall be disbursed under the direction of the body to which it may respectively belong. Exemption.

CHAP. XVI.—*An Act making an Appropriation for Deficiencies, for the Eleventh Fiscal Year, ending the thirtieth day of June, eighteen hundred and sixty.*

[Approved February 8, 1861.]

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

SECTION 1. The sum of seventy-two dollars and fifty cents is hereby appropriated, out of any money in the General Fund not otherwise appropriated, to supply a deficiency in the appropriation for the translation of laws into Spanish, for the eleventh fiscal year. Deficiency.

CHAP. XVII.—*An Act to confer further powers upon the Board of Supervisors of San Joaquin County.*

[Approved February 8, 1861.]

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

SECTION 1. The Supervisors of the county of San Joaquin are hereby authorized and required to procure a suitable room, to be used as an office, for the District Judge of the Fifth Judicial District.

CHAP. XVIII.—*An Act to change the Name of Nelly H. Peters to Nelly Helen Toomes.*

[Approved February 8, 1861.]

*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 Nelly H. Peters, to change her name to Nelly Helen Toomes.

CHAP. XIX.—*An Act to change the Name of the Town of Brazos del Rio, in the County of Solano, to the name of Rio Vista.*

[Approved February 8, 1861.]

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

SECTION 1. It shall be lawful for the town heretofore known as Brazos del Rio, to be known as the town of Rio Vista.

CHAP. XX.—*An Act to provide for Funding so much of the Indebtedness of Yuba County as was created and incurred on account of the County Hospital of said County, prior to the first day of October, A. D. eighteen hundred and sixty.*

[Approved February 9, 1861.]

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

SECTION 1. In order to fund so much of the indebtedness of the county of Yuba, in this State, as was created, or incurred,

on account of the County Hospital of said county, and in the care and management of the indigent sick of said county, prior to the first day of October, A. D. eighteen hundred and sixty, the Chairman of the Board of Supervisors, the County Auditor, and the County Treasurer, of said county, and their successors in office, shall constitute a Board of Commissioners, to be styled the "Funding Commissioners of the County of Yuba"; and shall have and exercise the powers and perform the duties hereinafter provided.

Board of  
Commissioners.

SEC. 2. It shall be the duty of the County Auditor of said county to cause to be prepared, at the expense of the county, bonds, in not less than the sum of one hundred dollars, nor more than five hundred dollars, each bearing interest at the rate of ten per cent. per annum from the date of their issue. Said bonds shall be made payable at the office of the County Treasurer, or in the city of New York, at the option of the creditor to whom the same are issued, on the first day of July, eighteen hundred and seventy-six. The interest accruing on said bonds, shall be due and payable on the first day of January next; after which time the interest shall be due and payable on the first day of July and January of each year, until said bonds shall be liquidated; and the interest on said bonds shall be made payable at said Treasurer's office, or in the city of New York, at the option of the person to whom such bonds may issue. Said bonds shall be signed by the Chairman of the Board of Supervisors, countersigned by the County Auditor, and indorsed by the County Treasurer, and shall be under the seal of the County Court of said county.

Duties of  
Auditor.

Bonds to be  
prepared.

Interest,  
where pay-  
able.

SEC. 3. Coupons for the interest shall be attached to each bond, so that the coupons may be removed without mutilation to the bond; said coupons shall be signed by the Chairman of said Board of Supervisors, and the said County Treasurer.

Coupons.

SEC. 4. The holders of any indebtedness against the Hospital Fund, of said Yuba County, that accrued on account of said hospital, or in the care and management of the indigent sick in said county, prior to the first day of October, A. D. eighteen hundred and sixty, whether in warrants, audited claims, or otherwise, shall be entitled to the privilege of having the same funded by the Funding Commissioners of said Yuba County, under the provisions of this act, any time prior to the first day of January, A. D. eighteen hundred and sixty-two.

Claims may  
be funded.

SEC. 5. Said bonds shall bear the date of the day of their issuance; and the first coupons shall be for the interest from such date until the said first day of January, A. D. eighteen hundred and sixty-two.

Date of  
bonds.

SEC. 6. It shall be the duty of the County Treasurer to keep a record of all bonds that may be issued under this act, showing the number, date, and amount, of said bonds, to whom the same were issued, and to whom payable. It shall also be the duty of said County Treasurer to keep a record of all the indebtedness of said county, funded under the provisions of this act, showing the nature of the same, to whom issued, the date and amount thereof, by whom presented, and the time of funding the same.

Duties of  
County  
Treasurer.

SEC. 7. It shall be the duty of the County Treasurer of said county, to indorse over his signature on the back of such war-

Same.

rants, the words "Canceled by Funding," with the date thereof, and deliver the same to the County Auditor, who shall file them in his office.

**Interest tax.** SEC. 8. The Board of Supervisors of said Yuba County shall, annually, at the time of levying the taxes for the general expenses of the county, levy an amount upon all the taxable property of the county, which shall be sufficient to pay the interest due upon said bonds. The first moneys collected upon the assessment roll, of said county, for county purposes, except such as shall be collected to meet the interest falling due upon bonds issued under the Funding Act of eighteen hundred and fifty-seven, that shall be paid to the County Treasurer of said county, shall be set aside by him as a Special Interest Fund, to be applied to the payment of the interest falling due upon the bonds issued under this act.

**Interest fund.**

SEC. 9. If there shall be collected, under the next preceding section of this act, an amount greater than may be necessary to meet the interest falling due upon said bonds from time to time, the County Treasurer shall pay the excess thereof over into the General Fund of the county for county purposes.

**Duties of County Treasurer.** SEC. 10. It shall be the duty of the County Treasurer of said county of Yuba to make certain arrangements for the payment of the interest upon said bonds, at least sixty days before the interest at any time falls due; and in the event that the amount in said Interest Fund shall be insufficient, the said County Treasurer shall draw upon the General Fund of said county for an amount sufficient to pay such interest.

**Sinking fund** SEC. 11. Five years after the passage of this act, the Board of Supervisors of said Yuba County shall, annually, levy a tax upon all the taxable property of said county, equal in amount to five per cent. of the entire indebtedness funded under this act, to be styled a "Sinking Fund Tax," for the purpose of raising a Special Sinking Fund, for the payment of the principal of the said indebtedness. Whenever there is in said Sinking Fund the sum of two thousand dollars, or upwards, the County Treasurer of Yuba County shall advertise in some public newspaper, published in said county, also in some public newspaper published in the city of New York, for the space of one week, for sealed proposals for the redemption of said bonds; and six weeks from the time of the expiration of such publication, the County Treasurer shall open such sealed proposals, in the presence of the County Auditor of said county, and shall pay and liquidate, as far as the Sinking Fund then on hand shall extend, such bonds presented under said proposal as shall have the lowest value proposed at which they may be liquidated; *provided*, that the same shall not be for more than the par value thereof; and, *provided*, also, that should there be no proposals for less than the par value, then the payment shall be made *pro rata* on all the bonds presented; and, *provided*, further, that whenever there shall be sufficient money in said Sinking Fund for the extinguishment of the debt funded under this act, it shall be the duty of the said County Treasurer to advertise in like manner, for the space of four weeks, for the redemption of all the outstanding bonds issued under this act, after which time said bonds shall cease to draw any interest.

**Redemption**

**To cancel bonds.** SEC. 12. Whenever any of the said bonds shall have been redeemed by the County Treasurer, he shall mark the same "Can-



celed," over his signature, and deliver the same to the County Auditor, who shall file them in his office.

SEC. 13. The County Auditor shall open with the County Treasurer a Special Interest Fund account, which shall be balanced and settled at the same time as other accounts of said Treasurer. Interest fund account.

SEC. 14. The said Funding Commissioners shall each receive in compensation for the duties performed under this act, one-quarter of one per cent. upon the amount of debt funded by them. Compensa'n.

SEC. 15. Immediately after the passage of this act, said Commissioners shall advertise that the funding of said indebtedness will commence and continue to the first day of January, A. D. eighteen hundred and sixty-two; and it shall not be lawful for the Board of Supervisors of said county of Yuba, except as this act provides, to levy any tax to be used or applied in any way for the payment or liquidation of any indebtedness mentioned in this act; and it shall not be lawful to pay any such indebtedness, otherwise than by funding the same and paying such funding bonds and the coupons thereon. To advertise.

SEC. 16. All acts and parts of acts that conflict with the provisions of this act, are hereby repealed. Repealing clause.

SEC. 17. This act shall take effect and be in force from and after its passage. To take effect.

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CHAP. XXI.—*An Act to authorize Thomas Cutler, Administrator of the Estate of Albert Cutler, deceased, to sell Real Estate at private sale.*

[Approved February 11, 1861.]

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

SECTION 1. That Thomas Cutler, Administrator of the estate of Albert Cutler, late a resident of the county of Tuolumne, deceased, be, and he is hereby, authorized and empowered to sell all of the real estate of which the said Albert Cutler died, seized or possessed of, in the State of California, and any right, title, or interest, in such real estate, belonging to the said decedent in his lifetime, at such time, or times, on such terms and in such manner, at private sale, as shall be most advantageous to the said estate; *provided*, that when any sale is made under, and by virtue of, the authority given by this act, at least one-third of the purchase money shall be paid at the time of such sale, and the balance upon such credit as the said Thomas Cutler may deem expedient to give, not to exceed six months, and the purchaser, or purchasers, shall secure the purchase money remaining unpaid by note, and mortgage on the property sold. To sell real estate.

SEC. 2. The said Administrator shall make a full report of any and all such sale, or sales, as shall be made by him to the Probate Court of the county of Tuolumne, and the Judge of the said court shall examine the same, and confirm, or set aside, the Terms of sale

To report.

said sale, or sales, as in other cases of sales of real estate by Executors, or Administrators.

To execute conveyance.

SEC. 3. The said Administrator, upon the confirmation of any such sale, or sales, as hereinbefore provided, and the compliance on the part of the purchaser, or purchasers, with the terms of such sale, or sales, as set forth in section one of this act, is hereby authorized to execute, acknowledge, and deliver, to the said purchaser, or purchasers, a legal conveyance of the premises sold, which shall be as valid and binding as if the same had been made by the said Albert Cutler in his lifetime.

To give bond

SEC. 4. Said Administrator, prior to any sale made by authority of this act, shall give bonds in double the appraised value of said real estate, with two or more sureties, who shall severally justify, as in cases of all other bonds given pursuant to statute regulating the administration of the estate of deceased persons, conditioned that said Administrator shall faithfully account for all moneys arising from any such sales.

To take effect.

SEC. 5. This act shall take effect and be in force from and after its passage.

CHAP. XXII.—*An Act to extend the Time for collecting Taxes in the County of Sonoma.*

[Approved February 11, 1861.]

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

Time extended.

SECTION 1. The Sheriff, or Tax Collector, of the county of Sonoma, is hereby authorized to continue the collection of State and county taxes due in the said county, until the first Monday in May, eighteen hundred and sixty-one, and for such purposes he shall have all the power given to the Sheriff, or Tax Collector, provided by law, and the Sheriff or Tax Collector of said county shall not be required to make his final settlement, or to return his delinquent list until the first Monday in June in said year; *provided*, that the said Sheriff, or Tax Collector, shall, before proceeding under this act, make settlement in accordance with the provisions of law, of all taxes now collected by him; and, *provided*, also, that said Sheriff, or Tax Collector, shall execute a good and sufficient bond, according to law, with two sureties, in the sum of five thousand dollars, to be approved as the official bonds of Sheriffs, or Tax Collectors, are required by law to be approved, and to be conditioned for the faithful discharge of the duties imposed upon him by this act.

Sheriff to give bond.

Expiration of act.

SEC. 2. This act shall expire on the tenth day of June, eighteen hundred and sixty-one, and during its continuance, all acts, so far as the same are in conflict and inconsistent with this act, are hereby suspended in said county of Sonoma.

To take effect.

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

CHAP. XXIII.—*An Act supplemental to an Act entitled An Act to repeal the several Acts Incorporating the City of Benicia, and to provide for the Government thereof, approved April eighteenth, eighteen hundred and fifty-nine.*

[Approved February 11, 1861.]

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

SECTION 1. The Trustees of the city of Benicia are authorized to settle with, audit, and allow, the claim of Joseph Summers, for building the street called "A Street," in the city of Benicia, in accordance with a contract made and executed by the late city government, with the said Joseph Summers, dated the twentieth day of September, eighteen hundred and fifty-eight. Claim of  
J. Summers.

SEC. 2. For the payment of the said claim of Joseph Summers, the said Trustees are authorized to draw their warrant on the County Treasurer of Solano County, payable out of any funds that may be in his hands to the credit of the said city of Benicia. To draw  
warrants.

SEC. 3. The said Trustees are authorized to settle with Cox and Owens, for their claim against the city of Benicia, now in the course of litigation, for the enforcement of a lien against the City Hall, Solano Square, and other property. Cox & Owens

SEC. 4. The said Trustees are authorized to draw their warrant on the County Treasurer of Solano County, payable out of any money in his hands to the credit of the said city of Benicia, for the settlement of said claim of Cox and Owens, or the payment of any judgment that may be obtained by said Cox and Owens, against said city, and all the necessary expenses incurred by said city in the defense of said claim. To draw  
warrant.

SEC. 5. For the purpose of carrying out the provisions of this act, all moneys now in the hands of the Treasurer of Solano County to the credit of the said city of Benicia, and all moneys that may come into his hands, to the credit of the said city, shall be held by said Treasurer, subject to the warrants of the Trustees of said city: Disposal of  
certain  
moneys.

*First*—For the payment of the claim of Joseph Summers.

*Second*—For the payment of all necessary expenses incurred by said city, in the defense of the Cox and Owen claim.

*Third*—For the payment of the claim of Cox and Owen.

SEC. 6. All the provisions of the act entitled An Act to repeal the several Acts Incorporating the City of Benicia, and to provide for the Government thereof, approved April eighteenth, eighteen hundred and fifty-nine, conflicting with this act, are hereby suspended until the provisions of this act are fully carried out and completed. Suspension  
clause.

SEC. 7. The said Trustees are authorized to ask, demand, collect, and receive, all sums of money, debts, dues, or demands, already due, or to become due, the city of Benicia, for leases, or agreements, made and entered into by the late city government of the said city of Benicia, with any person, or persons, corporations, or companies, whatsoever, to be applied in accordance with the foregoing act. Powers of  
Trustees.

SEC. 8. This act shall take effect and be in force from and after its passage.

CHAP. XXIV.—*An Act to extend the Time for the collection of State and County Taxes in the County of Butte.*

[Approved February 11, 1861.]

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

Time  
extended.

SECTION 1. The Tax Collector of the county of Butte is hereby authorized to continue the collection of State and county taxes due in the said county, until the first Monday in May, eighteen hundred and sixty-one, and for such purposes, he shall have all the power given to the Sheriff, or Tax Collector, provided by law, and the Tax Collector of said county shall not be required to make his final settlement, or to return his delinquent list, until the first Monday in June, in said year; *provided*, that the said Tax Collector shall, before proceeding under this act, make settlement, in accordance with the provisions of law, of all taxes now collected by him; and, *provided*, also, that said Tax Collector shall execute a good and sufficient bond, according to law, with two sureties, in the sum of five thousand dollars, to be approved as the official bonds of Sheriffs and Tax Collectors are required by law to be approved, and to be conditioned for the faithful discharge of the duties imposed upon him by this act.

To give bond

Suspension  
clause.

SEC. 2. This act shall expire on the tenth day of June, eighteen hundred and sixty-one, and during its continuance, all acts, so far as the same are in conflict and inconsistent with this act, are hereby suspended.

To take  
effect.

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

CHAP. XXV.—*An Act supplementary to an Act entitled An Act concerning Public Ferries and Toll-Bridges, approved April twenty-eighth, eighteen hundred and fifty-five.*

[Approved February 14, 1861.]

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

Penalty.

SECTION 1. Every person who shall ride, or drive, faster than a walk, on, or over, any toll-bridge lawfully licensed, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in the sum of ten dollars.

Misdemeanor.

SEC. 2. Every person, not exempt by law from paying tolls, who shall pass over any toll-bridge lawfully licensed, without paying the legal toll, and with intent to avoid paying the same, or having passed over any toll-bridge lawfully licensed, shall

willfully refuse to pay the legal toll, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in the sum of ten dollars.

SEC. 3. The fines recovered under this act, shall be paid into the county treasury, for the benefit of the road district in which the toll-bridge is situated. Disposition of fines.

CHAP. XXVI.—*An Act to authorize and empower A. W. Macpherson, and Others, to construct and maintain Booms on certain Rivers in the County of Mendocino.*

[Approved February 14, 1861.]

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

SECTION 1. It shall be lawful for A. W. Macpherson, Alfred Godeffroy, William Sillem, John Freundt, and J. B. Ford, who now own, or their assigns who may hereafter erect, purchase, or own, or be in possession, of any sawmill, or mills, whether propelled by water, or steam, power, for the manufacture of lumber on the Albion River, Big River, and the Noyo River, in the county of Mendocino, State of California, to build, erect, hang, or purchase, and maintain, when in his, or their, estimation the same may be necessary to facilitate the manufacture of lumber, such boom, or booms, as may be necessary for that purpose; *provided*, that in the erection, or construction, of any such boom, or booms, as aforesaid, the person, or persons, erecting, purchasing, or owning, the same, shall not obstruct, or prevent, the free navigation of any of said rivers. Franchise granted. Proviso.

SEC. 2. And if any person, or persons, in constructing any boom, or booms, shall obstruct, or prevent, the free navigation of any of said rivers, such person, or persons, shall be liable to the party, or parties, injured thereby, for all damages which such party, or parties, may sustain by reason of such obstruction, to be recovered in any court of competent jurisdiction, with costs of suit, as in other cases. Damages.

SEC. 3. Any person, or persons, who shall willfully, or maliciously, destroy, or injure, said booms, or any of them, shall be deemed guilty of malicious mischief, as in other cases, and shall be liable to the party, or parties, injured, for all damages sustained by the owner, or owners, thereof, as in other cases for the destruction of private property. Penalty for injuring booms.

SEC. 4. Nothing in this act contained shall be so construed, as to authorize, or empower, the persons, in the first section of this act named, or any of them, or their assigns, to collect water rents, or tolls, for the use of any such boom, or booms. No tolls to be collected.

CHAP. XXVII.—*An Act extending the Time for the completion of a Contract made under an Act entitled An Act to provide for the opening of a Channel across the Bar at the Mouth of the San Antonio Creek, passed April tenth, eighteen hundred and sixty.*

[Approved February 14, 1861.]

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

Time  
extended.

SECTION 1. The Commissioners appointed under said act, are hereby authorized and empowered, by indorsement to that effect, on the contract made and entered into under the provisions of said act, to extend the time for the completion of the work mentioned in said contract, for such period, not exceeding six months, as such Commissioners may deem advisable.

To take  
effect.

SEC. 2. This act shall take effect immediately.

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CHAP. XXVIII.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to modify the Grade of certain Streets in said City and County.*

[Approved February 21, 1861.]

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

To modify  
grade.

SECTION 1. The Board of Supervisors of the city and county of San Francisco, are hereby authorized to modify the grade of Union Street, in said city and county, between Taylor and Leavenworth streets, in such a manner that the crossing of Jones and Union streets shall be two hundred and ten feet above the base line of the city grades; also, to so modify the grade of Jones Street as to make it conform to the grade of Union Street, as provided for in this act.

To take  
effect.

SEC. 2. This act shall take effect, and be in force, from and after its passage.

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CHAP. XXIX.—*An Act to make certain Offices in the County of Tuolumne, Salaried Offices.*

[Approved February 21, 1861.]

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

Salaries

SECTION 1. The Sheriff, County Clerk, County Recorder, County Treasurer, Collector, and County Assessor, of Tuolumne County, from and after the first Monday in October, eighteen hundred and sixty-one, shall receive, for all services required of

them by law, or for duties imposed on them by virtue of their several offices, a salary, at the rate per annum respectively, as hereinafter prescribed.

Sec. 2. The Sheriff shall receive, for all services required of him by law in said office, a salary at the rate of four thousand dollars per annum; *provided*, that for any service rendered the State, he shall receive the payment provided for such service from the State for his own proper use, in full compensation for such service and expenses, incurred in the performance of such service. Of Sheriff]

Sec. 3. The County Clerk, for all services required of him in his office, or by virtue of his office, shall receive a salary at the rate per annum of two thousand dollars, which shall be in full for all services required of him by law; *provided*, that for any service rendered the State, he may retain the amount paid by the State for such service for his own proper use, in full compensation for such service. Of County Clerk.

Sec. 4. The County Recorder, for all services required of him in his office, or by virtue of his office as County Recorder, or *ex officio* as County Auditor, shall receive a salary at the rate per annum of one thousand eight hundred dollars. Of County Treasurer.

Sec. 5. The County Treasurer, for all services required of him by law, or by virtue of his office, shall receive a salary at the rate per annum of one thousand two hundred dollars; *provided*, that for any service rendered the State, he may retain the amount paid by the State for such service, for his own proper use, in full compensation for such service. Of County Recorder.

Sec. 6. The Collector shall collect all taxes and licenses of every kind required by law for State and county purposes, and he shall receive a salary at the rate of three thousand dollars per annum; *provided*, the Supervisors of the county make the county one collection district; if more than one district, the said sum of three thousand dollars to be apportioned by the Supervisors as salaries to the Collectors of each district, which salary, if for the whole county, or the due proportion to each Collector, if more than one, shall be in full compensation for all services required of the Collector by law. Of Collector of Taxes.

Sec. 7. The District Collector may appoint Deputy Collectors, who shall receive the fees now allowed by law for collecting licenses and poll taxes, and to Deputy Collectors for collecting foreign miners' licenses; *provided*, that the per centage for collecting all property tax shall be paid into the county treasury. May appoint Deputies.

Sec. 8. The County Assessor, for all services required of him by law, or by virtue of his office, shall receive a salary at the rate per annum of two thousand dollars, which amount shall include any and all sums paid by him for a Deputy, or Deputies; *provided*, that for any service rendered the State, he may retain the amount paid by the State for such service, for his own proper use, in full compensation for such service; *provided*, that if the county is divided by the Supervisors into more than one collection district, that the salary, as named in this section, shall be apportioned by the Supervisors, to the Assessors of the several districts. Of County Assessor.

Sec. 9. The Sheriff shall be allowed the following Assistants, to be paid by the county: an Under Sheriff, to be paid at the Salary of Deputies.

rate of one hundred and fifty dollars per month; one Deputy, at the rate of hundred dollars per month, and one keeper of the jail, at the rate of seventy-five dollars per month; any other Deputies that may be required for the performance of the duties of the office of Sheriff, shall be paid by the Sheriff from his salary herein provided; *provided*, he may summons one Constable, whose duty it shall be to attend the sittings of the District Courts, and act as Deputy Sheriff, for which service the said Constable shall receive three dollars per day, to be paid by the county.

SEC. 10. The County Clerk shall be allowed one Deputy, who shall be paid by the county, at the rate of one hundred dollars per month.

SEC. 11. The County Recorder shall be allowed one Deputy, who shall be paid by the county, at the rate of seventy-five dollars per month.

To pay over  
fees.

SEC. 12. The officers named in the first section of this act, shall collect and safely keep, all fees, commissions, and per centage, now allowed them by law, for services rendered by them in their several official capacities, except for such services as the county or State is chargeable with, and upon the first Monday in each month shall pay the same into the county treasury.

Duties of  
officers.

SEC. 13. The officers named in the first section of this act, including District Collectors, if there should be more than one district in the county, all Assistants and Deputies, if so required to do by the Board of Supervisors, shall, from and after the first Monday in October, A. D. eighteen hundred and sixty-one, keep a book, to be denominated the "Fee Book," which book shall be the property of the county, and which shall be open during office hours to public inspection. In this book shall be entered in detail all fees, or compensation, of whatever nature, or kind, collected, or chargeable—in one column, the fees, or compensation, belonging to the county, and in another column, the fees, or compensation, which under this act, may be retained by the officer. On the first Monday of November, A. D. eighteen hundred and sixty-one, and on the first Monday of each month thereafter, the officer shall carefully add up the several columns, and set down the total; and the compensation and fees collected, or chargeable, for the county, shall be paid to the County Treasurer, accompanied by a full, accurate, and detailed, statement, in duplicate, under oath, of all fees, per centage, and compensation, of whatsoever kind, collected for, or charged for, the county. Upon receiving the Treasurer's receipt for the payment of such fees, or compensation, said receipt and one of the statements herein required to be made out in duplicate, shall be filed with the Auditor; and until the payment of such fees, or compensation, which under this act shall belong to the county, shall be made to the Treasurer, and said Treasurer's receipt and such officer's detailed statement have been filed with the Auditor, said Auditor is prohibited from drawing any warrant, and the Treasurer from paying any warrant, in favor of such officer, or any of such officer's Deputies. It is hereby expressly provided, that any officer, crediting any fee, or per centage, for any official service, which under this act is provided to be paid into the county treasury, shall do so at his own risk, and said officer shall set down the same in his fee-book, and it shall be paid by him into the county treasury,



as herein provided, the same as if he had collected said fee at the time, or prior to, the performance of the service for which said fee was chargeable. The duplicate certificate, herein provided to be filed with the Treasurer and Auditor, shall be sworn to, as follows: "I ———, Sheriff [or other officer, as the case may be], of the county of Tuolumne, do solemnly swear that the entire fees, compensation, per centage, and payment, for official service rendered by me, or any Deputy, or person, connected with my office for me, has been entered in detail in the 'Fee-Book' of my office and added up, and that the portion belonging to the county is ———, and that said amount is the full amount received, or chargeable, since the last payment; and neither myself, nor, to my knowledge, any Deputy for me, has rendered any service, except service for the county, or State, which is not entered and added up, to make the aforesaid sum." All fees, or compensation, for official service, which under the provisions of this act are required to be paid into the county treasury, shall be, and is hereby, constituted and known as the "County Officers' Salary Fund," which amount so remaining in the county treasury, on the first Monday in each month, from and after the first Monday in October, A. D. eighteen hundred and sixty-one, shall be set apart and applied to the payment of warrants drawn on the treasury, for the salaries of county officers, their Assistants, Clerks, and Deputies; *provided*, that after paying, or setting apart, by the Treasurer, an amount equal to the amount due the officers named in this act, their Assistants, Clerks, and Deputies, that any residue shall be placed to the credit of the "Expense Account Fund," to meet the contingent expenses of the county. The county officers named in this act, shall perform all services required of them by law, for county purposes, without fee, or compensation, other than is provided for in this act.

Form of oath

Salary Fund.

SEC. 14. For a willful neglect, or refusal, to comply with the provisions of this act, or for any one of them, any officer, or officers, herein named, their Assistants, Clerks, or Deputies, shall, on conviction, be subject to a fine not exceeding five thousand dollars, a forfeiture of their offices, to imprisonment in the State Prison, not less than one, nor more than three, years, or to any one, or more, of the said penalties, in the discretion of the court; *provided*, that nothing in this section shall release any one of them from their liability, on their official bond required by law, or from any civil responsibility to any and all persons, in relation to the business of their said offices, that may be by law applicable to their said several official duties.

Penalty.

SEC. 15. On the first Monday in each month, from and after the first Monday in October, A. D. eighteen hundred and sixty-one, the officers may make out and present to the Board of Supervisors, the account for their services and the services of their Deputies, as provided in this act; and if it shall appear, to the satisfaction of the Board, that said officers have complied with the provisions of this act, the Board of Supervisors shall audit, allow, and order paid, out of the "County Officers' Salary Fund," or any other money in the treasury, not set apart for any specific purpose, the amount severally due them, from any money paid in, from and after the first Monday of October, A. D. eighteen hundred and sixty-one.

Accounts to be audited.

**To give bond** SEC. 16. Each officer named in the first section of this act, before entering upon the duties of his office, shall execute to the people of the State of California, a bond, in such penal sum, as the Board of Supervisors shall require, with two or more sufficient sureties, to be approved by the County Judge, conditional upon the faithful performance of all the duties of his office required by law, and shall take the oath of office, which shall be indorsed upon his certificate of election, or appointment.

**Time of meeting.** SEC. 17. It shall be the duty of the Board of Supervisors to meet at the court-house of the county of Tuolumne, on the first Monday of November, A. D. eighteen hundred and sixty-one, and on the first Monday of each month thereafter, for the purpose of examining the accounts of the officers that may be presented under the provisions of this act, and it shall be their duty to order the Auditor to draw his warrant on the Treasurer for the respective amounts that they may find due the officers, their Assistants, Clerks, or Deputies, as provided for by the provisions of this act. The Supervisors shall receive, for their services, five dollars per day for each day that they may meet, under the provisions of this act, which are not the regular meetings of the Board; *provided*, that they shall not receive pay for only one day in each month for such extra meetings.

**Compensa'n.**

**Salaries, how paid:**

SEC. 18. The amount specified in this act, to be paid to under officers, Assistants, Clerks, and Deputies, shall not be paid to the principal, but shall at all times upon being found due, be paid to such under officer, Assistant, Clerk, or Deputy; *provided*, always, that such under officer, Assistant, Clerk, or Deputy, make out, subscribe, and file, his affidavit with the Supervisors, setting forth that he was employed by such superior officer, and that he performed the services therein named, that the amount due is for his own proper use and benefit, and not for another.

**Repealing clause.**

SEC. 19. All acts, or parts of acts, conflicting with the provisions of this act, are hereby repealed, so far as they relate to the said several officers herein named, for the county of Tuolumne.

**To take effect.**

SEC. 20. This act shall take effect and be in force, from and after the first Monday of October, A. D. eighteen hundred and sixty-one.

CHAP. XXX.—*An Act to provide a Fund for the redemption of, and prescribing the manner of, redeeming the outstanding County Warrants, drawn upon the Treasury of Tuolumne County, and further to provide for the payment of all the current expenses of said Tuolumne County, in Cash.*

[Approved February 21, 1861.]

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

**Redemption Fund.**

SECTION 1. The Board of Supervisors of Tuolumne County, at their last regular session prior to the first Monday in October, eighteen hundred and sixty-one, are hereby authorized and required, to set apart the following portion and items, of the taxes

which have heretofore, and which are now, by law, imposed upon the property of the inhabitants of Tuolumne County, to-wit: From the Hospital Fund, twenty-five cents; from the County Judges' Salary Fund, five cents; from the Contingent Fund, six cents; from the Jail Fund, fourteen cents; from the Sinking and Interest Fund, twenty-five cents; and all that portion of the revenue belonging to Tuolumne County, derived from the collection of foreign miners' license, and all moneys which may hereafter in this act be directed to be set apart, as provided in this section, is hereby made a separate and distinct fund, to be known as the "Redemption Fund."

SEC. 2. The fund provided for by the first section of this act, shall be used for the redemption of county warrants drawn upon the treasury of Tuolumne County, and for no other purpose, the redemption of said warrants to be made as hereinafter prescribed by the provisions of this act; *provided*, however, that the first moneys accruing to said Redemption Fund, shall be applied to the payment of any demands remaining against Tuolumne County on account of and due the Jail Fund, the Sinking and Interest Fund, and the Hospital Fund. Redemption  
of warrants.

SEC. 3. From, and after, the first ——— of October, eighteen hundred and sixty-one, it shall be lawful for any person, or persons, being the owner, or the lawful agent and holder for any lawful owner, of any county warrants drawn upon any of the different funds in the treasury of Tuolumne County, to file sealed proposals with the Treasurer of said county for the surrender of county warrants. May file  
proposals.

SEC. 4. On the first Monday of each and every month, the Board of Supervisors, together with the County Auditor and Treasurer, shall attend at the office of the latter, and then and there open all proposals and accept the lowest bids for the surrender of county warrants; *provided*, that no bid for more than par value of said warrants, or any bid, unless accompanied by the warrants proposed to be surrendered, shall be accepted. Duties of  
Supervisors  
and Auditor.

SEC. 5. When any bids are accepted, the County Auditor and County Treasurer, shall each take a description of the number and amount of warrants to be redeemed, specifying the amount to be paid for each warrant, and make a several record thereof in their respective offices; and thereupon, the Board of Supervisors shall make an order, directing the County Treasurer to purchase the warrants designated in the accepted bids, and pay for the same out of the Redemption Fund; and the warrants so redeemed, shall be canceled as other redeemed county warrants, except that the County Treasurer shall write, on the face of said warrants, "purchased," and the amount paid for the same, and shall sign his name thereto. The order of the Board of Supervisors, directing the County Treasurer to purchase said warrants, together with the record made by the County Auditor, shall be sufficient vouchers for the County Treasurer in the settlement of his accounts. The bids being equal, the preference shall be given to the smallest amount of warrants; the bids and amount of warrants being equal, each shall be accepted *pro rata*, or as nearly so as possible. The County Treasurer shall return all unaccepted bids, together with the warrants therein contained, to the owners, on demand. Duties of  
Treasurer.

Redemption  
Fund.

SEC. 6. The County Treasurer shall keep a separate account, under the head of "Redemption Fund," of all moneys received from the sources specified in this act, and said moneys shall never be used, except as herein provided.

Payment of  
warrants.

SEC. 7. After all disbursements shall have been made from the Redemption Fund, as hereinbefore provided, and there shall remain in said Redemption Fund, at the close of business on the first Monday in each and every month, an amount of money sufficient to pay the principal and interest of the county warrant standing first in the order of registration, the County Treasurer shall, on the following day, set apart such money so remaining, for the redemption of the aforesaid warrant, and shall give notice for two weeks, in some newspaper printed at the county-seat, that said warrant will be redeemed, in cash, upon presentation; and the County Treasurer shall continue to appropriate and apply all moneys so remaining in the Redemption Fund, at the close of business on the first Monday in each month, to the redemption of county warrants, as provided in this section, so long as there is sufficient money to pay the principal and interest of the warrant standing next in order of registration.

Interest to  
cease.

SEC. 8. At the expiration of thirty days, from the notice of redemption, as provided in section seven of this act, the county warrant, or warrants, so advertised, shall cease to bear interest; and the County Treasurer is hereby required to make an entry to that effect, in his account of registered warrants, and make a certified statement of the same to the Board of Supervisors, at their next monthly meeting, and said Board shall make an order in accordance with the intent and meaning of this section of this act.

Indorsement

SEC. 9. The County Treasurer, and all persons, who may hereafter, by virtue of any office, or lawful agency, be required to pay for, and cancel, any county warrants, or other evidences of indebtedness against Tuolumne County, shall write on the back of the same, "received" on the within \$—— and cents in full for the same, stating the amount, principal, and interest, actually paid therefor, and require the person surrendering the same to sign his name thereto, or to make his mark to his name, if he be unable to write.

Fund for  
current  
expenses.

SEC. 10. The Board of Supervisors of Tuolumne County, are hereby authorized and required, to appropriate and set apart, as a separate fund, to pay the current expenses of said Tuolumne County, all revenue collected from the following sources, within said county, to-wit: From merchandise and liquor license, peddlers' license, billiard license, brokers' license, theater license, circus license, and auctioneers' license, all fines and forfeitures, all receipts from toll-bridges and ferries, together with all sums due from Stanislaus County, and one-half of all the poll-tax, and all moneys remaining in the County Officers' Salary Fund, on the first Monday in each and every month, after the salary of each of the county officers and all of their Deputies, have been paid, or their salaries shall have been set apart, from the said Salary Fund, and when so set apart, as a separate and distinct fund, shall be known as the "Fund for Current Expenses," and out of which the current expenses of said Tuolumne County shall be paid in cash.

SEC. 11. Whenever any warrant drawn upon the fund for current expenses be presented to the County Treasurer for payment, and there shall be no money in said fund to pay the same, it is hereby made the duty of the said Treasurer to offer the holder, or holders, of such warrant, or warrants, the lowest cash value, for which warrants without interest due thereon are selling in the market, and if such offer be accepted, the County Treasurer shall buy the same for the benefit of the county, and pay for any warrant so purchased out of any moneys in the Redemption Fund not otherwise appropriated, and shall cancel the same in the manner as herein directed, in sections five and nine, of this act; and the said Treasurer shall keep a true and correct separate account of, and file a statement, under oath, accompanied by the warrant, or warrants, which he may have purchased, as directed in this section, with the Board of Supervisors, on the first Monday of each and every month; and upon it appearing to the satisfaction of said Board, that said statement is correct, it is hereby made the duty of said Board of Supervisors to make an order, giving the County Treasurer credit for all moneys paid out for the purchase of county warrants, as prescribed in this section; but, be it *provided*, that if the offer be rejected by the holder of any such warrant, the County Treasurer shall register and indorse the same as required by law, and said warrant, or warrants, shall be redeemed in the same manner as other registered warrants.

To purchase certain warrants.

Proviso.

SEC. 12. All moneys collected from property tax, shall be paid into the county treasury, and shall be appropriated as heretofore provided by law.

Property tax.

SEC. 13. The moneys set apart, pursuant to the foregoing provisions of this act, known as the "Fund for Current Expenses," and the Redemption Fund, shall not be subject to any execution, or writ, issued for, or on account of, any debt which may be due, or which may hereafter become due, from said county.

Funds exempt from execution.

SEC. 14. The warrants, purchased under the provisions of sections five, seven, and eleven, of this act, shall be deposited, after cancellation, in the office of the Clerk of the Board of Supervisors, who shall keep a book in which he shall register each warrant purchased, giving its date, amount, from whom purchased, and the amount paid for the same.

Canceled warrants.

SEC. 15. If any money shall remain in the Fund for Current Expenses, after paying all the current expenses of said county, at the expiration of each regular or quarterly meeting of the Board of Supervisors, then such surplus shall be placed by the Treasurer in the Redemption Fund, before referred to in this act.

Transfer of funds.

SEC. 16. If, on the first Monday in any month, there shall be a deficiency of funds in the County Officers' Salary Fund to pay all the salaries of the county officers and their lawful Deputies, the Board of Supervisors shall order the County Treasurer to make up, and pay, such deficiency from the Fund for Current Expenses.

Deficiency.

SEC. 17. This act shall take effect from and after the first Monday in October, eighteen hundred and sixty-one, except that section one of this act shall take effect and be in force, from and after its passage.

To take effect.

SEC. 18. The Board of Supervisors of Tuolumne County are

Publication. hereby required to have section three of this act published, for the space of three months, commencing from the first of June, eighteen hundred and sixty-one, in some newspaper printed at the county seat of Tuolumne County.

Repealing clause. SEC. 19. All acts and parts of acts, conflicting with the provisions of this act, are hereby repealed.

CHAP. XXXI.—*An Act to amend an Act, entitled An Act amendatory of, and supplementary to, An Act to establish, support, and regulate, Common Schools, and repeal former Acts concerning the same, approved May third, eighteen hundred and fifty-five, approved April twenty-eighth, eighteen hundred and sixty.*

[Approved February 22, 1861.]

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

SECTION 1. Section twelfth of said act, approved April twenty-eighth, eighteen hundred and sixty, is hereby amended, so as to read as follows :

State Board of Examination.

Sec. 12. The Superintendent of Public Instruction, and such of the County Superintendents of Public Schools as he shall select for the occasion, shall constitute a State Board of Examination ; said Board shall have all the powers hereinbefore conferred on County Boards of Examination, and a certificate granted by said Board shall be of full force and effect, without further examination, in each and every county of this State, for the period of two years, from and after its date, but no longer ; *provided*, any applicant, to whom a certificate has been refused by a County Board of Examination, shall have the right to appeal to the Superintendent of Public Instruction, in which cases, only, shall the Superintendent exercise his discretion, in examining and certifying such appellant, without calling together such County Superintendents of Public Schools, and the decision of the Superintendent of Public Instruction shall be final.

Proviso.

SEC. 2. This act shall take effect from and after the date of its passage.

To take effect.

CHAP. XXXII.—*An Act to amend an Act entitled An Act prescribing the duties of Constables, passed April nineteenth, eighteen hundred and fifty.*

[Approved February 22, 1861.]

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

SECTION 1. Section second of said act, prescribing the duties of Constables, is hereby amended so as to read as follows :

Sec. 2. A Constable, elected in any county of this State, shall attend the courts of Justices of the Peace, within his township, whenever so required, and shall, within his county, execute, serve, and return, all lawful orders, writs, process, notices, and papers, directed, or delivered, to him by a Justice of the Peace of such county, or by any competent authority.

Duties of  
Constables.

SEC. 2. Section eight of said act, is hereby amended, so as to read as follows:

Sec. 3. Constables shall be conservators of the peace, within the county in which they are elected.

SEC. 3. This act shall take effect and be in force, from and after its passage.

To take  
effect.

CHAP. XXXIII.—*An Act to pay for Volumes Fourteen and Fifteen of the Reports of the Supreme Court of the State of California.*

[Approved February 21, 1861.]

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

SECTION 1. The sum of four thousand dollars is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, for the payment of three hundred copies of the fourteenth, and three hundred copies of the fifteenth, volumes of the reports of the Supreme Court of the State of California.

Appropriat'n.

SEC. 2. The Controller of State is hereby authorized and required to draw his warrant on the Treasurer of State, in favor of John B. Harmon, for the sum of two thousand dollars, whenever the Secretary of State shall certify that three hundred copies of volume fourteen, of said reports, have been delivered to him; and also, to draw his warrant on the Treasurer of State, in favor of John B. Harmon, for the further sum of two thousand dollars, whenever the Secretary of State shall certify that three hundred copies of volume fifteen, of said reports, have been delivered to him.

Duties of  
Controller  
and Treas-  
urer.

SEC. 3. This act shall take effect and be in full force, from and after its passage.

To take  
effect.

CHAP. XXXIV.—*An Act to change the Name of Andreas Christian Michelsen to William Smith.*

[Approved February 21, 1861.]

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

SECTION 1. The name of Andreas Christian Michelsen, of Placer County, in this State, is hereby changed to that of William Smith.

Name  
changed.

To take  
effect.

SEC. 2. This act shall take effect and be in full force, from and after its passage.

CHAP. XXXV.—*An Act amendatory of, and supplementary to, an Act entitled An Act authorizing the Board of Supervisors of El Dorado County to levy a Toll for crossing of Brockliss' Bridge, on the Sacramento and El Dorado Wagon Road, approved April fifth, eighteen hundred and sixty.*

[Approved February 21, 1861.]

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

SECTION 1. Section second of said act, is hereby amended as follows:

Pay of Toll-  
Keeper.

[Sec. 2.] Said Board of Supervisors shall appoint some suitable person to collect and receive the tolls charged for the crossing of said bridge, whose pay shall not exceed the sum of eighty dollars per month, and shall require of said Toll-Keeper prompt monthly payments, or oftener, as may be deemed necessary by said Board, of all money by him collected; also, require of the person so appointed to file his bond, payable to the Board of Supervisors of El Dorado County, in a sum not less than one thousand dollars, conditioned for the faithful performance of his duties, to be approved by the Board of Supervisors; said bond shall be joint and several, with two, or more, sufficient sureties, verified to as other official bonds, and all money collected for any violation of said bond, shall inure to, and become a part of, the Wagon Road Fund; actions may be maintained on said bond for any defalcation thereof, as in other cases of official bonds.

Form of  
bond.

SEC. 2. Section fourth of said act, is hereby amended as follows:

Shall make  
oath.

[Sec. 4.] An "immigrant," is hereby construed, to mean persons who may have crossed the plains, from Utah, or States east of the Rocky Mountains, during the season, on their journey to this State. At each settlement with the Board of Supervisors, the Toll-Keeper shall make oath that his statement contains a full, true, and accurate, account of all money by him collected during the period therein set forth, for, or on account of, tolls, or for crossing of said bridge, and that he has not permitted any person, or persons, to cross over said bridge without payment of the prescribed rates of toll, except footmen, and immigrants, and teams, employed in working on, and repairing, said road, as prescribed in this act. If the said Toll-Keeper makes out a false statement, in his settlement with the Board of Supervisors, he shall be deemed guilty of perjury, and subject to the penalty in the statute provided for said crime.

Penalty.

Duties of  
Overseer.

SEC. 3. The Board of Supervisors shall have power to appoint an Overseer of said Sacramento and El Dorado Wagon Road, whose duty shall be to labor upon, and superintend, said road, to direct the laborers who may be employed by the Board of Supervisors, and placed under his charge, and to perform such or-



ders as the Board may, from time to time, direct, in keeping the said road in good repair, or constructing such portions of road as they may require. His compensation, to be paid out of the Wagon Road Fund, shall not exceed four dollars per day. The Board of Supervisors shall have power to employ any number of laborers on said road whose wages shall be paid out of the Wagon Road Fund, not to exceed three dollars per day; *provided*, in no instance shall the Board of Supervisors incur more expense for Toll-Keeper, Overseer, of said road, material, or labor, than the current receipts of the tolls of said bridge.

SEC. 4. The Board of Supervisors shall, at any time when they may see fit, discharge the Toll-Keeper, and employ another; *provided*, always, the one so appointed shall give bonds, and be required to conform to the provisions of this act. The Board of Supervisors may discharge the Overseer of said road, whenever they deem it necessary, and appoint another, and in case there is no money in said Wagon Road Fund, shall discontinue all labor on said road.

Powers of Supervisors.

SEC. 5. This act to take effect from and after its passage.

To take effect.

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CHAP. XXXVI.—*An Act to amend An Act creating a Board of Commissioners, and the Office of Overseer, in each Township in the several Counties of this State; to regulate Water-Courses within their respective limits, passed May fifteenth, eighteen hundred and fifty-four, and the several Acts amendatory thereto.*

[Approved February 21, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows:

Sec. 1. There shall be, in each of the townships of the counties of San Diego, Santa Barbara, San Luis Obispo, Napa, Los Angeles, Solano, Contra Costa, Colusa, Tulare, Tehama, Sonoma, and Santa Cruz, a Board of Commissioners to regulate water-courses, to consist of three members, and also an Overseer, to be elected as hereinafter provided.

Board of Commissioners.

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CHAP. XXXVII.—*An Act making Appropriation for Deficiencies made for the Twelfth Fiscal Year, ending June thirtieth, eighteen hundred and sixty-one.*

[Approved February 21, 1861.]

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

SECTION 1. The sum of five thousand dollars is hereby appro-

Appropriat'n.

riated, out of any money in the General Fund not otherwise appropriated, for the contingent expenses of the Senate.

Disburse-  
ment.

SEC. 2. The sum herein appropriated shall be disbursed under the direction of the Senate, and shall not be subject to any of the provisions of an act entitled An Act to create a Board of Examiners, to define their Powers and Duties, and to impose certain Duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight.

To take  
effect.

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

CHAP. XXXVIII.—*An Act to authorize the Administrator of the Estate of Henry Meredith, deceased, to sell Real Estate at public, or private, sale.*

[Approved February 22, 1861.]

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

To sell real  
estate.

SECTION 1. The Administrator of the late Henry Meredith, deceased, is hereby authorized and empowered, to sell, at public, or private, sale, any real property belonging to the estate of his said intestate, lying in the cities of Sacramento and Nevada, or elsewhere, in this State, and to execute the proper deeds of conveyance therefor.

CHAP. XXXIX.—*An Act to extend the Time of collecting Taxes in the County of Santa Cruz.*

[Approved March 4, 1861.]

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

Time  
extended.

SECTION 1. The Sheriff of the county of Santa Cruz, is hereby authorized and empowered to continue the collection of State and county taxes, due therein, until the first Monday in May next, and for such purposes, he shall have all the powers given to Sheriffs by the Act to provide Revenue for the support of the General Government of this State; and in said collection, he shall be governed, in all respects, by said act; and he shall not be required to make his final settlement, or to return his delinquent tax-list, until the second Monday in May next, and he shall make settlements in accordance with the provisions of said act, of all taxes collected; *provided*, said Sheriff shall execute a good and sufficient bond according to law, with two sureties, in the sum of three thousand dollars, to be approved as the official bonds of Tax Collectors required by law to be approved, for the faithful discharge of the duties imposed on him by this act.

To file bond.

Expiration  
of act.

SEC. 2. This act shall expire on the thirteenth day of May

next, and during its continuance, all provisions of laws in conflict, or inconsistent, with this act, are hereby suspended.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. XL.—*An Act to provide for the better maintenance of the Indigent Sick of the County of Nevada.*

[Approved March 4, 1861.]

*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 Nevada, are hereby authorized and empowered, to levy, and cause to be collected, annually, in addition to the amount allowed to be collected by the provision of the eighth section of an act entitled An Act to provide for the Indigent Sick in the Counties of this State, approved April the eleventh, eighteen hundred and fifty-five, such taxes, not exceeding one-tenth of one per cent. on the value of all taxable property of said county, as by them may be deemed necessary and sufficient for the support of the resident indigent sick of said county. Tax to be levied.

SEC. 2. The taxes specified in this act, shall be collected in the same manner, and at the same time, and by the same officers, who are, or may be, appointed to collect county 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 a part of the "Special Hospital Fund," of the county of Nevada, and shall be used for the care and protection of the indigent sick, and shall be appropriated for no other object. Manner of collection.

SEC. 3. 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 the charge of the same, according to law, except upon the presentation of the order of the Board of Supervisors drawn on the Hospital Fund. How drawn.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. XLI.—*An Act to legalize a Survey of the City of Petaluma.*

[Approved March 5, 1861.]

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

SECTION 1. A survey and a map, of the city of Petaluma, in the county of Sonoma, made by William A. Eliason, in the year eighteen hundred and sixty, is hereby declared legal and valid Survey declared valid.

for all purposes; and the said survey, or any map, or plat, thereof, or record, or copy, of the same, shall be received in evidence in all courts of justice, and shall have the same force and effect as if said survey had been made by the County Surveyor of said county.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. XLII.—*An Act to provide for the collection of Delinquent Taxes in the County of Nevada.*

[Approved March 5, 1861.]

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

Assessments.

SECTION 1. The assessment of taxes upon all property, both real and personal, in the county of Nevada, whether for State, county, or other purposes, for the fiscal year ending on the first day of March, in the year eighteen hundred and fifty-nine, and for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, in the year eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons and property assessed.

Duties of District Attorney.

SEC. 2. The District Attorney of the county of Nevada, is hereby authorized and directed to commence civil actions in the name of "The People of the State of California," in any of the courts in said county, whether the defendant be a resident or not of the township in which the court is located, to recover the unpaid taxes in said county for the fiscal years mentioned in section one of this act; and he shall designate in his complaint the amount of taxes due and unpaid for State, county, and other purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and if real, describe the same; and defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense, such defendant being allowed only to plead:

Same.

*First*—That the taxes have been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint at the time of the assessment, and has never been liable to pay said taxes, and no answer shall be filed in any such case, unless the same be verified by oath.

Evidence.

SEC. 3. The delinquent tax list for said fiscal year, duly certified by the proper officers, shall be delivered to the District Attorney; and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence in any court to prove the delinquency, property assessed, the amount of taxes unpaid and due, and that all the forms of law in relation to the levy and assessment of said taxes, have been complied with; and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

SEC. 4. Judgments rendered in such cases in the District Court, shall be docketed, and become liens upon all property of the defendant, or defendants, liable to taxation, and may be enforced against the same; and the District Attorney may file transcripts of judgments rendered in Justices' Courts, under this act, with the County Clerk, who shall thereupon docket such judgments, and they shall become liens from and after such docket entry, in like manner as judgments rendered in the District Court, under this act, and the County Clerk may issue execution on such docketed Justices' judgments, as on judgments rendered in the District Court.

SEC. 5. An Act to regulate Proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not [in]consistent with the provisions of this act, is hereby made applicable to proceedings under this act, and any deed derived from a sale of real property, under this act, shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court, to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take, and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed to redeem said property, by paying the whole bid, all subsequent taxes, and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurer of said county, to be distributed in the proper funds; and each collection, and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists which shall be open to public inspection.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid, be a non-resident of the county of Nevada, or unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name.

SEC. 7. For services under this act, the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto, if paid before judgment, and if not so paid, then twenty-five per cent. to be added thereto, and to constitute a part of the judgment, and ten per cent. upon all amounts paid over, or collected, under this act, before the commencement of suit, to be added thereto; and all officers shall perform such services as may be required of them under this act, without the payment of fees in advance; but they may charge and receive to their own use, such fees as are allowed for similar services in other cases; *provided*, that such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act against a person, after being served

Evidence of title.

Proviso.

Non-resident may be sued.

Fees of District Attorney.

Duties.

with a duplicate receipt of the County Treasurer, (the original having been filed with the County Auditor,) for the total amount of taxes and charges due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence; *provided*, further, that the District Attorney shall, at his own expense, at least ten days before commencing suit against any party, or parties, under this act, serve upon them notice, in writing, either delivered to them personally, or left at their usual place of residence, (except as above provided for, in the case of non-resident, or unknown, owners,) which notice shall state the fact of the delinquent tax list, or lists, being in his hands for collection, the amount of taxes due thereon from said delinquents, (including the extra ten per cent.) and the year, or years, in which the same was assessed. Any person who is a citizen of the State of California, may serve the notices provided for in this proviso, and he shall make affidavit to that fact, either separately, or collectively, in which he shall state, separately, the name of the person served, and the date of service, which affidavit may be used in proof, and no other proof of such service shall be required.

To take effect.

SEC. 8. This act shall take effect and be in force, from and after its passage.

CHAP. XLIII.—*An Act for the Relief of J. H. Stewart, late Deputy District Attorney for the City and County of Sacramento.*

[Approved March 5, 1861.]

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

To allow claims.

SECTION 1. The Supervisors and Auditor, of the city and county of Sacramento, are hereby authorized to audit and allow the claims of J. H. Stewart, late Deputy District Attorney, of said city and county, (the same having been transferred and assigned to him by Robert F. Morrison, late District Attorney,) for convictions prosecuted under ordinances in the Police Court of the city of Sacramento, from the third day of May, eighteen hundred and fifty-eight, to the first Monday of October, eighteen hundred and fifty-nine, as shown by the certificates of the Justices, or their successors in office, presiding in said Police Court during said time, the same being cases in which fees have not been paid; and the Auditor of said city and county, is hereby required to draw his warrant, or warrants, for said claims, and the Treasurer is required to pay the same.

Fees.

SEC. 2. The claims mentioned in the first section of this act, shall be a city and county charge, and shall be paid out of the City Contingent Fund; and the fees shall be seven dollars and fifty cents for each conviction.

To take effect.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. XLIV.—*An Act to amend An Act to extend the time for collecting Taxes in the County of Plumas, approved February twenty-second, eighteen hundred and sixty.*

[Approved March 5, 1861.]

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

SECTION 1. The Sheriff of the county of Plumas, is hereby authorized and empowered to continue the collection of State and county taxes due therein until the first Monday in May next, and for such purposes he shall have all the powers given to Sheriffs by the Act to provide Revenue for the support of the Government of this State; and in said collection, he shall be governed in all respects by said act, and he shall not be required to make his final settlement, or return his delinquent list, until the first Monday in May next; *provided*, he shall make settlement, in accordance with the provisions of said act, of all taxes collected, before proceeding under this act. Time extended.

SEC. 2. This act shall expire on the second Monday in May next, and during its continuance, all provisions of law in conflict, or inconsistent, with this act, are hereby suspended. Expiration of act.

SEC. 3. Before the extension herein granted shall take effect, the said Sheriff shall file with the Clerk of the Board of Supervisors a new bond, conditioned in the sum of two thousand dollars, for the faithful discharge of the duties imposed on him by this act. To file new bond.

SEC. 4. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. XLV.—*An Act to appropriate Money for the payment of the Salary of the additional Clerk in the State Land Office.*

[Approved March 5, 1861.]

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

SECTION 1. The sum of twenty-four hundred dollars is hereby appropriated out of any money in the General Fund not otherwise appropriated, for the payment of the salary of the additional Clerk allowed by law, in the State Land Office, for the twelfth fiscal year ending June thirtieth, eighteen hundred and sixty-one. Appropriat'n.

CHAP. XLVI.—*An Act relative to the Office of Superintendent of Common Schools in the County of San Mateo.*

[Approved March 5, 1861.]

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

Supervisors  
to appoint.

SECTION 1. At the first regular meeting of the Board of Supervisors of the county of San Mateo, after the passage of this act, the said Board shall appoint from among the qualified electors of said county, some suitable and competent person to the office of Superintendent of Common Schools for said county, who shall hold his office until his successor is appointed and qualified; and at the first regular meeting of the said Board, in the year A. D. eighteen hundred and sixty-two, and in each and every year thereafter, the said Board shall in like manner appoint a Superintendent of Common Schools, who shall hold his office for one year, and until his successor is appointed and qualified. In case of a vacancy in said office, the said Board may, at any regular meeting thereof, make an appointment for the unexpired term.

Compensa'tn.

SEC. 2. At the time of making such appointment, the said Board shall also, by order, fix the amount of compensation to be allowed to said officers, which amount shall not exceed the sum of three hundred dollars per annum, and shall not be changed during the term. The amount so fixed shall be audited and paid in the same manner, and out of the same fund, as other salaries in said county.

Duties of  
Clerk.

SEC. 3. Within five days after such appointment, the Clerk of said Board shall notify the person so appointed, and within ten days after such notice, the said officer shall qualify, and give bond, in the manner now required by general law, and immediately enter upon the discharge of the duties of said office, and during his term shall possess the same powers, perform the same duties, and be subject to the same rules, as other Superintendents under general law, except that in selecting an examining Board, he shall not be limited to select from among the teachers in said county, but may select such persons as he shall deem best qualified for the performance of that duty.

Repealing  
clause.

SEC. 4. All laws, and parts of laws, in conflict with the provisions of this act, are hereby declared inoperative, so far as relates to the county of San Mateo.

To take  
effect.

SEC. 5. This act shall take effect immediately.



CHAP. XLVII.—*An Act amendatory of an Act entitled An Act defining the Legal Distances from each County Seat to the Capitol, Lunatic Asylum, and State Prison, passed April twenty-fourth, eighteen hundred and fifty-eight.*

[Approved March 5, 1861.]

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

SECTION 1. Section twenty-three of said act, is amended so as to read as follows :

Sec. 23. From the county seat of San Bernardino County to Sacramento, six hundred miles; to Stockton, six hundred miles; to San Quentin, five hundred and five miles. Legal distances.

CHAP. XLVIII.—*An Act to authorize the Executrix and Executor of the last Will and Testament of Frederick P. Tracy, deceased, to sell the Real Estate of said deceased at public, or private, sale.*

[Approved March 5, 1861.]

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

SECTION 1. Emily Tracy, Executrix, and James S. Tracy, Executor, of the last will and testament of Frederick P. Tracy, deceased, are hereby authorized to sell the real estate of said deceased, or any part, or portion, thereof, or any right, title, or interest, in real property belonging to, or claimed by, said deceased in his lifetime, in the State of California, on such terms, and in such manner, either at public or private sale, as to them may seem most advantageous to said estate. Authority to sell.

SEC. 2. No such sale, or sales, shall be valid until the same shall have been submitted to, and approved by, the Probate Judge; and upon each sale, before the execution of the conveyance, said Executrix and Executor shall file in the Probate Court, a good and sufficient bond, with sureties approved by the Judge, in double the amount of the purchase money, conditioned for the due and proper application of the proceeds arising from such sale. Approval of sale.

SEC. 3. The said Executrix and Executor, upon any such sale, or sales, being made and approved, and upon the filing of bonds as in this act provided, may execute, acknowledge, and deliver, to the purchaser, or purchasers, a good and sufficient deed, or deeds, of conveyance of the premises sold, which shall be as valid and binding as if the same had been made by the said Frederick P. Tracy in his lifetime. To execute deed.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. XLIX.—*An Act to amend an Act entitled An Act concerning Attorneys and Counselors-at-Law, passed February nineteenth, A. D. eighteen hundred and fifty-one.*

[Approved March 5, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows:

Necessary  
qualifica-  
tions.

Sec. 1. Any white male citizen, or white male person, who shall have *bona fide* declared his intention to become a citizen, in the manner required by law, of the age of twenty-one years, of good moral character, and who possesses the necessary qualifications of learning and ability, shall be entitled to admission as Attorney and Counselor in all the courts of this State.

SEC. 2. Section four of said act is hereby amended so as to read as follows:

Certain  
courts may  
admit.

Sec. 4. The District and County Courts of this State are authorized to admit as Attorney and Counselor in their respective Courts, any white male citizen, or white male person, who shall have *bona fide* declared his intention to become a citizen, of the age of twenty-one years, and of good moral character, who possesses the requisite qualifications, on similar testimonials and like examinations as are required by the preceding section for admission by the Supreme Court, and may direct their Clerks to give a certificate of such admission, which certificate shall be his license to practice in such courts.

To take  
effect.

SEC. 3. This act shall take effect immediately.

CHAP. L.—*An Act concerning Agricultural Societies.*

[Approved March 5, 1861.]

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

Time  
extended.

SECTION 1. The Board of Managers of the San Joaquin Valley Agricultural Society are hereby granted the further term of three months from and after the passage of this act, within which to comply with section seven of An Act concerning Agricultural Societies, approved March twelfth, eighteen hundred and fifty-nine.

To take  
effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. LI.—*An Act in reference to Corporations organized in this State for the purpose of Mining out of this State.*

[Approved March 5, 1861.]

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

SECTION 1. That it may be lawful for any corporation organized in this State, under the laws of this State, for the purpose of mining, or carrying on mining operations, without this State, whose business office is in this State, to levy assessments upon the capital stock thereof to pay the debts future, or present, of said corporation, or to carry on the business of said corporation; *provided*, the same shall be equal and uniform, and at no one time exceed five per cent. of the capital stock, and such levy, or assessment, shall constitute a valid and binding obligation upon the holders of such stock to pay the sum so assessed against the stock so held. Notice of each such call, or assessment, shall be given to the respective stockholders personally, or shall be published once a week for at least four weeks in some newspaper published at the place designated as the principal place of business of the corporation, and also in some newspaper published nearest to the point where said mining operations are being carried on. If, after such notice has been given, any stockholder shall make default in the payment of such call, or assessment, as to the shares of stock held by him, so many of such shares may be sold as will be necessary for the payment of the call, or assessment, on the shares held by him. The sale of said shares shall be made as prescribed in the by-laws of the company; *provided*, that no sale shall be made except at public auction to the highest bidder, after a published notice of thirty days, published as above directed; and, that at such sale the person who will agree to pay the call, or assessment, so due, together with the expense of advertisement and the other expenses of the sale for the smallest number of whole shares, shall be deemed the highest bidder.

Assessments

Sale of stock.

SEC. 2. This act shall take effect from and after its passage.

To take effect.

CHAP. LII.—*An Act to authorize the issuance of Duplicates of certain School Land Warrants for the benefit of Thomas Thompson.*

[Approved March 8, 1861.]

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

WHEREAS, School Land Warrants, Number Eighty-Four, and Number Eighty-Five, each for one hundred and sixty acres of land, were issued June the fourth, A. D. eighteen hundred and fifty-two, (under An Act to provide for the disposal of Five Hundred Thousand Acres of Land, granted to this State by Act of Congress, approved May the third, A. D. eighteen hundred

Preamble.

and fifty-two,) to James T. Thompson, and by him duly assigned to Thomas Thompson, June the thirtieth, A. D. eighteen hundred and fifty-two, and by the said Thomas Thompson located July the seventh, A. D. eighteen hundred and fifty-two, upon certain lands situated in Santa Clara County, in this State, as is evidenced by the records of said county; *whereas*, School Land Warrant, Number One Hundred and Thirty-Three, for one hundred and sixty acres of land, issued June the seventh, A. D. eighteen hundred and fifty-two, (under An Act to provide for the disposal of Five Hundred Thousand Acres of Land, granted to this State by Act of Congress, approved May third, A. D. eighteen hundred and fifty-two,) to Thomas Sunderland, and by him duly assigned to Thomas Thompson, July twenty-third, A. D. eighteen hundred and fifty-two, and by the said Thomas Thompson located October the twelfth, A. D. eighteen hundred and fifty-two, upon certain lands situated in Santa Clara County, in this State, as is evidenced by the records of said county; *whereas*, the three land warrants above mentioned, and each of them, have been accidentally destroyed by fire:

**Duplicates.** SECTION 1. The Treasurer of State is hereby authorized and directed to issue to Thomas Thompson, or to his heirs, or assigns, duplicates of the three above mentioned and described school land warrants, in lieu of the originals, accidentally destroyed by fire.

**Manner of signing.** SEC. 2. The said warrants shall be signed by the Treasurer and Controller of State, and indorsed by the Governor, and the word "duplicate" written across the face thereof.

**To give bond** SEC. 3. Before any of said school land warrants shall be delivered to the person above named, or his legal representatives, the Treasurer shall demand, and receive, from him, or his heirs, or assigns, a bond of indemnity in the penal sum of nine hundred and sixty dollars; said bond shall be payable to "The People of the State of California," conditioned against the appearance, or presentment, for location, of the original school land warrants hereinbefore named.

**Form of bond** SEC. 4. Said bond of indemnity shall be in form, joint and several, executed by at least two good and sufficient sureties, to be approved by the Treasurer of State.

**Validity of duplicates.** SEC. 5. The duplicates herein provided to be issued, shall be, to all intents and purposes, as good, and all and every incident thereto shall be as effectual, to all intents and purposes, as though they were the original warrants, having all the proper assignments and indorsements thereon, and in all legal proceedings, they shall have the same force and effect that the originals would have, were they existing with said assignments and indorsements thereon; and any assignment made by either of the warrantees named in the original warrants, or by any other person, and indorsed on said duplicates, respectively, shall have the same force and effect as the indorsements, or which might have been legally made, on the said originals, respectively; *provided*, that, upon any one of said original warrants being found, the duplicate thereof, herein directed to be issued, shall be null and void to all intents and purposes whatsoever.

CHAP. LIII.—*An Act to authorize and require the Trustees of the City of Petaluma to call an Election for certain purposes therein named.*

[Approved March 8, 1861.]

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

SECTION 1. It shall be lawful for, and it is hereby made the duty of, the Trustees of the city of Petaluma, immediately after the passage of this act, to order an election to be held in said city, on a day which shall not be less than five days, nor more than ten days, from the time of ordering such election; and they shall give notice of such election by publishing the same in all the newspapers published in said city, and by posting as many written, or printed, notices thereof in said city as said Trustees shall deem necessary; and said election shall be conducted in all respects in the same manner as elections held in said city for city officers are required to be held. To call election.

Sec. 2. At the election provided for in the first section of this act, the question "Shall the Charter of the City of Petaluma be repealed," shall be submitted, and it shall be lawful for the qualified voters resident within said city, to vote for, or against, the repeal of the said city charter, in the following manner, viz: those who vote for the repeal thereof, shall indorse on their tickets the words "for repeal," and those who vote against such repeal, shall indorse on their tickets the words "against repeal;" and it shall be the duty of the officers holding and conducting said election, to count and canvass the votes polled for, and against, such repeal, and determine the majority for, or against, the same, in the same manner as in case of the election of officers for said city. Manner of voting.

Sec. 3. This act shall take effect from and after its passage. To take effect.

CHAP. LIV.—*An Act supplementary to an Act entitled An Act concerning the Board of Supervisors of Placer County, approved February fourth, eighteen hundred and fifty-seven, and to extend its provisions to Tulare County.*

[Approved March 8, 1861.]

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

SECTION 1. The provisions of an act entitled An Act concerning the Board of Supervisors of Placer County, approved February fourth, eighteen hundred and fifty-seven, are hereby extended to the county of Tulare, so far as they can be made applicable to the same. Provisions of act extended.

Sec. 2. The present Board of Supervisors of Tulare County shall, at their regular session in May, eighteen hundred and sixty-one, divide the county into three supervisor districts, and Duties of Supervisors.

number said districts, consecutively, from one to three, and give notice at their annual election proclamation of the boundaries and number of said districts.

Repealing  
clause.

SEC. 3. So much of an act entitled An Act to create a Board of Supervisors in the Counties of this State, and to define their Powers and Duties, approved March twentieth, eighteen hundred and fifty-five, as conflicts with the provisions of this act in its application to the county of Tulare, is hereby repealed. The Supervisor filling the term nearest expiration, shall be Chairman of the Board; *provided*, that in no instance shall this provision apply to a member of the Board elected to fill a vacancy, unless each member composing the Board, shall have been elected to serve an unexpired term.

Proviso.

CHAP. LV.—*An Act authorizing the Board of Supervisors of Sierra County, to levy certain Taxes for County purposes, for the Year eighteen hundred and sixty-one.*

[Approved March 8, 1861.]

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

To levy taxes

SECTION 1. The Board of Supervisors of Sierra County are hereby authorized, if they deem the same expedient, at a special meeting of said Board to be held on the fourth Monday of March, eighteen hundred and sixty-one, to levy taxes for the year eighteen hundred and sixty-one, for county purposes, not to exceed the rates hereinafter mentioned, on each one hundred dollars of taxable property in said county, viz: a tax not to exceed seventy-five cents, to be paid into the General Fund; twenty-five cents, to be paid into the Interest Fund; twenty-five cents, to be paid into the Hospital Fund; ten cents, to be paid into the School Fund; twenty-five cents, to be paid into the Jail Fund; and twenty-five cents, to be paid into a fund to be known as the "Contingent Fund;" and said taxes, when levied by said Board, shall be collected at the same time and in the same manner, as is now provided by law for the collection of State taxes in said county.

Contingent  
Fund.

SEC. 2. The moneys collected under the provisions of this act, which are directed to be paid into the Contingent Fund, shall be paid into the county treasury, and it shall be the duty of the County Treasurer of said county, to set apart the same as a Contingent Fund to defray the current expenses of the county other than the salaries and fees of county officers; and said moneys shall be disbursed by him on orders drawn upon said fund, by the Board of Supervisors of said county; any surplus remaining, shall be paid into the General Fund for the payment of the existing county debt.

To take  
effect.

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

CHAP. LVI.—*An Act to extend the time to the City of Petaluma, or Assigns, to improve the navigation of Petaluma Creek.*

[Approved March 8, 1861.]

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

SECTION 1. The time allowed by an act entitled An Act to grant the right to improve the navigation of Petaluma Creek, passed April eleventh, eighteen hundred and fifty-nine, to the City of Petaluma, or Assigns, to commence and complete the improvement of the navigation of Petaluma Creek, is hereby extended five years from and after the time allowed by said act. Time extended.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. LVII.—*An Act prescribing Rules for the government of the State Library.*

[Approved March 8, 1861.]

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

SECTION 1. The State Library shall be under the direction and control of a Board of Trustees, to consist of five members as herein provided. The Governor and the Chief Justice of the Supreme Court shall be *ex officio* members of the Board; J. R. McConnell, J. W. Winans, and S. Heydenfeldt, are hereby appointed members of the Board. They shall hold their offices for the term of four years, and until their successors are appointed and qualified. On, or before, the expiration of their term of office the Legislature shall, on joint ballot, elect their successors. Board of Trustees.

SEC. 2. In case of a vacancy, for any cause, in the Board of Trustees, the Legislature shall elect on joint ballot to fill such vacancy. If a vacancy occur when the Legislature be not in session, the Governor shall have power to fill such vacancy until the ensuing session of the Legislature. Vacancy.

SEC. 3. The Trustees of the Library shall receive no compensation whatever for their services, as such.

SEC. 4. The first meeting of the Board of Trustees shall be held on, or before, the first Monday of April, A. D. eighteen hundred and sixty-one, and the Board shall meet at least twice each year. The meetings of the Board shall be held in the State Library rooms. Meetings.

SEC. 5. The Board of Trustees shall have power to appoint a Librarian to superintend and take care of the State Library, and they shall prescribe such rules and regulations for the government of the library as they shall think proper. They shall have power to draw from the treasury, at any time, all moneys therein belonging to the State Library Fund, and to expend the same in the purchase of suitable furniture, maps, charts, and books, for Powers.

the use of the State Library, and the State Library Fund shall not be subject to any of the provisions of an act entitled An Act to create a Board of Examiners, to define their Powers and Duties, and to impose certain Duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight.

Exchange  
of books.

SEC. 6. The Trustees are hereby authorized to exchange any duplicate copies of books not required for the use of the library, with foreign countries, or any public libraries, for such books as they may think proper. And they are hereby authorized to pay from the Library Fund such amounts as may be necessary to carry out the object of such exchange, and paying the necessary expense of freight, postage, and Clerk hire. The Board shall, annually, on the first Monday of January, report to the Legislature the true condition of the library, and of all the transactions during the preceding year.

Term of  
office.

SEC. 7. The Librarian appointed by the Trustees shall hold his office for the term of four years, and before entering upon the duties of his office he shall make and execute his bond to the State of California in the penal sum of three thousand dollars, conditioned for the faithful discharge of the duties of his office; said bond shall be approved by the Governor, and shall be by him deposited in the office of the Secretary of State.

Salary.

SEC. 8. The Librarian shall receive for his salary the sum of two thousand five hundred dollars per annum. He may at any time be removed by consent of all the members of the Board of Trustees.

Office hours.

SEC. 9. The Librarian shall by himself, or Deputy, be constant in his attendance upon the library during the hours it shall be directed to be kept open. He may appoint some person having the proper qualifications, as his Deputy.

Secretary  
of Board.

SEC. 10. The Librarian shall be Secretary of the Board of Trustees, and he shall keep a correct record of all their proceedings.

Duties of  
Librarian.

SEC. 11. The Librarian shall cause to be kept a register of all books issued and returned; and all books taken by the members of the Legislature, or its officers, shall be returned at the close of the session. If any person injure, or fail to return, any book taken from the library, he shall forfeit and pay to the Librarian, for the benefit of the library, three times the value thereof; and before the Controller shall issue his warrant in favor of any member, or officer, of the Legislature, or of this State, for his *per diem* allowance, or salary, he shall be satisfied that such member, or officer, has returned all books taken out of the library by him, and has settled all accounts for injuring such books, or otherwise.

Same.

SEC. 12. The Librarian shall be responsible for the safe keeping of all the property of the State Library; he shall cause all the books, maps, and charts, thereof, to be impressed with the proper stamp, or seal; he shall cause all books when received to be numbered, and shall at all times keep in a convenient place in the library a catalogue of the books of the same for convenient reference.

Same.

SEC. 13. All books, maps, and charts, now belonging to, or which may hereafter come into possession of, the State by pur-



chase, or otherwise, shall compose the State Library, and shall be carefully preserved by the Librarian; and the Librarian shall cause to be bound in neat and substantial binding, all laws, journals, reports, pamphlets, and other documents, which may be received in a condition requiring such binding.

SEC. 14. The library shall be kept open every day in the year, Office hours. Sundays excepted, during such hours in each day as the Trustees may direct; *provided*, that during the session of the Legislature, it shall be kept open at least eight hours each day.

SEC. 15. Books may be taken from the library by the members of the Legislature and its officers during the session of the same, and at any time by the Governor and the officers of the Executive Department of this State, who are required to keep their offices at the seat of government; the Justices of the Supreme Court; the Attorney-General, and the Trustees of the library. Who may take books.

SEC. 16. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed so far as they conflict with this act. Repealing clause.

SEC. 17. This act shall take effect from and after its passage. To take effect.

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CHAP. LVIII.—*An Act to change the Venue in the case of Horace Smith.*

PREAMBLE.

WHEREAS, an indictment is now pending in the Twelfth Judicial District Court of this State, charging Horace Smith with the crime of murder, alleged to have been committed by killing Samuel T. Newell, in the city and county of San Francisco on the first day of January, A. D. eighteen hundred and sixty-one; and, *whereas*, it appears that the accused and the deceased both resided at Auburn, in the County of Placer, at the time of the alleged homicide, and that the principal provocations which lead to, and were the immediate cause thereof, and which are relied upon in justification of the alleged killing, were given at Auburn; and, *whereas*, it appears that five-sixths of all the witnesses whose testimony will be required at the trial, will be greatly accommodated by a change of the place of trial to Placer County, and that such change is necessary to afford the defendant a fair and impartial trial; and, *whereas*, it appears that existing statutes do not provide for a change of venue for the causes herein specified; therefore,

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

SECTION 1. It shall be lawful, and it is hereby declared to be the duty of the District Court of the Twelfth Judicial District of this State, for the city and county of San Francisco, upon the motion of Horace Smith, or his Attorneys, after two days' notice to the District Attorney, to grant an order transferring the indict- To transfer indictment.

ment therein pending against said Smith for murder, to the District Court of the Eleventh Judicial District in and for Placer County, for trial. The transfer shall be made as in other criminal cases, and the said last mentioned court, upon filing the papers with its Clerk, shall have jurisdiction of said indictment, the trial thereunder, and all other proceedings; *provided*, all the expenses growing out of the indictment and trial of the said Smith shall be borne by the State of California.

Proviso.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

MARCH 12, 1861.

Bill passed over veto.

This bill was returned on March eleventh to the Senate without the approval of the Governor, and passed by a constitutional majority of votes of the Senate. On the same day sent to the Assembly, and on the twelfth taken up and passed the Assembly by a constitutional majority of votes, notwithstanding the objections of the Governor.

R. BURNELL,  
Speaker of the Assembly.

PABLO DE LA GUERRA,  
President of the Senate.

Attest: DAVID J. WILLIAMSON,  
Assistant Secretary of the Senate.

J. W. SCOBAY,  
Assistant Clerk of the Assembly.

CHAP. LIX.—*An Act to authorize the sale of certain Real Estate by Guardians.*

[Approved March 13, 1861.]

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

Guardians to sell.

SECTION 1. The legally appointed Guardian, or Guardians, of Stephen M. Smith, Manuela Smith, and James Smith, minor heirs and devisees of Stephen Smith, late of Sonoma County, deceased, is, and are, hereby authorized and empowered to sell, at public, or private, sale, as shall be deemed most advantageous for the interest of said minors, the whole, or any undivided interest, of each one, or of all, of said minors, in the whole, or any portion, of the tract of land in the county of Sonoma, known as the "Bodega Rancho," for which a patent has been issued by the government of the United States; *provided*, however, that no reversionary interest of said minors shall be sold under the provisions of this act, unless the person, or persons, owning, or interested in, any life estate, or any other intermediate estate, in the property offered for sale, shall join in the sale, or sales, and conveyance, or conveyances, so as to convey to the purchaser, or purchasers, a complete title to the land in fee simple.

Proviso.

To make report.

SEC. 2. The said Guardian, or Guardians, shall make a full report of any, and all, such sales as shall be made by him, or them, to the Probate Court of Sonoma County, and the Judge of the said court shall, upon such return being made, appoint an Attorney to appear for, and represent, said minors upon the con-

firmation of said sale, or sales, and shall appoint a day for the hearing thereof; upon the day appointed for the hearing of said report, or reports, the court shall examine the same, and confirm, or set aside, said sale, or sales, as the court may deem just and proper, and for the interest of said minors. The Guardian, or Guardians, is, or are hereby, authorized, upon the confirmation of any such sale, or sales, as hereinbefore provided, and upon the compliance on the part of the purchaser, or purchasers, with the terms of sale, to execute, acknowledge, and deliver, to said purchaser, or purchasers, a conveyance of the land so sold, which shall absolutely and forever convey and vest in the grantee, or grantees, all the estate, right, title, interest, claim, demands, reversions, and remainder, legal and equitable, of the aforesaid minors, or either of them, in, and to, the property described in the deed, or conveyance; *provided*, however, that no such sale, or sales, shall be approved by said Probate Judge until said Guardian, or Guardians, shall have filed in said court a bond, or bonds, with sufficient sureties to the satisfaction of said Judge, in an amount to be fixed by said Judge, conditioned for the safe custody and disposition of the moneys arising from said sale, or sales.

SEC. 3. After any such sale, or sales, shall have been made as aforesaid, *provided*, Manuela T. Curtis, late Manuela T. Smith, and the widow of the said Stephen Smith, deceased, shall have joined in such sale, or sales, and shall consent to such divisions, the Probate Court shall proceed to divide the proceeds of said sale, or sales, between the said Manuela T. Curtis and the said minors; upon such division, the interest of the said Manuela T. Curtis shall be calculated according to the Northampton, or Portsmouth, tables, except that in ascertaining the present value of her life estate, interest shall be counted at the rate of twelve per cent. per annum; the portion of the said Manuela T. Curtis so ascertained shall be paid over, upon her giving acquittances for the remainder of the proceeds of said sale, or sales, in favor of said minors.

Division of  
proceeds of  
sales.

CHAP. LX.—*An Act declaring the Salinas River, in the County of Monterey, a Navigable Stream.*

[Approved March 13, 1861.]

*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, the river known as the "Salinas," and the slough adjacent thereto known as the "Elkhorn Slough, or Estero Viejo," in the county of Monterey, from the mouth thereof as far as the tide flows, shall be, and the same is hereby, declared a navigable stream.

Declared  
navigable.

SEC. 2. It shall not be lawful for any person, or persons, to build any dam, or bridge, across the aforesaid river, or slough, or any wharf thereon, that will interfere with the free navigation of the same.

Obstructions

Bridges and  
ferries.

SEC. 3. Nothing contained in the foregoing sections shall be so construed as to prohibit, or prevent, the Board of Supervisors of said county from granting licenses for any ferry, or ferries, bridge, or bridges, when the public good may require it; *provided*, no obstruction be created thereby to the free navigation of the said river, or slough.

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CHAP. LXI.—*An Act to amend an Act entitled An Act to amend An Act to establish an Asylum for the Insane of the State of California, passed April sixteenth, eighteen hundred and fifty-eight.*

[Approved March 13, 1861.]

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

SECTION 1. Section three of the act passed April sixteenth, eighteen hundred and fifty-eight, entitled An Act to amend An Act to establish an Asylum for the Insane of the State of California, is hereby amended so as to read as follows :

Assistant  
Physician.

Sec. 3. There shall also be elected in the same manner an Assistant Physician, who shall be a regular graduate in medicine, and who shall have practiced his profession at least five years from the date of his diploma; he shall reside within the asylum, and perform such other duties as may be directed by the Superintendent and prescribed by the by-laws. He shall have a salary of three thousand dollars per annum, payable quarterly; he shall also hold his office for the period of four years, and until his successor is elected and qualified. The first election for Resident and Assistant Physician under this act shall take place on, or after, the first Monday of March, eighteen hundred and sixty-one. The terms of the present incumbents shall expire on the first Monday of April, eighteen hundred and sixty-one.

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CHAP. LXII.—*An Act authorizing the Mayor and Common Council of the City of Marysville to levy a Tax, and to provide and appropriate certain Moneys for the benefit of the Agricultural, Horticultural, and Mechanics' Society, of the Northern District of California.*

[Approved March 13, 1861.]

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

Election.

SECTION 1. The Mayor and Common Council of the city of Marysville shall call an election, giving at least ten days' notice thereof; by publication in some public newspaper published in said city, to be held on, or before, the fourth Tuesday in March, eighteen hundred and sixty-one, for the purpose of submitting

to the qualified electors of said city the proposition authorizing the Mayor and Common Council of the city of Marysville to levy a tax, and to provide and appropriate the sum of seven thousand dollars for the benefit of the Agricultural, Horticultural, and Mechanics' Society, of the Northern District of California. The Mayor and Common Council of said city shall cause to be prepared a sufficient number of ballots for the use of the electors at such election, with the words "Tax for the Agricultural, Horticultural, and Mechanics' Society" printed thereon. Every ballot voted at said election shall have the word "Yes," or the word "No," written or printed thereon, and said election shall be conducted as to the officers, proceedings, and the returns thereof, in the same manner as provided for in cases of the election of city officers of said city. And if a majority of said electors of said city, voting at said election, shall vote "Yes" upon said proposition, the result shall be declared by the Mayor and Common Council of said city, and thereupon it shall be the duty of said Mayor and Common Council of the city of Marysville to levy, assess, collect, and disburse, said tax, as hereinafter provided.

SEC. 2. The Mayor and Common Council of the city of Marysville are hereby empowered to levy a tax for the year A. D. eighteen hundred and sixty-one, upon all the real and personal property within the corporate limits of said city, made taxable by law for State purposes, in addition to the other taxes levied for city purposes, sufficient to realize the sum of seven thousand dollars; which amount, when collected, shall be appropriated to the use and benefit of the Agricultural, Horticultural, and Mechanics' Society, of the Northern District of California, in the manner hereinafter provided. The said tax shall be levied at the same time, and in the same manner, as required by law for the levying of other city taxes, and the same shall be assessed, enforced, collected, and paid over, by the same officers, and in the same manner and at the same time, as other city taxes are by law required to be assessed, enforced, collected, and paid over, for the year A. D. eighteen hundred and sixty-one.

To levy tax.

SEC. 3. It shall be the duty of the said Mayor and Common Council on, or before, the second Monday in July, A. D. eighteen hundred and sixty-one, to appoint a committee to be composed of three of their number and three other citizens of said city, who shall act in conjunction with the President, Secretary, and Treasurer, of said society, in the purchase of suitable grounds within the corporate limits of said city, for the use of said society, and in the erection of suitable buildings and sheds thereon, and in the fencing, ornamenting, and otherwise improving, the same, and in doing everything in their judgment necessary to be done to render such grounds fit for the use of said society, and for the annual fairs and exhibitions thereof.

Duties of Mayor and Common Council.

SEC. 4. It shall be the duty of said Mayor and Common Council, at the time of the appointing of said committee, to appropriate the sum of seven thousand dollars, payable on the first Monday in November, A. D. eighteen hundred and sixty-one, to the order of the Treasurer of said society.

Same.

SEC. 5. The City Clerk shall, on the first Monday in November, A. D. eighteen hundred and sixty-one, upon the demand of

Of City Clerk.

the President, Secretary, and Treasurer, of said society, and a majority of said committee, issue his warrants on the Treasurer of said city, in such amounts as shall be required, not exceeding in the aggregate the sum of seven thousand dollars, which warrants shall be delivered to the Treasurer of said society, who shall indorse the same, and apply them as directed by the President, Secretary, and Treasurer, of said society, and by a majority of said committee, to the payment of the costs and expenses incurred in the purchase of the said grounds, and the improvements thereon, as provided in section three of this act.

Of Treasurer.

SEC. 6. It shall be the duty of the City Treasurer to apply all moneys arising from the tax levied by this act, to the payment of the warrants drawn by the City Clerk in favor of the Treasurer of said society, and he shall redeem the warrants with said moneys as soon as they shall be presented; if sufficient money shall not be collected from said tax to pay all of said warrants, the Mayor and Common Council shall provide for the payment of any of said warrants remaining unpaid, out of the General Fund of the city. If there shall be a surplus remaining in the city treasury from such tax, after redeeming all of said warrants, the Mayor and Common Council shall order such surplus to be transferred to the General Fund of the city.

Conveyance.

SEC. 7. The real estate and grounds that may be purchased, as above provided, for the use of said society, shall be conveyed by deed to the Mayor and Common Council of said city, and to their successors in office, in trust, for the benefit of said society; the said real estate and grounds, together with the improvements thereon, shall be exempt from taxation, and from execution and forced sale. Nor shall it be lawful for said society, or any of its officers, to create any lien upon the same by mortgage, or otherwise, and it is expressly provided, that should the said society at any time hereafter become extinct, or remove to some other place, or hold its regular, or annual, meetings, fairs, or exhibitions, at some other place than in said city of Marysville, then, and in that event, the title to said real estate and grounds, with all the improvements and appurtenances, shall vest absolutely in said city.

Control and management

SEC. 8. The said grounds, during the continuance of such fairs and exhibitions as may be held thereupon, shall be under the exclusive control and management of the officers of said society. During the interval between such fairs and exhibitions, the said grounds shall be under the control of the President of the society and the Mayor of said city, whose duty it shall be to see that the buildings, sheds, fencing, and all the other improvements and materials upon said grounds, be kept in repair, and properly preserved, and taken care of. For this purpose they may rent the premises to some suitable person during said intervals, in their discretion, or may employ some suitable person to take charge of the same. All moneys arising from the rent of said premises shall be paid over to said society; *provided*, that the city shall not be chargeable for any of the expenses attending such care and supervision.

To take effect.

SEC. 9. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed; and this act shall take effect and be in force, from and after its passage.

CHAP. LXIII.—*An Act to authorize the Board of Supervisors of the City and County of Sacramento to levy a Special Tax.*

[Approved March 13, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of Sacramento are hereby authorized and required, in addition to the taxes already authorized by law to be collected for the year eighteen hundred and sixty-one, to levy, and cause to be collected, on all property, throughout the city of Sacramento subject to taxation, a tax of eleven cents on each hundred dollars worth of property; said taxes to be collected at the same time and in the same manner as other taxes are collected for State, county, and city, purposes. To levy tax.

SEC. 2. The revenues collected under the provisions of this act shall be applied to the payment of moneys, with legal interest, advanced by D. O. Mills, for himself and others, to pay for the lands selected as a site for the State Capitol, in the city of Sacramento; and the said moneys, when collected, shall be paid to the County Auditor of Sacramento County, and by him paid to the said D. O. Mills, or his order, as fast as the same are collected and paid over to said Auditor, until the amount advanced by the said D. O. Mills, for himself and others, with legal interest, is fully paid; the surplus, if any, shall be paid into the General Fund of the city of Sacramento. Purpose.

SEC. 3. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. LXIV.—*An Act to authorize Caius T. Ryland to sell certain Real Estate of his infant Children.*

[Approved March 13, 1861.]

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

SECTION 1. Caius T. Ryland, as the Guardian of his infant children, Ada Ryland and John W. Ryland, now, or hereafter, to be appointed by the Probate Court, or the Probate Judge, of Santa Clara County, upon his executing as such Guardian, a bond in such penalty as such court, or Judge, shall direct, is hereby authorized and fully empowered to sell at public, or private, sale, any and all real estate, and any right, title, or interest, therein belonging to said infant children, or either of them, in this State. Conditions.

SEC. 2. The said Guardian shall make a full report of any and all sales that he shall make by virtue of the power herein granted to the said Probate Court, and the Judge of said court shall, either in term time, or in vacation, in open court, or in chambers, examine the same, and confirm, or set aside, the said To make report.

sale, or sales, as he may deem just and proper, and for the interest of said infants.

Validity of deed.

SEC. 3. After the approval of the sale, or sales, by the said court, or the Judge thereof, the said Guardian shall execute and deliver a deed, or deeds, of conveyance of the lands sold, which deed, or deeds, shall convey to the purchaser, or purchasers, all the right, title, and interest, of the said infants, or either of them, in and to the lands sold by such Guardian, and described in such deed, or deeds, and shall be as valid, to all intents as if made under an order of the proper Probate Court in due course of law.

To take effect.

SEC. 4. This act shall take effect and be in force, from and after its passage.

CHAP. LXV.—*An Act relating to the Thirteenth Judicial District, and to define the Time of holding the Courts in said District.*

[Approved March 13, 1861.]

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

SECTION 1. The county of Stanislaus, for judicial purposes, shall be attached to the Thirteenth Judicial District.

Terms.

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 fourth Monday of January, May, and September, of each year; in the county of Stanislaus, on the first Monday in February, June, and October, of each year; in the county of Fresno, on the third Monday of February, June, and October, of each year; in the county of Tulare, on the fourth Monday of February, June, and October, of each year; in the county of Mariposa, on the second Monday of March, July, and November, of each year.

Repealing clause.

SEC. 3. All acts, or parts of acts, so far as they are inconsistent with the provisions of this act, are hereby repealed.

To take effect.

SEC. 4. This act shall take effect on the first day of May, A. D. eighteen hundred and sixty-one.

CHAP. LXVI.—*An Act to change the Name of John H. D. Malson, of the County of Butte.*

[Approved March 13, 1861.]

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

Change of name.

SECTION 1. The name of John H. D. Malson, of the county of Butte, is hereby changed to that of John A. Lyons.

SEC. 2. This act shall take effect from and after its passage.



CHAP. LXVII.—*An Act to transfer certain Funds.*

[Approved March 15, 1861.]

*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 order the Treasurer of State to transfer ninety-three thousand six hundred and sixty-six dollars and forty-three cents (\$93,666 43) of the money known as the "Swamp Land Fund," into the General Fund. Transfer of funds.

SEC. 2. The Controller of State is hereby authorized and required to repay to said Swamp Land Fund the ninety-three thousand six hundred and sixty-six dollars and forty-three cents, (\$93,666 43,) drawn from it by this act, out of the first money received into the General Fund of the State on, or after, the second Monday in November, A. D. eighteen hundred and sixty-one. When to be repaid.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. LXVIII.—*An Act relating to the Sureties of C. F. Lynn, late Treasurer of Trinity County.*

[Approved March 15, 1861.]

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

SECTION 1. The sureties upon the official bond of C. F. Lynn, late Treasurer of Trinity County, executed on the fourth day of December, A. D. eighteen hundred and fifty-five, are hereby released and discharged from all demands on the part of the State of California on account of said bond, as well as the judgment thereon rendered and entered in the District Court of the Ninth Judicial District in and for said county of Trinity, on the twenty-first day of April, A. D. eighteen hundred and fifty-eight. Sureties released.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. LXIX.—*An Act to authorize James Camp and James M. Fry to remove certain Remains.*

[Approved March 15, 1861.]

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

SECTION 1. James Camp and James M. Fry, of Dillon Township, in Klamath County, are hereby authorized to disinter and remove the remains of John Latimer and Thomas Mooney from Removal.

their present burial place, and inter the same in the public graveyard of said township.

Not to  
prosecute.

SEC. 2. No prosecution by indictment, or otherwise, shall be had against the said Camp and Fry on account of said removal, as authorized by this act.

CHAP. LXX.—*An Act amendatory of, and supplemental to, An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty.*

[Approved March 15, 1861.]

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

SECTION 1. Section eight of said act is hereby amended so as to read as follows:

Duties of  
Assessor.

Sec. 8. Each District Assessor shall keep a daily account of the number of days he shall be actually employed in the discharge of his official duties, and shall present the same after he shall have completed his official duties for the year, to the Board of Supervisors at the time they meet as a Board of Equalization; and for the purpose of auditing such account the Board shall act as a Board of Supervisors, which account shall be verified before the Clerk of the Board; and the Assessor shall be required to answer all questions under oath, which may be propounded by the District Attorney, or Board of Supervisors; and it shall be the duty of the Board to allow such Assessor a just and reasonable compensation for his services, not exceeding the sum of seven dollars per day; but in case it shall appear, to the satisfaction of the Board from such examination of the Assessor, and an inspection of the assessment roll and other official acts, that he has been negligent in the discharge of his duties, or has made an excessive, or improper, charge against the county, to reduce his account to whatever amount they may deem just; or they may refuse to allow him any compensation whatever; *provided*, that in the county of Amador the Board shall be authorized, and it is hereby made their duty, to allow such Assessor a just and reasonable compensation for his services, not exceeding the sum of ten dollars per day; and it is further *provided*, that in said county of Amador such Assessor shall have power to appoint a Deputy, or Deputies, and all excess over seven dollars per day each, in the compensation of the Assessor, or his Deputies, shall be paid exclusively out of the General Fund of said county.

Duties of  
Supervisors.

Compensa'n.

To take  
effect.

SEC. 2. This act shall be in force and take effect, from and after its passage.

CHAP. LXXI.—*An Act to authorize the removal of Human Remains in Stanislaus County.*

[Approved March 15, 1861.]

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

SECTION 1. Stephen Bishop, George E. Drew, and James Allen, are hereby authorized to remove, or cause to be removed, all human remains from the grave-yard on the school-house grounds at Knight's Ferry, in Stanislaus County, to the "Oak Grove Cemetery," in said county. Removal.

SEC. 2. This act shall be in force from and after its passage. To take effect.

CHAP. LXXII.—*An Act fixing the time of holding the Court of Sessions, County Court, and Probate Court, in the County of Calaveras, and the manner of summoning Jurors for the County Court of said County.*

[Approved March 15, 1861.]

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

SECTION 1. The terms of the Court of Sessions, County Court, and Probate Court, in the county of Calaveras, shall hereafter be held on the first Monday of January, April, July, and October, in each year, and may continue until the commencement of the next term, unless all the business of the courts be sooner disposed of. Terms of court.

SEC. 2. The business of the Court of Sessions shall have precedence, and the business of the County Court and Probate Court shall be so arranged by the County Judge, as not to interfere with that of the Court of Sessions. Order of business.

SEC. 3. The trial jury summoned for the Court of Sessions, shall be also the jury for the County Court. Trial jury.

SEC. 4. Special terms of said courts, may be held by order of the County Judge, whenever in his opinion the public interest requires it. Notice of such order shall be given by the County Clerk, by ten days' posting at the court-house door, and one publication of a copy of the same in each of the newspapers of said county. Special terms.

SEC. 5. All acts, or parts of acts, in conflict with the provisions of this act, so far as they relate to the county of Calaveras, are hereby repealed. Repealing clause.

SEC. 6. This act shall take effect from and after the thirty-first day of March, eighteen hundred and sixty-one. To take effect.

CHAP. LXXIII.—*An Act to amend an Act entitled An Act fixing the time for holding the Courts of Sessions and County Courts in the County of Shasta, and to change the manner of summoning Juries for the County Court of said County, approved March eighteenth, eighteen hundred and fifty-nine.*

[Approved March 15, 1861.]

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

SECTION 1. Section one of said act, is hereby amended so as to read as follows :

Terms of  
court.

Sec. 1. The Court of Sessions and the County Court in and for said county of Shasta, shall hold a term on the first Monday of May, September, and January, of each year, and shall continue in session until the commencement of the next term, unless all the business of the county be sooner disposed of.

To take  
effect.

Sec. 2. This act shall take effect and be in force, from and after its passage.

CHAP. LXXIV.—*An Act to authorize the Administrators of the Estate of L. W. Boggs, deceased, to sell and convey Real Estate.*

[Approved March 15, 1861.]

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

To sell real  
estate.

SECTION 1. The present, or future, acting Administrators of the estate of Lilburn W. Boggs, deceased, are hereby authorized to sell at public, or private, sale, at their discretion, and without having first obtained an order of the Probate Court therefor, such portions of the real estate of the estate of Lilburn W. Boggs, deceased, as may be necessary to pay the debt of said estate.

To make  
report.

Sec. 2. The Administrator shall make a full report of any sale, or sales, that he shall make by virtue of the powers herein granted, to the Probate Court of the county, and the Judge of said court shall, either in term time, or vacation, in open court, or in chambers, examine the same, and confirm, or set aside, the said sale, or sales, as he may deem just and proper, and for the interests of said estate.

Titles.

Sec. 3. After the approval of the sale, or sales, by the Probate Court, the Administrator shall convey to the purchaser, or purchasers, the property so sold, and receive the purchase money therefor, and the titles so conveyed shall be as valid as if made under an order of the Probate Court in due course of law.

To take  
effect.

Sec. 4. This act shall take effect and be in force, from and after its passage.

CHAP. LXXV.—*An Act to confer certain powers on the Board of Supervisors of the City and County of San Francisco.*

[Approved March 15, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby authorized to appropriate a sum not exceeding four thousand dollars, to employ special counsel for the defense of the suits against the city of San Francisco, known as the "City Slip Suits," and the Auditor of said city and county is hereby authorized to audit, and the Treasurer to pay, the sum of money so allowed by said Board out of the General Fund of the said city and county.

Appropriat'n.

CHAP. LXXVI.—*An Act to authorize the Administrator of the Estate of Nicholas Swan, deceased, and Zachariah Simpson, deceased, to apply the Moneys in his hands for certain purposes.*

[Approved March 15, 1861.]

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

SECTION 1. That it shall be lawful for the Administrator of the estates of Nicholas Swan, deceased, and Zachariah Simpson, deceased, to apply all moneys of said estates which shall remain in his hands as such Administrator, after the payment of all legally established debts against said estates, and all legal expenses of administration, to procure the manumission from slavery of the children of said decedents, held in slavery in the State of Missouri, or any of the other slave States in which they may be held; *provided*, however, that the moneys belonging to the estate of Nicholas Swan, deceased, be applied to procure the manumission from slavery of the children of said deceased, and the moneys belonging to the estate of Zachariah Simpson, deceased, be applied to procure the manumission from slavery of the children of said deceased.

Application of moneys.

SEC. 2. The Administrator of said estates shall require and take from the owner, or owners, of said children of said decedents, receipts for any and all moneys paid to him, or them, on account of the manumission of said slave children, and file the same, or a duplicate thereof, in the Probate Court in and for the city and county of Sacramento, State of California, the county in which said decedents were residents at the time of their deaths.

Duties of Administrator.

SEC. 3. Before paying out said moneys as herein provided, the said Administrator shall execute a bond in each of said estates, in the sum of at least double the amount of said moneys, with two, or more, sufficient sureties, to be approved by the County Judge in and for the said city and county of Sacramento, conditioned that the said Administrator shall apply said

To give bond

moneys to the manumission from slavery of said children of said deceased, or either of them, so far as said moneys will apply.

Bonds.

SEC. 4. The bonds provided for in the last preceding section, shall be for the use and benefit of the State of California, and for the use and benefit of any person, or persons, whomsoever interested, or concerned, in said estates; and in the event of a breach of the conditions thereof, suit may be brought thereon by the said State, or such person, or persons, accordingly.

CHAP. LXXVII.—*An Act to locate the County Seat of Yolo County.*

[Approved March 15, 1861.]

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

Location.

SECTION 1. The village of Washington, in Yolo County, shall be the county seat and seat of justice of said county, from and after the first Monday of July, A. D. eighteen hundred and sixty-one.

Duties of county officers.

SEC. 2. It shall be the duty of the various county officers to keep and hold their various offices at the county seat of said county, from and after said first Monday of July, A. D. eighteen hundred and sixty-one.

Duties of Supervisors.

SEC. 3. The Board of Supervisors of said county shall provide for the removal of the county records and archives to the village of Washington aforesaid, and for their safe keeping there; and all expenses incurred in making such removal and providing for their safe keeping shall be a county charge.

CHAP. LXXVIII.—*An Act to authorize the Board of Supervisors of Trinity County to levy Taxes to build a County Jail.*

[Approved March 15, 1861.]

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

Special tax.

SECTION 1. The Board of Supervisors of Trinity County are hereby authorized to levy a special tax of one-fourth of one per cent. on the taxable property in said county, in the years eighteen hundred and sixty-one and eighteen hundred and sixty-two, in addition to other taxes authorized by law, for the purpose of building a county jail in said county.

Tax to be levied.

SEC. 2. Said tax may be levied at the annual meetings of said Board, in each of said years at which State and county taxes are authorized to be levied, and shall be collected in the same manner as other county taxes, and the money arising therefrom shall be devoted exclusively to the construction of a county jail,

under the direction of said Board; but if any surplus thereof shall remain, after the expenses of such construction shall be paid, such surplus shall belong to the Contingent Fund of said county.

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CHAP. LXXIX.—*An Act making an Appropriation for the payment of Claim of C. W. Tozer and Others for the transportation of Arms, Munitions of War, etc. to Carson Valley, Utah Territory.*

[Approved March 19, 1861.]

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

SECTION 1. The sum of six thousand one hundred and fifty <sup>Appropriat'n.</sup> dollars is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, to pay the claim of C. W. Tozer for five thousand four hundred and fifty dollars (\$5,450;) also, claim of Thomas Sunderland, for five hundred dollars; also, claim of J. Mora Moss, Trustee of the Sacramento Valley Railroad Company, for two hundred dollars.

SEC. 2. The Controller of State is hereby authorized and re- <sup>To draw warrant.</sup> quired to draw his warrants on the Treasurer of State, in favor of C. W. Tozer, for five thousand four hundred and fifty dollars; in favor of Thos. Sunderland, for five hundred dollars; and in favor of J. Mora Moss, Trustee of Sacramento Valley Railroad Company, for two hundred dollars.

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CHAP. LXXX.—*An Act concerning the Infant Heirs and Devisees of Bernardo Yorba, deceased.*

[Approved March 19, 1861.]

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

SECTION 1. The Probate Court of Los Angeles County, upon the petition of any interested party, is hereby authorized to appoint Commissioners to represent the infant heirs and devisees <sup>Commissioners.</sup> of Bernardo Yorba, deceased, late of said county, which said Commissioners shall have the powers hereinafter vested in them; *provided*, that each infant heir and devisee shall have a separate Commissioner appointed to represent him, or her, separately and alone.

SEC. 2. Said Commissioners, before entering upon their duties, shall take an oath to faithfully perform the same; and if any <sup>To take oath.</sup> Commissioner, before the completion of his duties, shall resign, refuse, or neglect, to act, or die, then the said court is authorized to appoint another Commissioner in his lieu and stead.

Powers of  
Commissioners.

SEC. 3. Said Commissioners shall have the power to represent and act for the said infant heirs and devisees in the matter hereinafter set out; to make and consent to a partition under such conditions and in such a mode, as they may judge convenient and equitable, of any lands, or parts of any land, owned by the said Bernardo Yorba, deceased, at the date of his death, and in which the said infant heirs and devisees may have an interest at the time of the partition, or partitions, in order to effect said partition, or partitions, to join in deeds of conveyance to third parties in trust, to make said partition, or partitions, and execute deed, or deeds, therefor, and to join in and execute a deed, or deeds, of partition, or other instruments of conveyance which they may deem proper to effect said partition, or partitions, and to insert in said instruments of conveyance, or deed, or deeds, such covenants, reservations, grants, or conditions, as may be proper and convenient, whereby the lower, or inferior, parcels of said lands may have, or acquire, or reserve, rights of way over the upper, or superior, parcels, for making, opening, and keeping in repair, water dams and water ditches, for the purpose of bringing water from the Santa Ana River for irrigation, or domestic uses, to and upon the said lower and inferior parcels, and to execute any conveyance or conveyances, for the purpose of ascertaining and adjusting the boundaries of any parcel, or parcels, of land specifically devised by the said Bernardo Yorba, deceased, to the legatees named in his last will and testament.

To execute  
conveyance.

SEC. 4. All deeds, or conveyances, or agreements, provided for by this act shall be executed and acknowledged in the names of the infant heirs and devisees, by the said Commissioners, and when so executed, and acknowledged, and confirmed, as hereinafter provided for, shall be valid to pass and bind all the right, title, and interest, of the said infant heirs and devisees, owned by them at the date of said partition, or partitions, and devised to them in any manner whatever, in and to the lands, or parcels of land, owned by the said Bernardo Yorba, deceased, at the date of his death, and the partition, or partitions, so made, and the rights of way, conditions, reservations, covenants, and agreements, entered into, made, granted, and reserved, as aforesaid, shall be effectual and valid forever.

Probate  
Court to  
confirm.

SEC. 5. No deed, or deeds, agreement, or agreements, executed by any Commissioner, or Commissioners, under the provisions of this act, shall be valid until confirmed by the Probate Court of the county of Los Angeles. In order to obtain the confirmation of any instrument executed as aforesaid, a petition shall be presented to the court by some interested party, setting forth the fact of the execution of such instrument, and annexing thereto a copy thereof, and praying its confirmation. The court shall then fix a day for the hearing of said petition, and direct a notice of the said hearing, addressed to all whom it may concern, to appear and show cause why said confirmation should not be granted, to be published once a week, for four successive weeks, in some public newspaper published in the said county, and for the same period in a paper published in the county of San Bernardino, if the lands, or any part thereof, mentioned, or referred to, in the said petition be in that county; *provided*, a paper be published there, but in default thereof, publication to

Hearing of  
petition.



be made by affixing three public notices in said county for four weeks previous to the hearing. Upon the day of hearing, any person in interest, or Guardian of any person in interest, or any person related in the third degree of consanguinity, to any infant party in interest, may appear, and on behalf of said infant, or infants, contest the confirmation as prayed for.

SEC. 6. On the hearing of said petition the court shall first Same. take proof that the notice, as aforesaid, was duly made, and thereupon shall proceed to hear the proofs of the parties, if any be adduced, or in default thereof shall examine said petition and the original instrument, of which confirmation is prayed; if the court be satisfied that the said deed, or deeds, agreement, or agreements, is, or are not, just and equitable to any of the said infant heirs and devisees, the court shall refuse to confirm the same, and the Commissioners thereupon may proceed to execute other deeds and agreements, subject to all the provisions of this act; but if the court should find the deed, or deeds, agreement, or agreements, just and equitable to the said infant heirs and devisees, the court shall thereupon confirm the same, and enter an order to that effect, a certified copy of which shall be recorded To record confirmation in the office of the County Recorder of the county of Los Angeles; a transcript of which record, duly certified, shall be conclusive proof that the order of confirmation was duly and legally made and entered.

SEC. 7. Whenever there may be allotted to any grand children of the said Bernardo Yorba, deceased, an undivided parcel Interest of grandchildren. of land, representing the share of their deceased father, or mother, then the Commissioners representing each of said grand children may execute a deed, or deeds, of partition amongst the said grand children, in the same manner, and with the same conditions, covenants, reservations, and grants, as hereinbefore provided for, to be confirmed as aforesaid.

CHAP. LXXXI.—*An Act to repeal so much of an Act entitled An Act supplemental to An Act for the protection of Game, passed May thirteenth, eighteen hundred and fifty-four, as relates to the County of San Luis Obispo, passed April thirtieth, eighteen hundred and sixty.*

[Approved March 23, 1861.]

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

SECTION 1. So much of an act entitled An Act supplemental to An Act for the protection of Game, passed May thirteenth, eighteen hundred and fifty-four, as relates to the County of San Luis Obispo, passed April thirtieth, eighteen hundred and sixty, is hereby repealed. Repealing clause.

CHAP. LXXXII.—*An Act to amend Section Twenty-Two (22) of an Act entitled An Act to regulate Fees in Office in the County of Yuba, approved April twenty-first, eighteen hundred and sixty.*

[Approved March 23, 1861.]

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

SECTION 1. Section twenty-two of an act entitled An Act to regulate Fees in Office in the County of Yuba, approved April twenty-first, eighteen hundred and sixty, is hereby amended so as to read as follows :

Fees and  
per centage.

Sec. 22. The Tax Collector shall be allowed for his services required by law for collecting the State and county taxes, and other duties appertaining to his office in respect thereto, two per cent. on the first one hundred thousand dollars by him collected each year, and five per cent. on all sums over that amount. He shall receive the same fees and per centage for all poll taxes, foreign miners' licenses, and other licenses, by him collected, as are now provided by law for the collection of the same in the county of Yuba.

CHAP. LXXXIII.—*An Act to amend an Act entitled An Act to authorize the Board of Supervisors of Contra Costa County to appropriate Money to the use of the Contra Costa County Agricultural Society.*

[Approved March 23, 1861.]

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

SECTION 1. Section one of said act, is hereby so amended as to read as follows :

Appropriat'n.

Sec. 1. The Board of Supervisors of the county of Contra Costa are hereby directed to appropriate, annually, the sum of two hundred and fifty dollars of any money in the county treasury not otherwise appropriated, for the use of the Contra Costa County Agricultural Society, subject to the order of the President, countersigned by the Secretary of said society.

CHAP. LXXXIV.—*An Act concerning certain Officers of the County of Los Angeles.*

[Approved March 23, 1861.]

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

Duties of  
officers.

SECTION 1. The Sheriff, Treasurer, and County Clerk, of the county of Los Angeles, are hereby required, from and after the

passage of this act, to keep in each of their respective offices, a book, in which shall be entered by items every kind and description of services rendered, or performed, by them, or their Deputies, in their respective offices, and *ex officio* offices, for whom, and for what, such services were performed, the time of rendering such services, and the amount allowed by law for each particular service; which book, or books, shall be open for the inspection of the Board of Supervisors and every citizen, at all proper times.

SEC. 2. The said several officers shall, on the first day of May, A. D. eighteen hundred and sixty-one, and regularly every three months thereafter, make out and file with the County Judge of said county, a full and accurate statement, under oath, of all fees, per centages, or compensation, of whatever nature, or kind, received, or due, and remaining unpaid, for the preceding three months, in which statement they shall set forth the sources from which, the cause in which, and the service for which, it was received, or charged, and the party for whom said service was performed, and whether paid, or remaining unpaid. Same.

SEC. 3. The County Judge of said county shall, immediately upon the filing of the aforesaid quarterly statements with him, cause to be published once only, at the expense of the county, in some newspaper printed in said county, the aggregate amount, or sum total only, received by, as well as the amount still due and unpaid, each of the aforesaid officers. Publication.

SEC. 4. For a willful neglect, or for a refusal, to comply with the provisions of this act, or any one, or more, of them, any officer, or officers, herein named, shall, on conviction, be subject to a fine not less than two hundred and fifty, nor more than two thousand, dollars, to forfeit his office, to imprisonment in the State Prison for a term not less than three months, nor more than one year, or to any one, or more, of the said penalties, in the discretion of the court before whom he shall be tried. Penalty.

SEC. 5. The county of Los Angeles, shall not be chargeable for any services performed by any county officer in the discharge of the duties imposed on him by this act. Not to charge county.

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CHAP. LXXXV.—*An Act fixing the salary and fees of the District Attorney of San Bernardino County.*

[Approved March 23, 1861.]

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

SECTION 1. The District Attorney of San Bernardino County shall receive for his services a salary of five hundred dollars per annum, payable quarterly. Salary.

SEC. 2. The District Attorney of said county shall receive on each conviction for felony, when the punishment is death, fifty dollars; for each conviction for other felony, twenty-five dollars; on each conviction for misdemeanor, the sum of five dollars; Fees.

which said sums shall be assessed against the one convicted, and if the same cannot be collected from the defendant, then they shall become a county charge, except as hereinafter provided, and be audited by the Board of Supervisors; *provided*, however, that the fees allowed by this act to the District Attorney for each conviction for misdemeanor, shall in no event become a county charge. The District Attorney shall receive ten per cent. upon the collection of all forfeited recognizances.

To take effect.

SEC. 3. This act shall take effect and be in force, from and after the expiration of the term of the present incumbent of said office.

Repealing clause.

SEC. 4. All acts and parts of acts conflicting with the foregoing act are hereby repealed.

CHAP. LXXXVI.—*An Act concerning Wild Animals in the County of Marin.*

[Approved March 23, 1861.]

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

Bounty for killing wild animals.

SECTION 1. Whenever an inhabitant of the county of Marin shall kill any bear, lion, panther, or wolf, in said county, and produce and exhibit the scalp, with the ears of any of said animals upon the same, to, and before, any Justice of the Peace of said county, with the necessary proof to the satisfaction of said Justice that one, or more, of the above named animals has been killed by him in the said county, then the Justice shall give his certificate to the said person, or inhabitant, to the effect that he has received satisfactory proof that said person has killed one, or more, of said animals, which certificate shall authorize the Board of Supervisors of said county to allow a bounty, not exceeding two dollars, for each scalp, and upon being so allowed by the Board of Supervisors, the Auditor of said county is hereby authorized and directed to draw his warrant, or warrants, upon the County Treasurer of said county for the amount allowed, and designating for what animal, or animals, it is allowed, and upon presentation to said Treasurer, by said person in whose favor said warrant, or warrants, are drawn, they shall be paid out of any moneys in the treasury belonging to the General Fund of said county.

Oath to be taken.

SEC. 2. Nothing in this act shall be so construed as to authorize the Board of Supervisors of said county to allow any bounty to any person, for any animal killed, or scalp taken, prior to the passage of this act, and the person presenting any scalp, as mentioned in the first section of this act, to, and before, any Justice of the Peace, shall make oath that said animal, or animals, were not killed before the passage of this act, that said scalp, or scalps, have never been presented before to any Justice of the Peace for his certificate, and that the said animal, or animals, were killed in Marin County.

CHAP. LXXXVII.—*An Act to provide for the construction of a Wagon Road, commencing at Antelope Springs, in the County of Amador, and running thence by the best practicable route, to Hope Valley, on the Eastern Slope of the Sierra Nevada Mountains.*

[Approved March 23, 1861.]

*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 Amador, at the first meeting of said Board, whether the same shall be a regular, an adjourned, or special, meeting, of said Board, after the passage of this act, shall submit to the qualified electors of said county a proposition to issue bonds of said county, not exceeding in amount the aggregate sum of forty thousand dollars, to be expended, as hereinafter provided, in the construction of a wagon road, commencing at Antelope Springs, in Amador County, on the ridge dividing the waters of the Mokelumne and Cosumnes rivers, and following thence the best practicable route to Hope Valley, on the eastern slope of the Sierra Nevada Mountains.

Duties of Supervisors.

SEC. 2. It shall be the duty of said Board of Supervisors, at the first meeting of said Board, whether the same shall be a regular, or an adjourned, or special, meeting of said Board, after the passage of this act, to cause a proclamation to be published in each of the newspapers published in Amador County, setting forth that the proposition mentioned in the first section of this act will be submitted to a vote of the qualified electors of said county, at a special election, upon a certain day, which certain day shall not be less than thirty days after the publication of said proclamation, and at the same special election one Road Commissioner will be voted for, by the qualified electors in each Supervisor District, in said county of Amador.

Same.

SEC. 3. The Board of Supervisors of said county shall appoint Judges and Inspectors of such election, and the same shall be conducted, in all respects, according to the provisions of the general election law, and in the same manner that general elections are conducted; *provided*, that the officers of such election shall not receive pay from the county for their services. At the end of ten days after said election, the Board of Supervisors shall meet and declare the result.

Same.

SEC. 4. Those voting at such election, shall have written, or printed, on their respective ballots, the name of the person voted for, for Road Commissioner, and the words, "For the Wagon Road Bonds," or the words, "Against the Wagon Road Bonds." If, upon canvassing the votes polled at such election, it shall appear that a majority of the same were in favor of issuing the road bonds, then it shall be the duty of the Board of Supervisors of said county of Amador to issue bonds of said county, not exceeding the aggregate sum of forty thousand dollars, for the purpose set forth in the first section of this act, and in accordance with the provisions of succeeding sections.

Form of ballots.

SEC. 5. If a majority of the votes polled at such election shall be in favor of issuing the road bonds, then the persons, one in

Board of  
Commissioners.

Duties.

Compensation.

To give bond

Construction  
of road.

each Supervisor District of Amador County, who shall have received the highest number of votes polled for Road Commissioner in their respective districts, shall be declared duly elected, and shall be, and are hereby, constituted a Board of Road Commissioners, under whose direction the proposed road, as described in section first of this act, shall be constructed. The said Road Commissioners shall be severally required to enter into bonds with the county of Amador, in the sum of fifteen thousand dollars each, with sufficient sureties, to be approved by the County Judge of said county, for the faithful performance of the duties assigned to them under the provisions of this act. The Commissioners shall organize by the election of one of their number as President, and another as Secretary. They shall keep a record of all their transactions and proceedings, and deliver the same to their successors in office. A majority of the Board shall constitute a quorum for the transaction of business. The Commissioners elected at the special election provided for in this act, shall hold office until the general election in the year eighteen hundred and sixty-two, and until their successors shall be elected and enter into bonds with the county, and the election of Commissioners shall be annual, at each general election thereafter. In case of a vacancy in the Board of Commissioners, by reason of removal from the county, or from other cause, the same shall be filled until the following general election, by the Board of Supervisors. Each Road Commissioner shall be required to take the usual oath of office, and shall receive for his services, as Commissioner, a sum not exceeding five dollars per day while actually employed in the capacity of a Commissioner, his account to be sworn to, audited by the Board of Supervisors, and payable out of the Road Fund created by this act.

Sec. 6. The Board of Road Commissioners shall cause the route to be surveyed, and, in their discretion, may employ a competent Engineer, at a reasonable compensation, to locate and superintend its construction. The road shall be divided into convenient sections, and the Board of Commissioners shall advertise for sealed proposals, by publication in the newspapers of Amador County for not less than ten days, for the construction of the same, awarding the contract in each instance to the lowest bidder. The Board shall require Contractors to enter into good and sufficient bonds, the names of their sureties to accompany their bids, for the faithful performance of their several contracts; the Board having the power to reject any, or all, bids. Payment may be made from time to time to the Contractors, but payments made prior to the completion of a contract shall be limited to sixty-six and two-thirds per cent. of the value of the work done as per contract, to be ascertained by the Commissioners themselves, or the Engineer in their employ.

Sec. 7. The advertisement for sealed proposals for the construction of the different sections of the road, shall invite bids payable in cash and bids payable in the bonds provided for in this act, at par value, the latter having reference to, and setting forth, the year when the bonds proposed to be received shall become due; and the Board of Commissioners, in making the awards, shall be governed by the relative advantages offered by the different classes of bids; *provided*, that the Board of Com-

missioners, may entertain bids for the construction of the entire road, as a single section, and award a contract accordingly, if the same shall be by them deemed advisable.

SEC. 8. It shall be the duty of the Board of Supervisors of said county to issue, from time to time, the road bonds herein provided for, upon the demand of the Board of Road Commissioners, in sums not exceeding one thousand dollars each, as follows to-wit: Five thousand dollars, payable on the first day of January, eighteen hundred and sixty-three; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-four; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-five; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-six; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-seven; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-eight; five thousand dollars, payable on the first day of January, eighteen hundred and sixty-nine, and five thousand dollars, payable on the first day of January, eighteen hundred and seventy.

To issue  
bonds.

SEC. 9. Said bonds shall be signed by the Chairman of the Board of Supervisors of said county of Amador, countersigned by the Clerk and *ex officio* Auditor of said county, who shall affix the seal of the County Court to the same, and indorsed by the County Treasurer. They shall bear interest at the rate of ten per cent. per annum; and coupons, for the interest, shall be attached to each bond, so that the coupons may be removed without mutilation of the bond. Said bonds, or any portion of them, and the interest thereon, payable semi-annually, on the first day of January and the first day of July in each year, from and after the first day of January, eighteen hundred and sixty-three, shall be made payable at the office of the Treasurer of Amador County, or at such other place as the Board of Road Commissioners shall direct. The coupons shall be signed by the Chairman of the Board of Supervisors and by the Auditor of Amador County; and when any interest shall be paid upon a bond issued under the provisions of this act, the coupons for the interest then paid shall be detached from the bond and delivered to the Auditor of Amador County, who shall file the same and give his receipt therefor. In order to avoid the payment of unnecessary interest, said bonds shall not be dated until the same shall be sold, or otherwise disposed of, by the Board of Road Commissioners.

Manner of  
signing  
bonds.

Coupons.

SEC. 10. The Board of Road Commissioners shall have power to demand the issuance of the bonds provided for in this act, or any portion thereof, and dispose of the same, either in payment to Contractors for work done on the road, or for other necessary expenses, or by selling the same for cash, in such manner as to realize the largest sum of money from such sales; *provided*, however, that no bonds shall be sold for a less price than ninety cents on the dollar.

Bonds may  
be sold.

SEC. 11. The Board of Supervisors shall annually, from the year eighteen hundred and sixty-two to the year eighteen hundred and sixty-nine, inclusive, levy a tax of not more than thirty cents on each one hundred dollars of taxable property in Amador County, for the purpose of paying the semi-annual interest on said bonds, and for their liquidation. Said tax shall be col-

Tax to be  
levied.

lected and paid into the county treasury in the same manner that other taxes, State and county, are collected and so paid, and the Treasurer shall keep the same separate and apart from all other moneys in the treasury, and shall designate the same as the "Sierra Nevada Wagon Road Fund."

Duties of  
County  
Treasurer.

SEC. 12. The Treasurer of Amador County shall advertise in some newspaper published in Amador County, or other county, or city, as the case may be, where said bonds, or interest, or both, are made payable, at least thirty days immediately preceding the day on which the same shall be due, stating at what office, place, or banking-house, said bonds, or interest, or both, as the case may be, will be paid, and it shall be the duty of the Treasurer to forward the money to pay the same.

Road Com-  
missioners.

SEC. 13. The Board of Road Commissioners shall have the care, custody, and disbursement, of the bonds provided for by this act, and of the money arising from sales that may be made of the same; *provided*, that the claims of the Commissioners for per diem shall be audited by the Board of Supervisors. The Board of Commissioners shall pay all just and duly authenticated demands against the Road Fund, requiring the same to be authenticated by affidavit, and such other evidence as they may deem requisite, preserving a minute and accurate account of their receipts and disbursements, together with the vouchers for the same, all of which shall be open to public inspection. Upon receiving the bonds from the Board of Supervisors, they shall execute a receipt for the same. The Board of Road Commissioners shall publish at least once in each year, in some newspaper published in Amador County, a full and explicit account of all their transactions.

Not to be  
interested.

SEC. 14. The Road Commissioners, or either of them, acting under this act, shall not, either directly, or indirectly, be in any manner interested in any contract, or undertaking, either for supplies, or material, or otherwise, in the construction, or improvement, of said road. Any violation of this section shall be deemed a misdemeanor, and upon conviction thereof before any competent tribunal, the guilty party shall be fined in any sum not less than one thousand dollars, or imprisoned in the county jail not less than three months, or both such fine and imprisonment.

Toll gates.

SEC. 15. At any time after ten miles of said road shall have been opened for travel, the Board of Supervisors of Amador County shall be, and are hereby, authorized to establish a toll gate, or toll gates, and collect such reasonable tolls as may be recommended by the Board of Road Commissioners; such tolls shall be deposited in the Road Fund, and shall only be expended in payment of the expenses of collecting the same, and in improvements and repairs upon the road, and in the payment of the per diem of the Commissioners, and other necessary expenses incurred in the care and management of the road.

Compensa'tion.

SEC. 16. The aggregate compensation of the Board of Road Commissioners shall not, in any event, exceed the sum of fifteen hundred dollars per annum.

To take  
effect.

SEC. 17. This act shall be in force and take effect from and after its passage.



CHAP. LXXXVIII.—*An Act to authorize Charles A. Keyser, Administrator of the Estate of R. B. Sherrard, deceased, to sell and convey Real Property at private sale.*

[Approved March 23, 1861.]

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

SECTION 1. Charles A Keyser, Administrator of the estate of R. B. Sherrard, deceased, is hereby authorized, upon filing sufficient bond, to be approved by the Probate Judge of Sutter County, to sell, at private sale, all the real property belonging to the estate of said R. B. Sherrard, deceased; *provided*, that any sale made in pursuance of the power herein granted, shall be first approved by the said Probate Judge. To sell real estate.

SEC. 2. This act shall take effect from and after the date of its passage. To take effect.

CHAP. LXXXIX.—*An Act authorizing Gustave Touchard, Executor of the Estate of Henry Mathey, deceased, to sell the Real Estate belonging to the Estate of said Henry Mathey, deceased, at public, or private, sale.*

[Approved March 23, 1861.]

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

SECTION 1. Gustave Touchard, Executor of the estate of Henry Mathey, deceased, is hereby authorized and empowered to sell, on such terms and in such manner, at public, or private, sale, and in such shares, or parcels, as he shall deem best, all the real estate wheresoever situated in the State of California, of which the said Henry Mathey died seized and entitled to, in any manner, and, also, to consent to and by deed, or otherwise, make partition of any such lands, or any part, or parts, thereof, held by said Mathey as tenant in common, or joint tenant, with any other person, or persons. May sell real estate

SEC. 2. The said Touchard, after such sale, or sales, shall make a full report thereof to the Probate Court, and the Judge of the said court shall examine the same, and confirm, or set aside, the same, as in cases of sales by an Executor; and in case such sale, or sales, or any part thereof, shall be set aside, the said Touchard is hereby authorized again, and as often as it may be required, to resell and report to said court, as in cases of sale by an Executor, who shall thereupon confirm, or set aside, as it shall see fit, upon the principles applicable to sales by Executors. To make report.

SEC. 3. After confirmation by said Probate Court of said sale, or sales, the said Touchard is hereby authorized and directed to make, execute, and deliver, to the purchaser, or purchasers, the necessary conveyances for the lands and property sold, and in case of partition, to make to, and receive from, the co-tenants,

or joint tenants, as the case may be, the necessary deeds to effectuate the same.

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CHAP. XC.—*An Act to authorize the Probate Court of Butte County to affirm a certain sale of Real Estate.*

[Approved March 23, 1861.]

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

May affirm  
sale.

SECTION 1. The Probate Court in and for Butte County is hereby authorized to affirm the sale of real estate heretofore made in the said county of Butte, belonging to the estate of the late J. P. Bowen, deceased, by John S. Berry, Administrator of said estate.

To take  
effect.

SEC. 2. This act shall be in force from and after its passage.

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CHAP. XCI.—*An Act to change the name of Myer Moses to Moses Myer.*

[Approved March 23, 1861.]

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

Change of  
name.

SECTION 1. The name of Myer Moses is hereby changed to Moses Myer.

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CHAP. XCII.—*An Act to legalize the Survey of the Town of Red Bluff.*

[Approved March 23, 1861.]

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

Survey  
legalized.

SECTION 1. The plat of the town of Red Bluff, in the county of Tehama, as marked out and completed on the twentieth day of February, A. D. eighteen hundred and sixty-one, by Lucien B. Healy, County Surveyor, and on file in the office of the County Recorder of said county, is hereby declared to be the official plat of said town, and all questions arising as to the size, or locality, of the streets, alleys, blocks, or lots, said plat, or the record thereof, shall be evidence of such size, or locality.

To take  
effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. XCIII.—*An Act for the payment of Expenses incurred in the transportation of the State Arms and Munitions of War, from Carson Valleg to the State Armory, at Sacramento.*

[Approved March 26, 1861.]

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

SECTION 1. The sum of seventeen hundred and twenty-five dollars is hereby appropriated, out of any moneys in the State Treasury not otherwise appropriated, for the purpose of paying Joseph Kem for transporting, by order of the Governor, the State arms and munitions of war used in the Carson Valley War, from Carson Valley to the State Armory at Sacramento. Appropriat'n.

SEC. 2. The Controller of State is hereby authorized and directed to draw his warrant on the State Treasurer in favor of said Joseph Kem, for the sum of seventeen hundred and twenty-five dollars; and the State Treasurer is hereby authorized and directed to pay the same out of any moneys in the State Treasury not otherwise appropriated. To draw warrant.

CHAP. XCIV.—*An Act to provide a Commissioner to co-operate with one appointed on behalf of the United States, to ascertain and mark a portion of the Eastern Boundary Line of this State.*

[Approved March 26, 1861.]

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

SECTION 1. There shall be elected, in joint convention of the two branches of the Legislature convened for that purpose, a Commissioner on the part of the State of California, whose duty it shall be, in conjunction with such person, or persons, as are, or hereafter may be, appointed on behalf of the United States for the same purpose, to ascertain the eastern boundary line of this State, commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence, running in a straight line in a southeasterly direction, to the river Colorado at a point where it intersects the thirty-fifth degree of north latitude. And the Commissioner on the part of the State shall be, and is hereby, authorized to accept the said boundary line, for the State of California, so run and designated, when ascertained by him to be correct. Election of Boundary Commiss'r.

SEC. 2. That such landmarks shall be established at said point of beginning, and at other corners, and on the several lines of said boundary as may be agreed upon by said Commis- Landmarks.

sioner on the part of the State of California and those acting under the authority of the President of the United States.

**SEC. 3.** The Commissioner on the part of the State of California shall receive and receipt for all instruments, animals, and camp equipage, purchased for account of the survey of the eastern boundary, under authority of an act passed April thirteenth, eighteen hundred and sixty, and now in the possession and custody of the Surveyor-General of the State; and the said Surveyor-General is hereby directed to transfer all such property now in his possession to the said Commissioner.

**SEC. 4.** The Commissioner shall report to the Legislature of the State, at the beginning of its session, the progress and condition of the work under his charge; and upon the termination of said work, he shall file, in the office of the Secretary of State, a memoir, containing complete and accurate transcripts of the observations, surveys, and calculations, with such topographical and general information in connection with the boundary line as he shall deem useful for future reference. He shall likewise report, during the progress of the work, to the Governor of the State whenever called upon by him to do so.

**SEC. 5.** In case of the absence, resignation, or other disability, of the Commissioner hereby elected, the Governor is authorized and empowered to fill his place by the appointment of some suitable person.

**SEC. 6.** The Commissioner, elected on the part of the State of California, shall be required to give bonds with two sureties to be approved by the Governor of this State, in an amount equal to the appropriation, for the faithful performance of his duties and the proper expenditure of the public moneys under his charge.

**SEC. 7.** The sum of ten thousand dollars is hereby appropriated and set apart, out of the General Fund, for the objects specified in this act, and the Controller is directed to draw his warrant in favor of said Commissioner for the amount so appropriated, in quarterly installments, at the commencement of each quarter; *provided*, the said Commissioner shall be required to settle his accounts with the Board of Examiners quarterly, or as often as, and whenever by them, required; *provided*, further, that the said sum of ten thousand dollars, shall cover all expenses on the part of the State, for the salaries of the Commissioner and all persons employed by him, and all necessary expenses for their traveling and subsistence.

**SEC. 8.** The Commissioner shall, as soon as he shall have completed the running and marking the said boundary line, according to the provisions of this act, settle his accounts with the Board of Examiners, and account to said Board for, and turn over to said Board, all property received by him from the Surveyor-General, under the provisions of this act, which shall remain on his hands at the completion of said survey.

**SEC. 9.** An act entitled An Act to define and establish a portion of the Eastern Boundary of the State of California, approved April thirteenth, eighteen hundred and sixty, is hereby repealed.

**SEC. 10.** This act shall take effect and be in full force, from and after its passage.

To receipt for property.

To make report.

Vacancy, how filled.

Bonds.

Appropriation.

To settle accounts.

Repealing clause.

To take effect.

CHAP. XCV.—*An Act to provide for the collection of Delinquent Taxes in the County of San Bernardino.*

[Approved March 27, 1861.]

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

SECTION 1. The assessment of taxes upon all property, both real and personal, in the county of San Bernardino, whether for State, county, or other, purposes, for the year one thousand eight hundred and sixty, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons and property assessed. Assessment legalized.

SEC. 2. The District Attorney of the county of San Bernardino is hereby authorized and directed to commence civil actions in the name of the people of the State of California, in any of the courts in said county, whether the defendant be a resident of the township in which the court is located, or not, to recover the unpaid taxes in said county, for the year mentioned in the first section of this act; and he shall designate in his complaint the amount of taxes due and unpaid for State, county, and other, purposes, separately, and shall state the kind and value of property assessed, both real and personal; and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense, such defendant being allowed only to plead: Duties of District Attorney.

*First*—That the taxes had been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint, or the valuation thereof, at the time of the assessment, and has never been liable to pay said taxes, and no answer shall be filed in any such case, unless the same be verified by oath.

SEC. 3. The delinquent tax list for said year, duly certified by the proper officers, shall be delivered to the District Attorney, and the said delinquent list, or the original, or duplicate, assessment roll, or a copy, of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence, in any court, to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law, in relation to the levy and assessment of such taxes, have been complied with, and neither the delinquent tax lists, nor the assessment roll, need be filed in any case. Delinquent list.

SEC. 4. Judgments rendered in such cases in the District Court, shall be docketed, and become liens upon all property of the defendants liable to taxation, and may be enforced against such defendants as judgments in other civil cases, and the District Attorney may file transcripts of judgments rendered in Justices' Courts under this act with the County Clerk, who shall thereupon docket such judgments, and they shall become liens from and after such docket entry in like manner as judgments rendered in the District Court under this act, and the County Clerk may issue execution on such docketed Justices' judgments as on judgments rendered in the District Court. Judgments.

SEC. 5. An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not [in]con- Act made applicable.

sistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance, from the District Court, to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed, to redeem said property, by paying the whole bid, all subsequent taxes, and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurer of the said county, to be distributed in the proper funds, and each collection, and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

Proviso.

Sec. 6. For services, under this act, the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto if paid before judgment, and, if not so paid, then twenty-five per cent. to be added to, and to constitute a part of, the judgment; and all officers shall perform such services as may be required of them, under this act, without the payment of fees in advance, but they may charge and receive to their own use, such fees as are allowed for similar services in other civil cases; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized in this act against a person after being served with a receipt signed by the Tax Collector of said county, for the total amount of taxes due from such person for said year, and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence.

Fees.

Duties of  
District  
Attorney.

Same.

Sec. 7. The District Attorney of said county shall, immediately upon the receipt of a certified copy of this act, cause the same to be published weekly, for the space of four weeks, in some newspaper published in said county, and he shall not commence suit against delinquents until after said term of publication has expired.

Duties of  
County  
Treasurer.

Sec. 8. The County Treasurer of said county is authorized and required to receive and receipt for delinquent taxes, until the term of publication mentioned in the preceding section has expired, and no longer; and, for such purpose, the County Auditor shall, upon demand made by the Treasurer, furnish him with a duplicate assessment roll, showing, in full, the names of all delinquents, and the amount due by each, and when the names are unknown, the facts shall be so stated in his assessment roll.

Per centage.

Sec. 9. The Treasurer shall be allowed the same per centage as is allowed to Sheriffs, upon all moneys collected by him under the provisions of the preceding section, and he shall pay one-

half of said per centage into the county treasury, for the benefit of the School Fund of said county.

SEC. 10. This act shall take effect from and after its passage. To take effect.

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CHAP. XCVI.—*An Act authorizing James P. Sargent, the Guardian of Policarpiya Chabolla, a Minor, to sell at private sale, the Lands and Real Estate of said Minor.*

[Approved March 28, 1861.]

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

SECTION 1. James P. Sargent, the Guardian of Policarpiya Chabolla, a minor, is hereby authorized and empowered to sell at private sale, and to convey, transfer, release, and forever quit-claim, any and all right, title, and interest, estate, claim, and demand, whatsoever, which the said minor may have, or to which she may be in any way entitled, in and to any and all real estate, lands, tenements, and hereditaments, within the State of California, and to make, execute, sign, seal, and deliver, good and sufficient deeds, or other quittances, therefor; *provided*, said Guardian shall, before making such sale, enter into such bonds as may be required of him by the Probate Court of the county of Santa Clara; and, *provided*, also, that such sale shall be duly approved by the Judge of the Probate Court of said county. May sell real estate.

SEC. 2. This act shall be in force from and after its passage. To take effect.

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CHAP. XCVII.—*An Act to amend An Act fixing the time when General Laws shall take effect.*

[Approved March 28, 1861.]

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

SECTION 1. Section one of the above entitled act is hereby amended so as to read as follows :

Section 1. That no law shall take effect until the expiration of sixty days after the passage of the same, unless otherwise When to take effect. provided in such law.

SEC. 2. This act shall take effect from and after its passage.

CHAP. XCVIII.—*An Act to provide for the construction of a Bridge in the City of Nevada.*

[Approved March 28, 1861.]

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

Trustees  
to levy  
special tax.

SECTION 1. For the purpose of constructing a bridge across Deer Creek, on Pine Street, in the city of Nevada, the Board of Trustees of said city are hereby authorized and empowered, in their discretion, to collect within ninety days from the passage of this act, a special tax, of not exceeding five-eighths of one per cent. on the valuation of all taxable property within the corporate limits of said city.

Marshal to  
collect tax.

SEC. 2. Said special tax shall be collected by the City Marshal, as other property taxes are collected; and to determine the amount due on each piece of property, he shall use the assessment roll of the city, made by the City Assessor, during the year A. D. eighteen hundred and sixty. But said assessment roll may be added to, or modified, by the City Trustees, sitting at a place and time, of which due notice shall be given, as a Board of Equalization.

Delinquent  
taxes.

SEC. 3. The City Marshal, on the order of the Board of Trustees, may, at the expiration of the ninety days, mentioned in section one of this act, proceed to collect by suit, or otherwise, the amount of taxes left unpaid by each delinquent.

How ex-  
pended.

SEC. 4. The moneys collected from taxes herein authorized, shall be subject to the disposition of the Board of Trustees of the city of Nevada, and shall be by them expended without unnecessary delay, in the construction of a substantial and durable bridge over Deer Creek, at the southerly end of Pine Street, in said city.

Compensation.

SEC. 5. The Board of Trustees may fix the compensation of the Marshal for collecting the taxes herein authorized; and all moneys left unexpended, after the said bridge has been put in complete order for the passage of the heaviest teams, shall be applied for the benefit of the Fire Department of said city, or the liquidation of the debt of said city, as the Trustees may elect.

To take  
effect.

SEC. 6. This act shall take effect sixty days from and after its passage.

CHAP. XCIX.—*An Act to authorize Joseph J. Cloud to construct and maintain a Wharf, at Punta Arena, in the County of Mendocino.*

[Approved March 28, 1861.]

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

Franchise  
granted.

SECTION 1. The right to build, maintain, and use, a wharf, in the bay, or main ocean, at Punta Arena, in the county of Men-



docino, is hereby granted to Joseph J. Cloud, his associates and assigns.

SEC. 2. For the purpose of said wharf, there is hereby granted Extent of grant. unto the said Cloud, his associates and assigns, the right to use and occupy a strip of land, three hundred feet wide, commencing at low tide, and extending into the bay, or ocean, until a sufficient depth shall be obtained for the accommodation of commerce; *provided*, said wharf shall not in any manner obstruct the navigation of the bay.

SEC. 3. The said Cloud, his associates and assigns, shall commence the construction of said wharf within one year, and complete the same within two years, from the passage of this act. When to commence. Said wharf shall be firmly and substantially built, of such materials and of such dimensions, as to make it sufficient for the requirements of the commerce of the vicinity.

SEC. 4. The Board of Supervisors of Mendocino County, shall from time to time fix the rates of wharfage to be collected at said wharf, and the said Cloud, his associates and assigns, may charge and collect such wharfage as shall be fixed by said Board. Rates of wharfage. The rates of wharfage shall be posted in a conspicuous place on said wharf.

SEC. 5. If said wharf shall not be commenced within one, and finished within two, years, from the passage of this act, all the rights herein granted shall become forfeited. Forfeiture of franchise.

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CHAP. C.—*An Act to provide for the collection of Delinquent Taxes in the County of Calaveras.*

[Approved March 28, 1861.]

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

SECTION 1. The assessment of taxes upon all property, both real and personal, in the county of Calaveras, whether for State, county, or other, purposes, for the fiscal year ending on the first day of March, eighteen hundred and fifty-nine, and for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons and property assessed. Assessment legalized.

SEC. 2. The District Attorney of the county of Calaveras is hereby authorized and directed, to commence civil actions in the name of the people of the State of California, in any of the courts of said county, whether the defendant be a resident of the township in which the court is located, or not, to recover the unpaid taxes in said county, for the fiscal years mentioned in the preceding section of this act, and he shall designate in his complaint the amount of taxes due and unpaid, for State, county, and other, purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and if Duties of District Attorney.

real, describe the same, and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense; such defendant being allowed only to plead:

*First*—That the taxes have been paid before suit; or,

Same.

*Second*—That he had not the property mentioned in the complaint at the time of the assessment, and has never been liable to pay said taxes, and no answer shall be filed in any such case unless the same be verified by oath.

District  
Attorney  
to have  
tax list.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officers, shall be delivered to the District Attorney, and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence in any court to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law in relation to the levy and assessment of such taxes have been complied with, and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

Judgments.

SEC. 4. Judgments rendered in such cases, in the District Court, shall be docketed, and become liens upon all property of the defendants liable to taxation, and may be enforced against the same, and the District Attorney may file transcripts of judgments rendered in Justices' Courts under this act; with the County Clerk, who shall thereupon docket such judgments, and they shall become liens, from and after such docket entry, in like manner as judgments rendered in the District Court.

Act  
applicable.

SEC. 5. An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not [in]consistent with the provisions of this act, is hereby made applicable to proceedings under this act, and any deed derived from a sale of real property under this act shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court, to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take, and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed to redeem said property, by paying the whole bid, all subsequent taxes, and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurer of said county, to be distributed by him in the proper funds, and each collection and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

Disposition  
of moneys.

Unknown  
owners.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid, be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon, may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name.

SEC. 7. For services under this act the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto, if paid before judgment, and if not so paid, then twenty-five per cent. to be added thereto, and to constitute a part of the judgment; and all officers shall perform such services as may be required of them under this act, without the payment of fees in advance, but they may charge and receive, to their own use, such fees as are allowed for similar services; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act against a person after being served with a duplicate receipt of the County Treasurer for the total amount of taxes and charges, due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence.

Fees.

County not to be charged with costs.

SEC. 8. It shall be the duty of the Board of Equalization of said county to convene immediately, or as soon thereafter as possible, to equalize all supplementary taxes that may be levied by the Assessor, at any time after he has rendered, or returned, his regular tax list, and it is hereby made the duty of the Clerk of said Board to notify the several members thereof immediately upon the return of such supplementary assessment roll, by the Assessor, to the office of the Clerk, or Recorder, of the county.

Duties of Board of Equalization.

SEC. 9. An Act to Confirm, and Legalize, the Assessment Roll, or Tax List, of Calaveras County, for the year eighteen hundred and fifty-nine, and to authorize the collection of the same, approved February twenty-second, eighteen hundred and sixty, is hereby repealed, and all action taken, and all judgments obtained, under said act, the District Attorney of said county is hereby authorized to withdraw, and to commence and prosecute suits *de novo* for the same, under the provisions of this act.

Act repealed.

SEC. 10. This act shall take effect and be in force, from and after the date of its passage.

To take effect.

CHAP. CI.—*An Act supplemental to An Act for the education and care of the Indigent Deaf, Dumb, and Blind, in the State of California, approved April eighteenth, eighteen hundred and sixty.*

[Approved March 29, 1861.]

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

SECTION 1. That every deaf and dumb, or blind, person between eight and twenty-five years of age, who is neither mentally, or physically, incapacitated to receive an education, whose parent, parents, or guardian, may be residents of this State, and who may make application for that purpose, shall be received into the California Institution for the Education and Care of the Deaf

Who may be pupils.

and Dumb, or Blind, in the manner hereinafter mentioned, and be provided with board, lodging, and tuition, by the managers of the said institution; *provided*, that no one scholar shall be taught at the expense of the State more than five years, and the term of the present pupils shall be considered as having commenced at the time when they were received into the institution as charity scholars, and that the annuity from the State shall only apply to them from and after the passage of this act.

To make application.

SEC. 2. That whenever the parent, guardian, or nearest friend, of a deaf, dumb, or blind, person is desirous to have him, or her, instructed, application shall be made to the County Judge of the county wherein such deaf and dumb, or blind, person shall reside, who shall certify to the liability of the parent, parents, or guardian, to pay his, or her, board and tuition, which certificate being produced, shall authorize the Trustees of the institution aforesaid to receive such deaf and dumb, or blind, person as a pupil; *provided*, in cases where the parent, or guardian, is able to defray the expenses of his, or her, board and tuition, the Judge shall state that fact, and the pupil shall be admitted, by the parent, or guardian, first paying, quarterly, in advance, his, or her, board, or tuition, to the Trustees of the institution, at the rate of three hundred dollars per annum.

Rate per annum.

SEC. 3. That each indigent pupil so received into the institution aforesaid, shall be provided with board, lodging, and tuition; and the managers of the said institution shall receive, for each pupil so provided for and not paid by parent, or guardian, the sum of two hundred and fifty dollars per annum, in quarterly payments, to be paid by the Treasurer of the State on warrants of the Controller, to the Treasurer of the Board of Managers of the said institution, on presentation of an account showing the number of indigent pupils attending the school, and the time of their attendance, which account shall be signed and certified by the President and Secretary of the Board of Managers of the said institution, and countersigned by the President, or Secretary of the Board of Trustees, and audited by the Board of Examiners; and the Controller is hereby authorized and required to draw his warrants on the Treasurer for the account so audited and allowed, to be paid out of any moneys not otherwise appropriated.

To make report.

SEC. 4. It shall be the duty of the Trustees and Board of Managers of the said institution to present, annually, to the Legislature on, or before, the first day of February in each and every year, a detailed report of the condition of said institution and of the number of pupils therein, stating their names, ages, sex, place of birth and residence, with a statement of the receipts and expenditures for, or on account of, said institution, during the preceding year.

Appropriation.

SEC. 5. The sum of ten thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to be expended in the erection of an additional wing to the present wing of the Institution for the Education and Care of the Indigent Deaf, and Dumb, and Blind, and other necessary out-houses; and the Controller is hereby authorized to draw his warrants on the treasury in such sums as they may be required of him by the Board of Trustees of the aforesaid institution;

*provided*, that in the aggregate they do not exceed ten thousand dollars. The Trustees shall proceed to complete said building, and let contracts for the same in accordance with the provisions of an act to which this is supplemental; *provided*, that no warrant shall be drawn for any portion of the money herein appropriated until the first Monday in May, eighteen hundred and sixty-one.

SEC. 6. This act shall take immediate effect after the passage thereof, and continue in force until otherwise ordered by legislative enactment. To take effect.

CHAP. CII.—*An Act to grant to certain parties the right to supply the People of Red Bluff with Gas.*

[Approved March 29, 1861.]

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

SECTION 1. The right is hereby granted to J. L. Tiner, James Smart, and Charles E. Fisher, and their assigns, to lay down suitable gas pipes in the public streets and highways of the town of Red Bluff, for the purpose of supplying the inhabitants of said town with gas-light, and for that purpose to make all such excavations in said streets and highways as may be necessary; *provided*, that such excavations, when necessary, shall be made as speedily as practicable, so that the travel on said streets and highways shall be interrupted as little as possible, and that whenever such excavations shall have been made and the pipes laid in the places so excavated, the said grantees shall forthwith fill up the same so as to restore such street, or highway, to as good condition as it was in when said excavation was commenced. Franchise granted.

SEC. 2. The right to lay and maintain such gas pipes in said streets shall continue in said grantees and their assigns for the term of twenty years. Term of franchise.

SEC. 3. If the said grantees, or their assigns, shall fail to erect suitable gas-works for the reasonable supply of the citizens of said town within two years after the passage of this act, or if, after having erected such works, they shall fail to furnish the citizens of said town with gas-lights, for a reasonable price, the privileges hereby granted shall cease and determine. Forfeiture.

SEC. 4. Any person who, without authority of law, shall dig up, or excavate, any of the streets of said town for the purpose of laying down any gas-pipes therein, shall be deemed guilty of a misdemeanor and shall be punished accordingly. Penalty.

SEC. 5. This act shall take effect immediately. To take effect.

CHAP. CIII.—*An Act making an appropriation for the salary of the State Librarian, from the sixteenth day of March to the thirtieth day of June, eighteen hundred and sixty-one.*

[Approved April 4, 1861.]

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

SECTION 1. The sum of seven hundred and twenty-nine dollars is hereby appropriated out of any money in the treasury, not otherwise appropriated, for the salary of the State Librarian, from the sixteenth day of March to the thirtieth day of June, eighteen hundred and sixty-one.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CIV.—*An Act to amend An Act concerning Corporations, passed April twenty-second, eighteen hundred and fifty.*

[Approved April 4, 1861.]

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

SECTION 1. Section one hundred and forty-six of an act entitled An Act concerning Corporations, passed April twenty-second, eighteen hundred and fifty, is hereby so amended as to read as follows :

Number of persons to form company.

SEC. 146. Any number of persons not less than three, may associate and form a company for the purpose of constructing, owning, holding, and working, a line, or lines, of telegraph in this State, or beyond the limits thereof, or partly within this State and partly beyond the limits thereof, upon the terms and conditions, and subject to the liabilities prescribed in this chapter.

SEC. 2. Section one hundred and forty-seven of the said entitled act is so amended as to read as follows :

Certificate.

SEC. 147. Such persons, under their hands and seals, shall make a certificate which shall specify :

*First*—The corporate name of the company.

*Second*—The general route of the principal line, or lines, of telegraph, designating the principal points to be connected thereby.

*Third*—The amount of the capital stock of the company and the number of shares into which the same shall be divided.

*Fourth*—The names and places of residence of the principal shareholders, and the number of shares subscribed for by each.

*Fifth*—The period of the existence of said company, not to exceed fifty years.

To be filed.

Which certificate shall be proved, or acknowledged, and filed in the office of the County Clerk of the county in which one of the principal offices of said company shall be established, and a

copy, or duplicate, thereof filed in the office of the Secretary of State; *provided*, that any telegraph company formed, or to be formed, under the laws of this State, may, with the consent of the persons holding two-thirds of the issued stock of said company, continue its corporate existence, or become reincorporated, under the same, or a different name, and may, in its new certificate, provide for the construction, owning, holding, controlling, and working, of the same, or other, lines of telegraph, or both, and for any other matters connected therewith that may be proper for the convenient carrying out of the purposes of said company; which certificate shall also state the number of shares and amount of the capital stock of said company, and shall be signed by the President and Secretary of the company, and proved, or acknowledged, and filed as hereinbefore provided; and the new company shall thereupon succeed to all the debts and liabilities, and all the rights, franchises, and property, of the old company.

SEC. 3. Section one hundred and forty-eight of said entitled act is hereby so amended as to read as follows:

Sec. 148. Upon complying with the provisions of the last preceding section, such company shall be, and remain, a body corporate by the name designated in said certificate; and a copy of said certificate, duly certified by the Clerk of the county where the same is filed, or by the Secretary of State, may be used in all courts and places for and against said corporation.

Certified copy to be used as evidence.

SEC. 4. Section one hundred and forty-nine of said entitled act is so amended as to read as follows:

Sec. 149. Such company shall have power to purchase, take, receive, hold, use, and vend to others to be used, any patent, or patents, for telegraphing, and any and all rights thereunder; to purchase, take, receive, hold, and maintain, any and all rights, privileges, and franchises, relating to the business of telegraphing; to make, receive by assignment, or ratify, any contract, or agreement, for the building, maintaining, controlling, or working, of any line, or lines, of telegraph; to construct, purchase, lease, take, receive, hold, control, and work, any lines for telegraphing, whether within the State of California, or beyond the limits thereof, and to purchase, take, lease, hold, own, use, and occupy, any personal, or real, estate, rights, property, telegraph lines, grants, franchises, and privileges, that may be proper, or convenient, for the complete transaction of its business, or for effectually and conveniently carrying out the objects and purposes of said company. It shall also have power to appoint such Directors, officers, and agents, and to make such rules, regulations, and by laws, as may be necessary, or proper, in the transaction of its business and not inconsistent with the laws of this State, or of the United States.

Powers of company.

SEC. 5. Section one hundred and fifty-four of the said entitled act is so amended as to read as follows:

Sec. 154. It shall be the duty of any company owning, or working, any telegraph line in this State, on the payment of the usual charges therefor, as established by said company, to receive all dispatches from any individual, or person, and to transmit the same with impartiality and good faith to the person, or persons, to whom the same may be directed; and for

Duties of.

any neglect, or refusal, so to do, such company shall forfeit the sum of five hundred dollars, to be recovered, with costs of suit, by the person desiring to send the same.

May dispose  
of certain  
rights.

SEC. 6. Any telegraph company may, at any time, with the consent of the persons holding two-thirds of the issued stock of said company, sell, lease, assign, transfer, and convey, any rights, privileges, franchises, and property, of said company, except its corporate franchise.

To take  
effect.

SEC. 7. This act shall take effect immediately, and its provisions shall apply as well to telegraph companies already formed as to those hereafter to be formed.

CHAP. CV.—*An Act to establish a standard of Weights and Measures.*

[Approved April 4, 1861.]

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

Standard.

SECTION 1. There shall be but one standard of measure of length and surface, one of weights, and one measure of capacity, throughout this State; which shall be in conformity with the standard of measure, length, and weight, established by Congress.

State Scaler.

SEC. 2. The Secretary of State shall be *ex officio* State Scaler of Weights and Measures, and the Clerks of the County Courts shall be County Sealers of Weights and Measures for their several counties, and all Deputy, or County, Sealers, are hereby required to deliver to the County Clerks of their respective counties, all standards of weight or measure in their possession, or under their control.

Heaped  
measure.

SEC. 3. All commodities sold by heaped measure shall be duly heaped up in the form of a cone, the outside of the measure by which the same shall be measured, to be the extremity of the base of such cone, and such cone to be as high as the articles to be measured will admit.

Stricken  
measure.

SEC. 4. The measures used for measuring dry commodities, not heaped, shall be stricken with a straight stick, or roller, and of the same diameter from end to end.

Contracts.

SEC. 5. Contracts hereafter to be executed, made within this State for any work to be done, or for anything to be sold, delivered, done, or agreed for, by weight, or measure, shall be taken and construed to be made according to the standard weight and measure thus ascertained.

SEC. 6. The hundred weight shall consist of one hundred pounds, and twenty such hundreds shall constitute a tun.

Legal weight  
of grain.

SEC. 7. Whenever wheat, rye, Indian corn, barley, buckwheat, or oats, shall be sold by the bushel, and no special agreement as to the weight, or measurement, shall be made by the parties, the bushel shall consist of sixty pounds of wheat, of fifty-four pounds of rye, of fifty-two pounds of Indian corn, of fifty



pounds of barley, of forty pounds of buckwheat, and thirty-two pounds of oats.

SEC. 8. The following original standards, made in conformity to the provisions of this act, to wit: a yard, a pound, liquid gallon, and a half bushel, shall be procured by the State Sealer of Weights and Measures, and deposited in a chest, or case, in his office, which shall only be opened for the sole purpose of comparing such standards with the copies hereinafter described, unless by a joint resolution of the two houses of the Legislature, or on the call of either house for information, or by order of the Governor, for scientific purposes.

Duties of State Sealer

SEC. 9. Copies of the said original standards, to be made of such materials as the State Sealer shall direct, shall be deposited by him in the office of the County Sealers of the respective counties of this State, at the expense of said counties, who shall severally be responsible for the preservation of said copies, respectively, delivered to them; *provided*, nothing in this section shall be so construed as to require the State Sealer to furnish copies of such standards for counties which may now have copies of such standards, pursuant to an act passed March thirtieth, eighteen hundred and fifty, entitled An Act to establish a standard of Weights and Measures.

Standards to be furnished County Sealers.

SEC. 10. The State Sealer shall cause to be impressed on each of the copies of such original standards, the letter "C," and such other additional device as he shall direct, for the particular county; which device shall be recorded in the State Sealer's office, and a copy thereof delivered to the respective County Sealers.

Duties of State Sealer.

SEC. 11. The several County Sealers shall compare all weights and measures which shall be brought to them for that purpose, with the above mentioned copies of such standards in their possession, and when the same are found, or made, to conform to the legal standards, the officer comparing them shall seal and mark such weights and measures.

Of County Sealers.

SEC. 12. It shall be the duty of the County Sealers of Weights and Measures to compare the copies in their possession, once in every five years, with those existing in the office of the State Sealer; and every County Sealer who neglects to have the copies in his possession compared as aforesaid, shall pay into the county treasury one hundred dollars, for county purposes. Whenever the County Sealer fails for one month to pay the aforesaid sum, it shall be the duty of the District Attorney to commence suit therefor, in the name of the county, before any Justice of the Peace of the county, and when collected, paid into the county treasury, for the uses aforesaid.

Same.

Penalty.

SEC. 13. Each County Sealer shall be entitled to receive, for his services, when such services shall be demanded by parties desiring to use such weights and measures, at and after the following rates: For sealing and marking every beam, seventy-five cents; for sealing and marking measures of extension, at the rate of forty cents per yard, not to exceed one dollar and a half for any one measure; for sealing and marking every weight, twenty-five cents; for sealing and marking liquid and dry measures, if the same be of the capacity of a gallon, or more, forty cents; if less than a gallon, twenty cents.

Fees.

Penalty  
for using  
unsealed  
weights.

SEC. 14. If any person, or persons, shall hereafter use any weights, measures, or beams, in weighing, or measuring, which shall not be conformable to the standards of this State, whereby any purchaser of any commodity, or article of trade, or traffic, shall be injured, or defrauded, or if any person shall hereafter use any weights, or beams, in weighing gold dust, by him, or them, purchased, which shall not be conformable to the standards of this State, the person, or persons, thus injured, damaged, or defrauded, may maintain an action on the case against the offender; and if judgment shall be rendered for the plaintiff, he shall recover five times the damages, with cost of suit; also, the party so using any weights and measures not in conformity with the standards of this State, shall be deemed to have committed a misdemeanor, and upon conviction before any court of competent jurisdiction, shall be fined in any sum not exceeding one hundred dollars.

Acts  
repealed.

SEC. 15. An Act to establish a standard of Weights and Measures, passed March thirtieth, eighteen hundred and fifty, and the act amendatory thereof, approved April thirtieth, eighteen hundred and fifty-three, and the act amendatory of said acts, approved April twelfth, eighteen hundred and fifty-eight, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed. This act shall take effect within ten days from and after its passage.

CHAP. CVI.—*An Act making appropriation for deficiencies made for the Twelfth Fiscal Year, ending June thirtieth, eighteen hundred and sixty-one.*

[Approved April 4, 1861.]

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

Appropriat'n.

SECTION 1. The sum of five thousand dollars is hereby appropriated, out of any money in the General Fund not otherwise appropriated, for the contingent expenses of the Assembly.

Exemption.

SEC. 2. The sum herein appropriated shall be disbursed under the direction of the Assembly, and shall not be subject to any of the provisions of An Act to create a Board of Examiners to define their powers and duties, and to impose certain duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight.

To take  
effect.

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

CHAP. CVII.—*An Act appropriating Moneys for the benefit of certain Orphan Asylums in this State.*

[Approved April 4, 1861.]

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

SECTION 1. The Controller of State is hereby directed to draw his warrant on the Treasurer of State, payable out of the General Fund, for the sum of thirteen thousand dollars; five thousand five hundred dollars of which shall be paid to the order of the Trustees of the San Francisco Protestant Orphan Asylum, and five thousand five hundred dollars to the San Francisco Catholic Orphan Asylum, and one thousand dollars to the Male Orphan Asylum in Marin County, and one thousand dollars to the Roman Catholic Orphan Asylum of Los Angeles; and the sum of thirteen thousand dollars is hereby appropriated, out of any moneys which may be in the treasury on the first day of June next, not otherwise appropriated, for the purpose of carrying out the provisions of this act. Appropriations.

SEC. 2. The Trustees of said Orphan Asylums are hereby required to report to each branch of the Legislature, on or before the twentieth day of January next, a detailed statement of the expenditures of these respective appropriations, with the number of orphans who have been inmates of said asylums, severally, during the year ending at the date of their reports. To report annually.

CHAP. CVIII.—*An Act for the payment of the claim of I. & S. Wormser, Assignees of J. M. Anderson, Joseph R. Beard, for Copying done for the Senate and Assembly, of the Eleventh Session of the Legislature, and Assignees of C. A. Sumner, W. M. Cutter, and P. Malone, for pay as Reporters of Assembly, allowed by Resolution, passed April thirtieth, eighteen hundred and sixty.*

[Approved April 5, 1861.]

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

SECTION 1. The sum of three thousand seven hundred and forty-seven dollars and eighty-five cents is hereby appropriated out of any moneys in the State treasury, not otherwise appropriated, for the payment of the claim of I. & S. Wormser, assignees of J. M. Anderson, Joseph R. Beard, C. A. Sumner, W. M. Cutter, and P. Malone, for copying done in the Senate and Assembly, and reporting done in the Assembly, of the eleventh session of the Legislature. Appropriation.

SEC. 2. The Controller of State is hereby directed to draw his warrant for the above sum, and the State Treasurer is hereby directed to pay the same. To draw warrant.

CHAP. CIX.—*An Act supplementary to, and explanatory of, Section One of An Act to provide a Fund for the redemption of, and prescribing the manner of redeeming, the outstanding County Warrants, drawn upon the Treasury of Tuolumne County, and further to provide for the payment of all the current expenses of said Tuolumne County in cash, approved February twenty-second, eighteen hundred and sixty-one.*

[Approved April 5, 1861.]

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

SECTION 1. Section one of an act entitled An Act to provide a fund for the redemption of, and prescribing the manner of redeeming, the outstanding County Warrants, drawn upon the Treasury of Tuolumne County, and further to provide for the payment of all the current expenses of said Tuolumne County in cash, approved February twenty-second, eighteen hundred and sixty-one, is hereby amended by an additional explanatory section thereto, as follows:

Previous section, how construed.

SEC. 2. Section one of said act shall be construed, and understood to require, that after all debts and dues, to either of the funds mentioned in said section one, are paid off and liquidated, in full, the Board of Supervisors of Tuolumne County shall continue to levy the various amounts, as specified in said section one, against the taxable property of the inhabitants of Tuolumne County, for the use of the Redemption Fund, until all outstanding warrants, drawn upon the treasury of said Tuolumne County, are paid off and redeemed, when the levy of the aforementioned taxes shall cease.

CHAP. CX.—*An Act to provide for recording certain Deeds, and to make the same Notice and Evidence.*

[Approved April 5, 1861.]

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

Duty of County Recorder.

SECTION 1. The County Recorder of the county of Sacramento is hereby required to transcribe and copy two certain deeds, wherein Thomas A. Warbass, William S. Heyt, and John F. Morse, are grantors, and Murray Morrison, William Grove Deal, and J. R. Riggs, are grantees, dated August twenty-first, eighteen hundred and fifty, and recorded in Book A of Mortgages, from pages three hundred and three to three hundred and eighteen, inclusive, in the office of said Recorder, and place the same of record in the proper book for recording deeds in such office, and properly index the same as recorded in said last mentioned book.

Records to impart notice.

SEC. 2. From and after the time the said deeds shall be copied from the said book of mortgages into the proper book of

deeds, such recordation shall impart notice to all subsequent purchasers, as fully as though the same had been duly acknowledged and recorded from the original deed, on such day; and all certified copies of such instruments shall have the same force and effect as copies of other deeds duly recorded.

SEC. 3. This act shall go into effect from and after its passage. To take effect.

CHAP. CXI.—*An Act making Appropriations for the payment of the Per Diem and Mileage of Presidential Electors.*

[Approved April 5, 1861.]

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

SECTION 1. The sum of twenty-four dollars is hereby appropriated to Charles A. Tuttle, or his Assigns; the sum of ten dollars to William H. Weeks, or his Assigns; the sum of eighty-four dollars to Antonio M. Pico, or his Assigns; and the sum of fifty-eight dollars to Charles A. Washburn, or his Assigns; in payment of the per diem and mileage, of each, respectively, as Presidential Electors, on the first Wednesday of December, A. D. eighteen hundred and sixty; and the State Controller is hereby authorized and directed to draw his warrants on the Treasurer for the said several sums, the same to be paid out of any moneys in the General Fund not otherwise appropriated.

Appropriation.

SEC. 2. This act shall take effect on and after its passage.

To take effect.

CHAP. CXII.—*An Act authorizing the Placerville Turnpike Company to have, and maintain, a Bridge across Webber Creek, in El Dorado County.*

[Approved April 5, 1861.]

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

SECTION 1. The corporation styled the "Placerville Turnpike Company" is hereby authorized and empowered to have, and maintain, a bridge across Webber Creek, in El Dorado County, at a point where the turnpike road, leading from Placerville to El Dorado, in said county, lately constructed by said corporation, crosses said creek.

Right granted.

SEC. 2. All acts, and parts of acts, inconsistent with this act, are hereby repealed so far as the same may affect the purposes of this act.

Repealing clause.

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

To take effect.

CHAP. CXIII.—*An Act to provide for the collection of Delinquent Taxes in the County of Butte.*

[Approved April 5, 1861.]

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

Assessments  
legalized.

SECTION 1. The assessments of taxes upon all property, both real and personal, in the county of Butte, whether for State, county, or other, purposes, for the fiscal year ending on the first day of March, eighteen hundred and fifty-eight, and for the fiscal year ending on the first day of March, eighteen hundred and fifty-nine, and for the fiscal year ending on the first day of March, eighteen hundred and sixty, are hereby legalized and confirmed and rendered valid and binding, both in law and equity, against the persons assessed.

To commence  
suit.

SEC. 2. The District Attorney of the county of Butte is hereby authorized and directed to commence civil actions, in the name of the people of the State of California, in any of the courts in said county, whether the defendant be a resident of the township, or county, in which the court is located, or not, to recover the unpaid taxes in said county for the fiscal years mentioned in the last section, and he shall designate in his complaint the amount of taxes due and unpaid, for State, county, or other, purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and if real, describe the same; and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense, such defendant being allowed only to plead—

*First*—That the taxes had been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint, at the time of assessment, and has never been liable to pay said taxes. And no answer shall be filed in any such case, unless the same be verified by oath.

Delinquent  
list evidence.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officer, shall be delivered to the District Attorney; and the said delinquent lists, or the original, or duplicate assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence in any court, to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law in relation to the levy and assessment of such taxes have been complied with; and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

Judgments  
to become  
liens.

SEC. 4. Judgments rendered in such cases in the District Court shall be docketed, and become a lien upon the specific property upon which the taxes due and sued upon were assessed, and said lien shall have date from the day said assessments were first made, and shall have priority over all subsequent liens; and from the time of docketing said judgments the same shall become a lien upon all other property of the defendants, liable to execution, and may be enforced against the same. The District Attorney may file transcripts of judgments rendered in Justices' Courts, under this act, with the County Clerk, who shall there-

upon docket such judgments, and they shall become liens, in like manner as judgments rendered in the District Court, under this act; and the County Clerk may issue execution thereon, as on judgments rendered in the District Court.

Transcripts from Justices' Courts to be docketed.

Sec. 5. An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not [in]consistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act, shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court, to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take, and pay the judgment and all costs; and, *provided*, further, that when the property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed to redeem said property, by paying the whole bid, all subsequent taxes, and interest; *provided*, further, that no writ of assistance shall be granted until after the expiration of six months from the sale of any real estate for taxes under this act; in case of the original owner of any real estate sold for taxes shall pay, or cause to be paid, the original bid, together with costs of prosecution, and eighteen per cent. on the same, to the purchaser of said real estate sold for taxes, then said real estate shall revert back to the original owner. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Tax Collector of the said county, and by said Collector, shall, without delay, be paid over to the Treasurer of said county, to be distributed in the proper funds; and each collection, and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

Act made applicable.

Disposition of moneys collected.

Sec. 6. If the name of the owner of any property upon which the taxes remain unpaid be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property under the provisions of this act, shall be equally conclusive against the true owner of such property as if the action had been prosecuted against said owner by his real name.

Unknown owners may be sued.

Sec. 7. For services rendered under this act the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto if paid before judgment, and if not so paid, then twenty-five per cent. to be added to, and constitute a part of, the judgment; and all officers shall perform such services as may be required of them under this act, without the payment of fees in advance, but they may charge and receive to their own use such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act against a person, after being served with

Fees of District Attorney.

a duplicate receipt of the Tax Collector for the total amount of taxes and charges due from such person upon a piece of property.

Taxes  
exempted.

SEC. 8. All taxes and assessments which were remitted by the Board of Supervisors of Butte, and which may hereafter be remitted, shall be exempt from the provisions of this act.

To take  
effect.

SEC. 9. This act shall take effect and be in force, from and after its passage.

CHAP. CXIV.—*An Act in relation to the burning of Bricks in the City and County of San Francisco.*

[Approved April 5, 1861.]

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

Powers of  
Supervisors.

SECTION 1. From and after the passage of this act the Board of Supervisors of the city and county of San Francisco shall have full power and authority to fix limits in said city and county, within which the burning of bricks shall be prohibited, and to make such rules and regulations in relation to the burning of bricks in any part of said city and county as they may deem advisable.

Repealing  
clause.

SEC. 2. The act entitled An Act to prohibit the burning of Bricks within certain limits in the City and County of San Francisco, approved March thirteenth, eighteen hundred and sixty, is hereby repealed.

CHAP. CXV.—*An Act relating to the payment of Stewards for the San Francisco Fire Department.*

[Approved April 5, 1861.]

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

Appropriation to be made by Supervisors.

SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby required to appropriate, out of the General Fund of said city and county, the sum of forty dollars, each and every month, for the payment of a Steward, or Engine Keeper, for each engine, or truck, company, in said city and county; said appropriation to be made separate and apart from the sum now allowed by law for said department.

Foreman to disburse moneys.

SEC. 2. The said sums of forty dollars per month shall be drawn in favor of each organized company, and the Foreman thereof shall disburse the same, for the service mentioned in section one of this act.

To take  
effect.

SEC. 3. This act shall take effect immediately after its passage.



CHAP. CXVI.—*An Act to amend an Act entitled An Act supplementary to an Act entitled An Act concerning the Board of Supervisors of Placer County, approved February fourth, eighteen hundred and fifty-seven, and to extend its provisions to other Counties herein named, approved March thirty-first, eighteen hundred and fifty-seven.*

[Approved April 5, 1861.]

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

SECTION 1. Section first of an act entitled An Act supplementary to an Act entitled An Act concerning the Board of Supervisors of Placer County, approved February fourth, eighteen hundred and fifty-seven, and to extend its provisions to other Counties herein named, approved March thirty-first, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

Sec. 1. The provisions of an act entitled An Act concerning the Board of Supervisors of Placer County, approved February fourth, eighteen hundred and fifty-seven, are hereby extended to the counties of Shasta, Trinity, Siskiyou, Tehama, Colusa, Stanislaus, Contra Costa, San Joaquin, Butte, Klamath, Humboldt, and Mariposa. Provisions extended to certain counties.



CHAP. CXVII.—*An Act to grant the right to construct a Turnpike Road between the Town of Jackson and Ione City, in the County of Amador.*

[Approved April 5, 1861.]

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

SECTION 1. John Vogan, together with such associates as he may admit, shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, hereinafter mentioned, upon condition that he and his associates, shall incorporate themselves under the general law of the State regulating corporations, and providing for the incorporation of turnpike roads, and shall adopt the name of "The Jackson and Ione City Turnpike Road Company," and shall abide by, and fulfill, the further conditions hereinafter mentioned. Franchise granted.

SEC. 2. The said company shall have full power to build, and maintain, a public turnpike road, from the town of Jackson to Ione City, in the county of Amador, and have, and enjoy, all the rights, and privileges, and immunities, thereunto appertaining, and shall have the right of way, which is hereby granted and ceded, to the said company, for the term of twenty (20) years, and the State enters into these covenants, and grants these rights and privileges, upon express condition that within one year from the passage of this act the said company shall commence, and within two years complete, the said turnpike road; *provided*, that this road shall not interfere with, or obstruct, the present county Same.

road, or roads, now in use, leading from Jackson to Ione City, in said county.

Rights  
extended.

SEC. 3. The same rights as are now extended by the laws of this State to plank and turnpike roads, in relation to the taking of property for the use of plank and turnpike roads, are hereby extended to the said Jackson and Ione City Turnpike Road Company. The damages to be ascertained and paid, in the same manner as they are by plank, or turnpike, road companies.

Capacity of  
road.

SEC. 4. The said turnpike shall be constructed of sufficient width to admit of the passage of the largest and heaviest sized teams, and said road shall be kept, at all seasons of the year, in good condition for travel by the largest, or heaviest, lumber, and other, teams.

Tolls.

SEC. 5. The said company, upon the completion of said turnpike road, shall be authorized and empowered, to charge and collect, such rates of fare as the Board of Supervisors of Amador County may annually fix.

Sign board.

SEC. 6. The said company shall keep at each end of the road a sign board, which shall show the scale of prices and the regulations of the road.

CHAP. CXVIII.—*An Act to amend an Act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to incorporate the City and County of Sacramento.*

[Approved April 5, 1861.]

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

SECTION 1. Section twelve of the act to which this is amondatory, is hereby amended so as to read as follows :

Duties of  
Treasurer.

Sec. 12. The Treasurer shall receive and safely keep in a secure fire-proof safe, or vault, to be provided for the purpose by the county, all moneys belonging to, or which shall be paid into, the treasury, and shall not loan, use, or deposit, the same, or any part thereof, with any banker, or other person ; *provided*, however, that until a secure vault is furnished by the county, said Treasurer may make a special deposit of the Interest and Sinking Fund accruing under sections thirty-five and thirty-six of this act, in the vault of the Treasurer of State, or with some good and responsible banker, or bankers, of the city of Sacramento, on condition that before any such deposit has been made, the said Treasurer shall execute a new bond in the penal sum of one hundred thousand dollars, with good and sufficient sureties, to be approved by the County Judge of Sacramento County, and said bond, when so approved, shall be filed with, and safely kept by, the Clerk of the county of Sacramento, and thereafter the Treasurer and his sureties upon said bond, shall be responsible for the money so deposited, in the same manner and to the same extent, as though said money had not been removed from the

vault, or safe, of the treasury. Said Treasurer shall not pay out said moneys, or any part thereof, belonging to, or which shall be paid into, the treasury, except upon warrants duly signed by the President of the Board of Supervisors and Auditor; *provided*, however, that he may pay out State moneys, upon the warrants, or receipt, of the proper State officers, as provided by law; and, *provided*, further, that he may pay money out of the proper Interest and Sinking Fund for the redemption of city and county bonds in the manner hereinafter prescribed, and that he may, also, upon their presentation, and in the order in which they are presented, pay the coupons for the interest, as it becomes due on the bonds issued under this act, provided there is money in the proper fund to pay the same, and he may pay to the proper party any money received for the redemption of property sold for taxes; and the filing with the Auditor, of the State officer's receipt, or warrant, or the redeemed bond, or bonds, or any interest coupon, as aforesaid, past due, or the receipt for money paid to purchasers at tax sales, shall be the Treasurer's sufficient voucher for his non-possession of the money used to pay, or redeem, the same, and the Auditor shall give him credit in the proper fund, for the amount such vouchers show to have been thus used, and thereupon, upon the face of said voucher, mark the same canceled and paid. The Treasurer shall keep the key of the aforesaid vault, or safe, and not allow the same to be opened, or any money to be taken therefrom, except by himself, or Deputy. At the close of each day he shall take an account of, and enter in a proper book to be kept by him for that purpose, the exact amount of money on hand, and on the first Monday in each month, he shall make and publish, in one of the daily papers published in the city of Sacramento, a statement of all receipts into, and payments from, the treasury, and on what account. If the Treasurer shall loan, or deposit, or give up the possession of, or in any manner use, or allow to be used, or pay out, except in accordance with the provisions of this section, any of the aforesaid moneys, he shall be guilty of felony, and upon conviction thereof, shall be punished by imprisonment in the State Prison for a term not less than two, nor more than ten years; and if he violate any other provision of this section, he shall be guilty of a misdemeanor in office, and shall be liable to removal therefrom, accordingly.

Penalty for non-performance of duties.

SEC. 2. This act shall take effect on and after its passage.

CHAP. CXIX.—*An Act to grant the right of Way to construct a Toll-Bridge across Feather River, near Oroville, in Butte County.*

[Approved April 5, 1861.]

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

SECTION 1. Henry B. Lathrop, Pacificus Ord, and Myers B. West, and their associates, shall take, have, possess, and enjoy,

Franchise granted.

all the rights, privileges, right of way, franchises, and immunities, hereinafter mentioned, upon condition that they and their associates shall incorporate themselves under the general laws of the State regulating corporations, and providing for the incorporation of bridge companies, and shall adopt the name of the Oroville Bridge Company, and shall abide by and fulfill the further conditions hereinafter mentioned.

Same.

SEC. 2. Said company, when incorporated as aforesaid, shall have full power to build, erect, construct, and maintain, a public toll-bridge across Feather River, at any point selected by said company, between Third Avenue, (a street in the village of Oroville,) and a point opposite Thompson's Flat, in Butte County, and have and enjoy all rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for that purpose, which is hereby granted and ceded to said company for the term of twenty years; *provided*, that within six months from the date of the passage of this act, the said company shall commence the construction of said bridge, and within eighteen months shall have built and fully completed the same; otherwise, the right to construct the same shall be forfeited, and this act become null and void. Said company shall at all times, after its completion, keep said bridge in passable order and condition, and shall be responsible for any damage arising to persons, or property, crossing said bridge, caused by neglect to keep said bridge in proper repair and condition. After the expiration of ten years from the completion of said bridge, the county of Butte shall have the right to purchase said bridge at an appraised value, to be determined by five Appraisers, two of whom shall be elected by the Board of Supervisors of Butte County, two by said company, and one to be elected by the four Appraisers herein provided for, and such value shall be estimated to be the value of the bridge, not including the franchise or right of way hereby granted; and, *provided*, further, that if said bridge be purchased by the county of Butte, then the right to levy and collect tolls shall cease.

Right to purchase.

Construction

SEC. 3. Said bridge shall be constructed in a good and substantial manner, and of the best and most durable materials.

Tolls.

SEC. 4. Said company, upon the erection and completion of said bridge, shall be authorized and empowered to charge and collect such rates of toll as the Board of Supervisors of Butte County may fix.

To regulate speed of animals.

SEC. 5. Said company may regulate and determine the speed of travel, riding, or driving, upon said bridge, and may require the speed not to be faster than a walk; and for each violation may recover judgment before any competent court, for any damage by said company, sustained by such travel, riding, or driving, exceeding the speed authorized by the company; and for each violation of the rules of said company in regard to speed, the fact being proven, said company shall recover nominal damages, with costs, and such further special damages as shall be proven.

Scale of tolls.

SEC. 6. Said company shall keep in some conspicuous place, at each end of said bridge a bulletin, which shall contain the scale of prices and notice of speed allowed on said bridge.

Act, how construed.

SEC. 7. This act shall not be so construed as to prevent the Board of Supervisors of Butte County from granting renewals

of license to any ferries now licensed within the bounds designated in this act across said river.

SEC. 8. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CXX.—*An Act amendatory of, and supplementary to, an Act entitled An Act supplementary to An Act to provide for funding the Outstanding Debt of the City of Oakland, and to prevent the creation of new Debts by said City.*

[Approved April 5, 1861.]

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

SECTION 1. Section one of the said act, entitled An Act supplementary to An Act to provide for funding the Outstanding Debt of the City of Oakland, and to prevent the creation of new Debts by said City, passed April twenty-sixth, eighteen hundred and fifty-eight, is hereby amended so as to read as follows :

Section 1. The city of Oakland is hereby authorized to fund a certain judgment obtained against said city in the District Court of the Third Judicial District of the county of Alameda, by John Crane, on the ninth day of April, eighteen hundred and fifty-eight, for the sum of four thousand and thirty-eight dollars, with interest at the rate of two per cent. per month, and twenty-nine dollars and forty-five cents costs of suit; and for this purpose the Mayor of said city, and Artemas Davidson, and William Hillegas, residents of said city, shall constitute a Board of Commissioners, to be called "The Oakland Fund Commissioners," and as such, they and their successors in office shall have the powers, and perform the duties, hereinafter enumerated. To fund certain judgment.

SEC. 2. The third section of the said hereinbefore mentioned act is hereby amended so as to read as follows :

Sec. 3. The said Commissioners shall have the power to fund said judgment, together with the interest accrued thereon, on presentation of a transcript thereof duly certified by the Clerk of said court. Powers of Commissioners.

SEC. 3. Section seven of said hereinbefore mentioned act is hereby amended so as to read as follows :

Sec. 7. The compensation of said Commissioners for the services required under this act, shall be such as may be fixed by the City Council, not to exceed one hundred dollars each. The said Commissioners shall proceed without delay to perform the duties enjoined by this act, and when the same shall have been fully completed, they shall deliver their books, papers, and accounts, to the City Clerk, who shall preserve the same among the archives of said city. Duties and compens'n.

SEC. 4. The said Commissioners mentioned, or provided for, in the hereinbefore mentioned act, shall proceed immediately to finish and discharge their duties under this act with the same force and validity, in all respects, as if there had not been any interruption of their labors; and the holders of any bonds to be Same.

issued in pursuance of the provisions of this act, shall be entitled to all the rights and privileges of original bondholders under the said act to which this is amendatory and supplemental; *provided*, that of the bonds to be issued after the passage of this act, the first coupons shall not be made payable before the first day of July, eighteen hundred and sixty-one; and, *provided*, further, that the bonds to be issued after the passage of this act, shall not be delivered to the said John Crane, or his assigns, until the satisfaction of said judgment in favor of said John Crane, against the city of Oakland, duly acknowledged, shall have been delivered to the said Oakland Fund Commissioners.

Proviso.

CHAP. CXXI.—*An Act to Fund the Indebtedness of the County of Los Angeles, now existing in the form of County Auditor's Warrants, or that may be outstanding on the first day of July, A. D. eighteen hundred and sixty-one, or Warrants issued for Indebtedness accruing prior to the first day of July, eighteen hundred and sixty-one, and to provide for the payment of the same.*

[Approved April 5, 1861.]

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

Duties of Supervisors.

SECTION 1. For the purpose of liquidating, funding, and paying, the hereinafter specified claims against the county of Los Angeles, the Board of Supervisors of said county are hereby authorized to cause to be prepared, suitable bonds of said county, not exceeding the estimated amount of the county indebtedness, upon the first day of July, A. D. eighteen hundred and sixty-one, of the denomination of one hundred dollars, two hundred and fifty dollars, five hundred dollars, and one thousand dollars, bearing interest at the rate of seven per cent. per annum, from the date of their issue, payable at the office of the County Treasurer of Los Angeles County, upon the second day of January of each year, commencing on the second day of January, A. D. eighteen hundred and sixty-two, and the principal sum thereof payable at said County Treasurer's office, in the city of Los Angeles, upon the second day of January, A. D. eighteen hundred and eighty-one; said bonds shall be signed by the Chairman of the Board of Supervisors, and countersigned by the County Treasurer and County Auditor, and shall have the seal of the Auditor of said county stamped thereon, and shall have coupons, the first for the interest of six months, ending January second, eighteen hundred and sixty-two, and the remainder for one year's interest each thereafter, to be consecutively numbered and attached thereto, so as to be removed without injury, or mutilation, to the bond, which coupons shall be signed by the County Treasurer.

Record of bonds.

SEC. 2. It shall be the duty of the Chairman of the Board of Supervisors and of the County Treasurer, each to keep a separate record of all bonds signed by them, which bonds shall remain with the County Treasurer.

SEC. 3. The Board of Supervisors shall be authorized to set aside a sum, not exceeding four hundred dollars, of the first cash paid into the county treasury to the credit of the General Fund of said county, which shall be appropriated to pay the expenses incurred in preparing the said bonds. Appropriat'n.

SEC. 4. All persons having any claims against the county of Los Angeles, entitled to be funded as hereinafter provided, shall, upon the presentation to the County Treasurer of the same, in a sum equal to the denomination of any of the bonds provided for in section first, be entitled to receive, in exchange therefor, a bond, or bonds, signed as aforesaid. Whenever any claim for a sum exceeding the denomination of the bond shall be presented, the said County Treasurer may issue certificates for such fractional excess, which certificates shall be transferable, and be entitled to be funded, as hereinbefore provided for other indebtedness of the county. Upon the Treasurer delivering any bond, or bonds, signed by him and the Chairman of the Board, the bondholder shall then present the same to the County Auditor of said county, who shall sign the same, and stamp his seal of office thereon, and redeliver the same to the party presenting it, or to his order, taking due receipts therefor, whereupon said bond, or bonds, shall become legal and subsisting indebtedness of the county of Los Angeles, for the payment of which the faith of said county is hereby pledged. Bonds.

SEC. 5. The County Treasurer and County Auditor each shall keep a record in his office, showing the number, date, and denomination, of each bond, and to whom issued and delivered, and in addition thereto, the record of the County Treasurer shall exhibit upon what claim, or scrip, (describing it and its amount,) each bond was issued. Duties of  
Treasurer  
and Auditor.

SEC. 6. Whenever the County Auditor shall have signed and delivered ten thousand dollars of bonds, as hereinbefore provided, it shall be his duty to notify the Chairman of the Board of Supervisors, whereupon they both shall examine the record kept by the County Treasurer and his vouchers, and if the same be found correct and legal, and correspond with the record of the County Auditor, they shall then cancel and deface the said vouchers, so as to prevent them from again being put in circulation, and shall certify on the record of the said Treasurer, that they have found his record and vouchers to correspond. Vouchers to  
be canceled.

SEC. 7. It shall be the duty of the Chairman of the Board of Supervisors, from time to time, to examine the record and vouchers of the Treasurer and Auditor, and for that purpose he shall at all times have access to the same, and if he finds anything wrong thereabout, it shall be his duty to report the same to the District Attorney. Duties of  
Chairman of  
Board.

SEC. 8. The following are specified as the claims which are entitled to be received and funded under this act:

*First*—All uncanceled Auditor's Warrants legally drawn prior to the first day of July, eighteen hundred and sixty-one, except warrants drawn on the Jail, or Cash, Fund. May be  
funded.

*Second*—All Auditor's Warrants drawn subsequent to the first day of July, eighteen hundred and sixty-one, for indebtedness which occurred prior thereto, except when drawn upon the Jail, or Cash, Fund.

Duties of Auditor.

SEC. 9. It shall be the duty of the County Auditor, in drawing warrants upon an indebtedness accrued prior to the first day of July, eighteen hundred and sixty-one, to specify that fact upon the face of the warrant, except when the warrant is drawn against the Jail, or Cash, Fund.

Funded claims and interest.

SEC. 10. Claims against the county of Los Angeles, and entitled to be funded by this act, shall be paid in no other manner than hereinafter provided; and all claims entitled to be funded, shall have interest allowed to the first day of July, eighteen hundred and sixty-one, on the same, at the rate of ten per cent. per annum from the date of the protest of the same by the County Treasurer, which interest shall be paid in the same manner as the principal; and all claims shall be presented to be funded by the first day of July, eighteen hundred and sixty-one, or the same shall, from and after that date, cease to draw interest, and the claim, or claims, shall not be paid until after the entire liquidation of the debt herein funded.

To levy tax.

SEC. 11. For the payment of the principal and interest of the bonds issued in pursuance of this act, there shall, until the same are paid and discharged, be annually levied and collected in the same manner as is, or may be, provided by law for the collection of State taxes, a tax, to be determined by the Board of Supervisors, of not less than twenty-five cents, nor more than thirty-five cents, upon each one hundred dollars of the assessed value of the real and personal property of said county; and the fund derived from this tax shall be set aside and applied exclusively to the payment of the interest and the final redemption of the bonds issued in pursuance of this act, and shall be known by the name of the "Interest and Sinking Fund" of eighteen hundred and sixty-one; and if the proceeds derived from this tax should be insufficient, from any cause, to pay the interest to accrue upon the said bonds in any year, then it shall be the duty of the County Treasurer, in anticipation of such insufficiency and in advance thereof, to set apart out of the first moneys paid into the county treasury to the credit of the General Fund thereof, a sum sufficient to pay the said interest to fall due.

Duties of County Treasurer.

SEC. 12. Whenever, on the second day of January in any year after the payment of the interest as herein provided for, there remains in the said Interest, or Sinking, Fund a surplus exceeding one thousand dollars, it shall be the duty of the County Treasurer to advertise, for one month, in a newspaper published in English in the county of Los Angeles, for sealed proposals, to be opened one week after the expiration of said publication by the said Treasurer, at his office, in the presence of the Chairman of the Board of Supervisors and of the County Auditor, for the surrender of bonds issued under this act, which advertisement shall state the amount of money he has on hand for the purpose of redemption, and shall require said proposals to be accompanied with good and sufficient security that the same shall be carried out within fifteen days after acceptance; the class and form of which security may be prescribed by the County Treasurer. When said proposals are opened, they shall accept the lowest proposals, at rates not exceeding par value, as may redeem the greatest amount of bonds, until the cash in hand for redemption is exhausted.

Surplus.



SEC. 13. If, in the year eighteen hundred and seventy-one, the tax provided for in section eleven shall have not produced, after the payment of the interest, a surplus of twenty thousand dollars, to be applied as a sinking fund in the redemption of bonds, then the tax to be thereupon levied, as specified in said section eleven, shall not be less than thirty cents on each hundred dollars of the assessed value of real and personal property of said county.

When tax may be increased.

SEC. 14. The Board of Supervisors are duly authorized to allow such sum, not exceeding, in all, the sum of five hundred dollars, as extra compensation to those officers who, in their discretion, shall merit the same by reason of the additional labors imposed upon them by this act.

Extra compensation may be allowed.

SEC. 15. Immediately after any bonds shall have been redeemed as herein provided, it shall be the duty of the County Auditor to take the number of said bonds so redeemed, to whom issued, and when redeemed, and to make a record of the same in his office; and for that purpose, the County Treasurer shall, upon demand, exhibit said bonds to him, and shall, furthermore, permit him to deface the same in such a manner that neither they nor their coupons can again be put in circulation.

Duties of Auditor and Treasurer.

SEC. 16. Any county officer, or officers, of the said county of Los Angeles, willfully neglecting, or refusing, to comply with the requisitions, or provisions, of this act, shall be deemed guilty of a misdemeanor in office, and fined in a sum not less than two hundred, or more than one thousand, dollars, to be recoverable before any court of competent jurisdiction, or dismissed from office, or both such fine, or dismissal, in the discretion of the court; and it is hereby made the duty of the District Attorney to prosecute all delinquents under this act.

Penalty for neglect, etc.

SEC. 17. All fines and penalties collected under the provisions of this act, shall be paid into the General Fund, for county purposes.

Penalties.

SEC. 18. It shall not be lawful for the County Treasurer to pay interest on any warrant drawn by the County Auditor on the treasury of the county of Los Angeles, after the first day of July next, eighteen hundred and sixty-one; and all provisions of law inconsistent, or conflicting, with the letter, or spirit, of this section, are hereby repealed.

Interest.

SEC. 19. This act shall take effect from and after its final passage.

To take effect.

CHAP. CXXII.—*An Act to regulate Fees of Office in the Counties of Los Angeles and Santa Barbara.*

[Approved April 6, 1861.]

*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 named, within the counties of Los Angeles and Santa Barbara, for their services rendered in discharging the duties imposed on

Fees—

them by law, as are herein provided, and such officers may lawfully charge, demand, and receive, the same.

FEEES OF CLERK OF THE DISTRICT COURT.

Of Clerk of  
District  
Court.

SEC. 2. For entering each suit on the Clerk's register of actions, and making the necessary entries therein during the progress of the suit, for each folio, twenty cents.

For issuing each subpoena, without regard to the number of names contained therein, twenty-five cents.

For issuing commission to take testimony, fifty cents.

For issuing a writ of attachment, or summons, or other writ, or process, under seal, fifty cents.

For issuing every execution, or other final process, under seal, fifty cents.

For entering return of attachment, execution, or other process, fifty cents.

For entering each suit in plaintiff's index, twenty-five cents.

For issuing every decree, or order of sale, of mortgaged property, or writ of injunction, fifty cents.

For filing each paper, twenty-five cents.

For calling and swearing jury, fifty cents.

For entering every motion, appearance, rule, order, default, discontinuance, dismissal, or nonsuit, twenty-five cents.

For receiving and entering each verdict of a jury, fifty cents.

For polling each jury, twenty-five cents.

For entering every cause on the calendar, and making a copy thereof for the bar for each term of the Court, twenty-five cents.

For entering every final judgment, for the first folio, fifty cents; for each subsequent folio, twenty cents.

For each entry of judgment, on Judgment Docket, twenty-five cents.

For each entry of satisfaction of judgment, twenty-five cents.

For filing judgment roll, twenty-five cents.

For copy of any proceeding, record, or paper, for each folio, twenty cents.

For copy of any plat, or map, fifteen cents for every course.

For every certificate, or attestation, under seal, fifty cents.

For administering and certifying every oath, or affirmation, twenty-five cents.

For taking down testimony of witnesses, during trial, for each folio, twenty cents, to be paid by the party requiring the same.

For receiving and filing every *remittitur* from the Supreme Court and accompanying papers, fifty cents.

For entering judgment by confession, the same fees as in other cases of entering judgment.

For taking and approving each undertaking, required by law, fifty cents.

For acknowledgment of deed, or other instrument, including all writing and seal thereto, fifty cents.

For searching the files of each year, in his office (but not to charge suitors or Attorneys,) twenty-five cents.

For the trial of each issue, when the charge is felony, two dollars and fifty cents; when the charge is misdemeanor, the same.

## FEES OF CLERKS OF PROBATE COURT.

SEC. 3. For issuing letters testamentary, or of administration, Of Probate Court.  
fifty cents.

For certificate of appointment of Appraisers or Guardian,  
fifty cents.

For writing and posting notices, when required, for each copy,  
twenty-five cents.

For notice given by publication, in addition to the cost of pub-  
lication, thirty cents.

For recording wills, for each folio, twenty cents.

For all other services, the same fees as are allowed the Clerk  
of the District Court for similar services.

## FEES OF CLERKS OF COUNTY COURT.

SEC. 4. For filing all papers, sent on appeal from Justice's Of County Court.  
Court, in each case, one dollar.

For all other services, the same fees as are allowed the Clerk  
of the District Court for similar services.

## FEES OF CLERK OF COURT OF SESSIONS.

SEC. 5. The Clerk of the Court of Sessions shall receive one- Of Court of Sessions.  
half the amount of fees as are allowed the Clerk of the District  
Court for similar services.

## FEES OF COUNTY RECORDER.

SEC. 6. For recording every instrument, paper, or notice, Of County Recorder.  
when required, for each folio, twenty cents.

For receiving, filing, and making, all necessary entries in ev-  
ery instrument, or paper, for record, twenty-five cents.

For filing and keeping each paper not required to be recorded  
and indorsing the same, twenty-five cents.

For making, in the several indexes, the entries required of the  
filing and recording any instrument, paper, or notice, twenty-  
five cents.

For every certificate, or attestation, under seal, fifty cents.

For every entry of discharge of mortgage on margin of record  
and indexing satisfaction of the same, fifty cents.

For searching records and files of each year in his office, twen-  
ty-five cents.

For abstract, or certificate, of title, when required for each  
conveyance, or incumbrance, certified, twenty-five cents.

For recording every plat, or map, for each course, twenty  
cents.

For figures and lettering on plats and maps, for each folio,  
fifty cents.

For acknowledgment of deed, or other instrument, including  
all writing and seal thereto, fifty cents.

For entering a minute of Sheriff's sale, twenty-five cents.

For filing and recording every marriage certificate, fifty cents.

For recording every mark, brand, or counter-brand, one dol-  
lar.

For copies of papers and records, the same fees as are allowed  
for recording the same.

## FEES OF COUNTY AUDITOR.

Of County Auditor.

SEC. 7. The County Auditor shall receive for all services rendered by him in the discharge of the duties imposed on him by law, for each folio, twenty cents.

For services in examining, settling, and adjusting, the accounts of the County Treasurer, Sheriff, Assessor, Tax Collector, or any other revenue officer, upon the days required by law, for each day so employed, four dollars.

For filing and indorsing each paper, twenty-five cents.

For all other services, the same fees as are allowed the County Clerk for similar services.

## FEES OF THE CLERK OF THE BOARD OF SUPERVISORS.

Of Board of Supervisors.

SEC. 8. The Clerk of the Board of Supervisors, the Clerk of the Board of Canvassers, and the Clerk of the Board of Equalization, shall receive, for each day's attendance on said Board, the sum of five dollars, with such other compensation for his services, while the Board of Supervisors is not in session, as the said Board may allow; *provided*, that if, after the adjournment of the Board of Equalization, it may be necessary, in order to complete the minutes of said Board required by law, that they may allow him five dollars per day additional for such necessary services rendered during recess, which allowance shall not exceed the sum of one hundred dollars per annum for all extra services rendered, either to the Board of Supervisors, the Board of Canvassers, or the Board of Equalization.

## FEES OF SHERIFF.

Of Sheriff.

SEC. 9. For serving a summons and complaint, or any other process, by which an 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, thirty cents; *provided*, that if any two, or more, papers are required to be served in the same suit, at the same time and in the same direction, one mileage only shall be charged.

For taking bonds, or undertaking, in any case in which he is authorized to take the same, fifty cents.

For copy of any writ, process, or other paper, when demanded, or required, by law, for each folio, twenty cents.

For serving every notice, rule, or order, fifty cents.

For serving a subpoena, for each witness summoned, fifty cents.

For traveling, per mile, in serving each subpoena, or venire, in going only, thirty cents; but when two, or more, witnesses, or jurors, live in the same direction, traveling fees shall be charged only for the most distant.

For serving any attachment on property, or levying an execution, or executing an order of arrest, or order, for the delivery of personal property, one dollar and fifty cents, with traveling fees as on a summons; but no traveling fee shall be allowed on such attachment, order of arrest, or order for the delivery of personal property, when the same accompanies the summons in the suit, and may be executed at the time of the service of the

summons, except for the distance actually and necessarily traveled beyond that required to serve the summons.

Same.

For serving an attachment upon any ship, boat, or vessel, in proceedings to enforce any lien thereon created by law, one dollar and fifty cents.

For making and posting notices and advertising property for sale on execution, or under any judgment, or order of sale, not to include the cost of publication in newspaper, one dollar.

For commissions for receiving and paying over money on execution, or process, when land, or personal property, has been levied on, advertised, and sold, on the first one thousand dollars, two per cent. ; and on all sums above that amount, one per cent.

For commissions for receiving and paying over money on execution without levy, or where the land, or personal property, levied on shall not be sold, two 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 and collecting the money on an execution, shall be collected from the judgment debtor 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 acknowledgment thereof, three 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, thirty cents.

For attending, when required, on any court in person, or by Deputy, for each day, three dollars, to be paid out of the county treasury.

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, fifty cents ; and for traveling each mile from the jail, in going only, thirty cents.

He shall also be allowed such further compensation for his trouble and expenses, in taking possession of property under attachment, or execution, or other process, and in 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 services in the matter, except mileage, three dollars.

For attending on Supreme Court, either in person, or by Deputy, for each day, five dollars ; to be paid out of the State treasury, as other claims.

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, eight dollars.

For summoning each trial jury of twelve persons, four dollars.

For each additional juror, twenty-five cents.

For service of any process in criminal cases, for each mile nec-

essarily traveled, twenty cents; and the same mileage for taking prisoners before a magistrate, or to prison. In serving subpoena, or venire, in criminal cases, he shall receive mileage for the most distant only, where witnesses and jurors live in the same direction.

For all services in Justices' Courts, the same fees as are allowed to Constables in like cases.

The Sheriff, as Tax Collector, shall be allowed for his services required by law, for collecting and paying over the State and county taxes, three per cent. on all money collected and paid over. And it is hereby expressly declared and provided, that the Sheriff of Los Angeles County shall, in no event whatsoever, receive for his services in the discharge of such duties as are required of him by law in criminal cases, a greater sum than fifteen hundred dollars per annum.

#### FEEES OF CONSTABLES.

SEC. 10. For serving summons in civil suits, for each defendant, one dollar.

Of Constables

For summoning a jury before a Justice of the Peace, fifty cents.

For taking each bond required to be taken, fifty cents.

For summoning each witness, twenty-five cents.

For serving an attachment against the property of defendant, one dollar.

For summoning and swearing a jury to try the rights of property and taking the verdict, two dollars.

For receiving and taking care of property on execution, attachment, or order, his actual necessary expenses to be allowed by the Justice, (when, in his opinion, necessary,) who issued the execution, attachment, or order, upon the affidavit of the Constable, that such charges are correct and the expenses necessarily incurred.

For collecting all sums on execution, two 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, twenty cents; 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.

For serving a warrant, or order, for the delivery of personal property, or making an arrest in civil cases, one dollar.

For service and trial in criminal cases, the same fees as Sheriff for similar services.

For all other services, except attending court, the same fees as are allowed to Sheriffs for similar services; *provided*, that no Constable shall receive for services performed by him in criminal cases, legally chargeable to said county, a greater sum than five hundred dollars in the aggregate per annum, as his only compensation for such services.

#### FEEES OF JUSTICES OF THE PEACE.

SEC. 11. For filing each paper, twenty-five cents.

For entering each cause on his docket, fifty cents.

For issuing any written process by which suit is commenced, Of Justices  
Of the Peace.  
fifty cents.

For issuing 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, twenty-five cents.

For issuing writ of attachment, or of arrest, or for the delivery of property, one dollar.

For entering any final judgment, per folio, for the first folio, fifty cents; for each additional folio, twenty cents.

For taking and approving any bond, or undertaking, directed by law to be taken, or approved, by him, twenty-five cents.

For taking justification of bond, fifty cents.

For swearing a jury, fifty cents.

For taking depositions, per folio, twenty cents.

For entering satisfaction of judgment, twenty-five cents.

For copy of judgment, order, docket proceedings, or paper, in his office, for each folio, twenty cents.

For transcript of judgment, per folio, twenty cents.

For issuing commission to take testimony, one dollar.

For issuing *supersedeas* to an execution, twenty-five cents.

For making up and transmitting transcript and papers on appeal, two dollars.

For issuing search warrant, one dollar.

For issuing an execution, twenty-five cents.

For celebrating marriage and returning certificate thereof to the Recorder, five dollars.

For taking bail after commitment 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 Justices of the Court of Sessions, four dollars per day.

For all services and proceedings before Justices of the Peace, in a criminal action, or proceeding, whether on examination, or trial, three dollars; *provided*, that no Justice shall receive for any services performed by him in criminal cases, legally chargeable to said county, exclusive of services as Associate Justice of the Court of Sessions, a greater sum than five hundred dollars per annum.

#### FEEES OF COUNTY SURVEYOR.

SEC. 12. For the first mile actually run by compass and chain, Of County  
Surveyor.  
three dollars; for each succeeding mile, two dollars.

For each mile run with compass alone, one dollar and fifty cents.

For each lot laid out and platted in any city, or town, one dollar and fifty cents.

For recording a survey, 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, thirty cents; the distance shall be computed from his place of residence, or from where his office is kept, to the place of survey; and if the County Surveyor shall be required and duly notified verbally, or otherwise, to make other surveys while in the discharge of his official duty in the field, he shall only be entitled to mileage from the place last surveyed by him; but if the distance shall be greater from the place last surveyed where his services are required, he shall only be entitled to mileage from the county seat of the county in which he lives, and in no case shall constructive mileage be allowed.

For ascertaining the location of every town lot in an old survey, and measuring and marking the same, two dollars.

For copies and certificates per folio, twenty cents.

For erecting a monument at the corner of any survey, when required, one dollar.

For copy of a plat of any survey and certificate required by law to be transmitted to the Surveyor-General, one dollar, to be paid by the party requiring the same.

Expenses of Assistants shall be an additional charge, to be agreed upon between the parties.

#### FEES OF THE DISTRICT ATTORNEY.

Of District  
Attorney.

SEC. 13. The District Attorney of the county of Los Angeles shall be allowed for his services a salary of fifteen hundred dollars per annum, and the District Attorney of the county of Santa Barbara shall be allowed for his services a salary of nine hundred dollars per annum, payable in the same manner as the salary of the County Judge, out of the county treasury, and such fees as are now allowed by law, when the same can be collected of the defendant, but in no case whatsoever shall the said fees, so allowed by law, become a charge against the county.

SEC. 14. If the District Attorney of the county of Los Angeles shall fail to attend any term of the courts of said county, having criminal jurisdiction, in which criminal cases are pending, the court shall designate some other person to perform his duties during his absence from the court, who shall receive a reasonable compensation, to be certified by the court and paid from the county treasury, which compensation, thus allowed, shall be deducted from the salary of the District Attorney, by the Auditor of the county; *provided*, however, that the Board of Supervisors of the county of Los Angeles shall have the power, at any time that in their opinion the interests of the public may demand it, to employ additional counsel to aid the District Attorney of the county, and to pay therefor any sum agreed upon, not exceeding the sum of one thousand dollars per annum, for such services.

#### FEES OF INTERPRETERS AND TRANSLATORS.

Of Interpreter  
and  
Translator.

SEC. 15. Interpreters and Translators may be allowed such compensation for their services as the court shall certify to be necessary, or just, to be taxed and collected as other costs, but the same shall not exceed four dollars per day. No person shall be allowed any compensation whatever, for services as Interpreter



ter, or Translator, in criminal cases in courts of Justices of the Peace.

#### FEEES OF JURORS.

SEC. 16. For each day, to be paid in civil cases by the party in whose favor the verdict is rendered, before the same shall be entered, but the same may be recovered as costs from the party losing the same, two dollars. Of Jurors.

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 be allowed any compensation for serving on Coroner's inquest, a grand jury, or trial jury, in any criminal action, or proceeding, whatever.

#### FEEES OF WITNESSES.

SEC. 17. For attending in any civil suit, or proceeding, before any Court of Record, Referee, Commissioner, or Justice of the Peace, for each day, two dollars. Of Witnesses

For traveling to the place of trial, for each mile, twenty cents.

No person shall be obliged to testify in any civil action, unless his fees for attendance have been tendered him, or he shall not have demanded the same; 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.

In criminal cases no witness fees shall be allowed in Justices' Courts, but in the District Court and Court of Sessions, witnesses in criminal cases shall be allowed two dollars per day, for each day's actual attendance, and twenty cents per mile for traveling, one way only, from their residence to the county courthouse; *provided*, however, they shall receive no traveling fees unless they reside more than five miles from the said courthouse.

#### FEEES OF COUNTY ASSESSOR.

SEC. 18. The County Assessor and his Deputies, shall each be allowed, not less than the sum of five dollars per diem, while necessarily and actually employed in making the assessment and completing the assessment roll of said county, to be audited by the Board of Supervisors; *provided*, that said Board of Supervisors may allow such additional compensation as in their exercise of a sound discretion they may deem just and proper. Of County Assessor.

#### FEEES OF CORONER.

SEC. 19. For all services in summoning a jury of inquest, three dollars. Of Coroner.

For swearing a jury, one dollar.

For issuing a warrant of arrest, fifty cents.

For issuing subpoena, 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 him when acting as Sheriff, the same fees as are allowed the Sheriff for similar services.

For swearing each witness, twenty-five cents.

For taking down the testimony of each witness, per folio, twenty cents.

#### FEEES OF INSPECTORS, JUDGES, AND CLERKS, OF ELECTION.

Of Inspectors, Judges, and Clerks, of Election.

SEC. 20. For each day's attendance at any general, or special, election, two Inspectors, Judges, and Clerks, of Election shall each receive two dollars, to be audited and paid out of the county treasury, as other charges against the county.

#### FEEES OF PROBATE JUDGE.

Of Probate Judge.

SEC. 21. For every order, or judgment, when not contested, one dollar; when contested, two dollars.

SEC. 22. 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, and take his receipt therefor, and file the same with the County Auditor. His accounts shall always be open to inspection by any county officer, 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 money 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 provided in this section.

SEC. 23. Any officer may refuse to perform any services in civil action, or proceeding, until the fee for such service is paid by the party requiring the service; and no officer shall in any case be required to perform any services in any civil action, or proceeding, until all fees due and in arrears, in such action, or proceeding, are first paid; *provided*, that if any person shall make 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 officer perform such services without any 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 such order of the County Judge so made.

#### MISCELLANEOUS PROVISIONS.

To publish table of fees.

SEC. 24. 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 one month after this act goes into effect, 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.

SEC. 25. 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. Costs to be prepaid.

SEC. 26. 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. May sue for costs.

SEC. 27. The Secretary of State, State Treasurer, and Controller, the Attorney-General, and District Attorneys, shall be authorized to require searches in the respective offices of the officers, whose fees are herein provided for, and in the office of the Clerk of the District Court, of the County Court, and Court of Sessions, 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. State officers not to pay fees.

SEC. 28. 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, should there not be a complete folio, and when there should be an excess over the last folio, exceeding a quarter, shall be computed as a folio. The filing of a paper shall be construed to include the certificate of the same. Folio defined.

SEC. 29. 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 for the most distant only. Mileage.

SEC. 30. No Attorney, or Counselor-at-Law, in any case, shall be allowed any fees for attendance as a witness in any such cause. Fees not allowed.

SEC. 31. Every officer, upon receiving any fees for official duty, or services, 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 for 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, for three times the amount so paid. To give receipt.

SEC. 32. No fees shall be charged by any officer for administering and certifying the oath of office.

SEC. 33. Officers whose fees and compensation are set forth in this act, shall not be entitled to charge, or receive, any fees, compensation, or salary, not herein enumerated and provided for.

SEC. 34. The Attorney-General, or any District Attorney, is authorized to cause subpoenas to be issued and compel the attendance of witnesses on behalf of the State without paying, or ten- Penalty for non-attendance.

dering, fees in advance to any officer, or witness; 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.

**Certificate to witnesses.** SEC. 35. 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.

**Fees.** SEC. 36. 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.

**Fee Book.** SEC. 37. 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.

**Duties of District Attorney.** SEC. 38. The provisions of section thirty-six and thirty-seven 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 act extended.** SEC. 39. An act entitled An Act to regulate the Fees of the County Clerks of Los Angeles and San Diego Counties, which became a law by operation of the Constitution, April twenty-seventh, eighteen hundred and sixty, and section one hundred and eleven of an act entitled An Act to provide Revenue for the support of the Government of this State, approved April twenty-ninth, eighteen hundred and fifty-seven, excepting and reserving so much of said section as relates to the office of County Treasurer, and an act entitled An Act to regulate Fees in Office in certain Counties of this State, approved April twenty-eighth, eighteen hundred and fifty-seven, excepting and reserving section two of said act, relating to fees of Notaries Public, and an act entitled An Act to regulate Fees in Office, approved April tenth, A. D. eighteen hundred and fifty-five, and an act entitled An Act concerning the Office of District Attorney for the County of Los Angeles, approved February sixth, A. D. eighteen hundred and fifty-six, and section six hundred and ninety-two of an act entitled An Act to regulate proceedings in Criminal Cases, passed May first, eighteen hundred and fifty-one, so far as the said section makes the fees therein specified a county charge, are hereby repealed, so far as the same affect the county of Los Angeles; and all acts and parts of acts inconsistent, or in conflict, with the provisions of this act, so far as the same relate to the county of Los Angeles, are hereby repealed.

**Acts repealed.** SEC. 40. This act shall take effect on the first day of May, A. D. eighteen hundred and sixty-one, except so much thereof as relates to, and fixes, the yearly salaries of the District Attorneys of the said counties of Los Angeles and Santa Barbara, which

**To take effect.**

portions of this act shall take effect on the first day of October, A. D. eighteen hundred and sixty-one, and not before.

CHAP. CXXIII.—*An Act to authorize the Board of Supervisors in and for the County of Plumas, to levy a Special Tax for building purposes, and to levy an additional Tax for County expenditures in said County.*

[Approved April 8, 1861.]

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

SECTION 1. The Board of Supervisors of Plumas County are hereby authorized and required to levy and cause to be collected in the year eighteen hundred and sixty-one, and from year to year thereafter until such time as a sufficient income shall have been derived, in the judgment of the Board of Supervisors, for building purposes, in the manner and at the same time as State and county taxes, and in addition thereto a special tax not to exceed thirty cents on each one hundred dollars of taxable property in said county of Plumas. Special tax.

SEC. 2. The income derived under section one of this act shall be expended in meeting the demands against the Building Fund of said county and in erecting of county buildings at the county seat of Plumas County, under the supervision of the Board of Supervisors of said county as by law provided. Building Fund.

SEC. 3. The Board of Supervisors of said county are hereby further authorized and requested to levy and cause to be collected for the year A. D. eighteen hundred and sixty-one and each subsequent year thereafter, a tax of thirty cents on each one hundred dollars of taxable property of said county for general county purposes, in addition to the tax now authorized by law to be levied and collected in said county for county expenditures; and the income derived from the provisions of this section shall be expended as other moneys in the General Fund of said county. Tax for county purposes.

SEC. 4. The act entitled An Act to authorize the Board of Supervisors in and for the County of Plumas to levy a Special Tax for Building purposes in said County, approved January nineteenth, eighteen hundred and fifty-nine, is hereby repealed. Act repealed.

SEC. 5. This act shall take effect from the date of its passage. To take effect.

CHAP. CXXIV.—*An Act to amend an Act entitled An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April twenty-ninth, eighteen hundred and fifty-one.*

[Approved April 8, 1861.]

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

SECTION 1. Section two hundred and fourteen of said act is heroby repealed.

CHAP. CXXV.—*An Act regulating the Fees of Associate Justices of the Court of Sessions, Jurors, and Inspectors, Judges, and Clerks, of Elections, in Tuolumne County.*

[Approved April 8, 1861.]

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

**Fees.** SECTION 1. From and after the first Monday in October, eighteen hundred and sixty-one, the Associate Justices of the Court of Sessions, the Grand and Petit Jurors, and Inspectors, Judges, and Clerks, of Elections, of Tuolumne County, shall demand and receive, for all service required of each, or either, of them, the following fees, and none other.

**Associate Justices.** SEC. 2. Each Associate Justice of the Court of Sessions shall, for each day's service, receive five dollars.

**Grand Jurors.** SEC. 3. Grand Jurors shall receive, for each day's service performed by each of them, two dollars.

**Petit Jurors.** SEC. 4. Each Petit Juror shall receive, for each day's service performed by each of them, two dollars, to be paid, in civil cases, by the party in whose favor verdict is rendered, before the same shall be entered, but the same shall be recovered, as costs, from the party losing the case; *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 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 fund for current expenses, as other county current expenses. 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; and 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.

**Compensation.** SEC. 5. For each day's attendance and service performed at any general, or special, election, the Inspectors, Judges, and Clerks, of Elections, shall each receive two dollars, to be audited

and paid out of the fund for current expenses, as other charges against the county of Tuolumne.

SEC 6. All acts, or parts of acts, now existing in anywise conflicting with the provisions of this act are hereby repealed. Acts repealed.

CHAP. CXXVI.—*An Act amendatory of An Act to provide for the collection of Delinquent Taxes in the County of Nevada, approved March fifth, A. D. eighteen hundred and sixty-one.*

[Approved April 8, 1861.]

*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 as follows :

Sec. 6. If the name of the owner of any property upon which the taxes remain unpaid be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name. Unknown owners taxed.

SEC. 2. Section seven of said act is hereby amended so as to read as follows :

Sec. 7. For services under this act the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto if paid before judgment; and if not so paid, then twenty-five per cent. to be added to, and to constitute a part of, the judgment, and ten per cent. upon all amounts paid over, or collected, under this act, before the commencement of suit. And all officers shall perform such services as may be required of them under this act, without the payment of fees in advance; but they may charge and receive to their own use such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act, against a person after being served with a duplicate receipt of the County Treasurer, (the original having been filed with the County Auditor,) for the total amount of taxes and charges due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence. Fees of District Attorney.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. CXXVII.—*An Act to incorporate the Town of Hornitos.*

[Approved April 8, 1861.]

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

- Town incorporated.** SECTION 1. The inhabitants of the town of Hornitos, county of Mariposa, are hereby constituted a body corporate and politic under the name and style of the "Town of Hornitos," and by that title they and their successors shall be known in law, have perpetual succession, and be invested with all the rights and privileges conferred by, and be subject to all liabilities, restrictions, and provisions of, an act entitled An Act to provide for the incorporation of Towns, approved April nineteenth, eighteen hundred and fifty-six, so far as the provisions of said act may be consistent with the provisions of this act.
- Area.** SEC. 2. The area of said town shall be one and one-fourth miles square, having the public plaza for a center.
- Term of officers.** SEC. 3. The officers of the town of Hornitos shall consist of three Trustees, who shall constitute a Board of Trustees, one of whom shall be elected as President, one as Treasurer, and one as Clerk, and any two of them shall constitute a quorum for the transaction of business. Said Trustees shall hold office for one year, and until their successors are elected and qualified.
- Powers of Trustees.** SEC. 4. The Trustees of said town shall have power to collect from the Road Supervisor of the Hornitos District, one-half of all the moneys collected by him within the bounds of this incorporation as a road tax, and appropriate the same to keeping the streets of said town in repair.
- Same.** SEC. 5. The Board of Trustees shall have power to pass ordinances, to lay out and extend the streets and alleys of said town, and to provide for grading, draining, and cleaning, or otherwise improving, the same.
- Same.** SEC. 6. Said Board of Trustees shall also have power to pass all ordinances for the protection of the town against fire, and to prevent and remove nuisances.
- Justices.** SEC. 7. The Justices of the Peace and Constables within said town 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.
- Compensation.** SEC. 8. The compensation of the Board of Trustees shall be one dollar per annum each.
- Board of Trustees.** SEC. 9. The legislative power of the town of Hornitos shall be vested in the following persons, who shall compose the Board of Trustees, for the government of said town, viz: James R. White, Patrick Hussey, and S. W. Carr, whose term of office shall continue for one year from the passage of this act, and the Trustees shall be elected annually thereafter.
- To take effect.** SEC. 10. This act shall be in force and take effect immediately after its passage.



CHAP. CXXVIII.—*An Act to provide for the collection of Delinquent Taxes in the County of Contra Costa and the City and County of Sacramento.*

[Approved April 8, 1861.]

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

SECTION 1. The assessments of taxes upon all property, both real and personal, in the counties of Contra Costa and the city and county of Sacramento, whether for State, county, or other, purposes, for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons assessed. Assessment legalized.

SEC. 2. The District Attorney of the county of Contra Costa and the city and county of Sacramento, is hereby authorized and directed to commence civil actions, in the name of the people of the State of California, in any of the courts in said counties, whether the defendant be a resident of the township, or county, in which the court is located, or not, to recover the unpaid taxes in said counties, for the fiscal years mentioned in the last section; and he shall designate in his complaint, the amount of taxes due and unpaid for State, county, and other, purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and, if real, describe the same; and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense, such defendant being allowed only to plead— Duties of District Attorney.

*First*—That the taxes had been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint, at the time of assessment, and has never been liable to pay said taxes. Pleadings.

And no answer shall be filed in any such case, unless the same be verified by oath.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officer, shall be delivered to the District Attorney, and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence, in any court, to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law, in relation to the levy and assessment of such taxes have been complied with, and neither the delinquent tax list, nor assessment rolls, need be filed in any case. Delinquent list evidence

SEC. 4. Judgments, rendered in such cases in the District Court, shall be docketed and become liens upon all property of the defendants liable to taxation, and may be enforced against the same; and the District Attorney may file transcripts of judgments rendered in Justices' Courts under this act with the County Clerk, who shall thereupon docket such judgments, and they shall become liens from and after such docket entry, in like manner as judgments rendered in the District Court under this Judgments to become liens.

act; and the County Clerk may issue execution on such docketed Justices' judgments as on judgments rendered in the District Court.

Needs to be evidence of title.

Disposition of funds

Unknown owners.

Fees of District Attorney.

To take effect.

SEC. 5. An Act to regulate Proceedings in Civil Cases in the Courts of Justice in this State, so far as the same is consistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, further, that when the property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed to redeem said property, by paying the whole bid and all subsequent taxes and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurers of the said counties, to be distributed in the proper funds; and each collection and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name.

SEC. 7. For services rendered under this act, the District Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto, if paid before judgment, and if not so paid, then twenty-five per cent. to be added to, and constitute a part of, the judgment; and all officers shall perform such services as may be required of them under this act without the payment of fees in advance, but they may charge and receive to their own use such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act against a person, after being served with a duplicate receipt of the County Treasurer for the total amount of taxes and charges due from such person upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence.

SEC. 8. This act shall take effect and be in force, from and after its passage.

CHAP. CXXIX.—*An Act for the relief of Marin County.*

[Approved April 8, 1861.]

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

SECTION 1. Whenever the Coroner of the county of Marin is called upon in his official capacity to inquire into the causes of the death of any convict at the State Prison, in said county, the fees allowed him by law for such services shall not be a county charge, but shall be legal charge against the State of California; and the County Treasurer of said county, when making his settlement with the Coroner, shall receive from him a written statement, certified to under oath, of all such inquests as are mentioned above, and the amount of fees due him for such inquests; and the Treasurer of State, upon the presentation to him of such certificate by the County Treasurer of said county at the time of settlement with the Treasurer of State, shall place such amount to the credit of the County Treasurer of said county.

Fees of  
Coroner.

SEC. 2. The Treasurer of the county of Marin is hereby authorized and required to make out from the books in his office, or in possession of any of the county officers, a correct statement of all such inquests as are mentioned in section one of this act, that have been held since the location of the State Prison in said county, and the amount which has been paid by said county for such services, which statement shall be certified to by the County Clerk of said county; and when such statement shall be presented to the State Treasurer by the County Treasurer of said county, at the first regular settlement after the passage of this act, the amount therein specified shall be credited to said County Treasurer, as prescribed in the first section of this act.

Duties of  
Treasurer.

SEC. 3. Whenever any physician, or physicians, shall be called upon, pursuant to law, to inquire into the insanity of any convict at the State Prison in said county, the lawful fees for such services shall be a legal charge against the State of California, and shall be credited to said county in the same manner as prescribed for the fees of Coroner in section one of this act; *provided*, that the County Treasurer of said county, when presenting such claims to the Treasurer of State, shall produce a certificate of the correctness of such claims, signed by the County Clerk of said county.

Physician's  
fees.

SEC. 4. All fees for services heretofore rendered by any physician, or physicians, as mentioned and described in section three of this act, and heretofore paid by the county of Marin, shall be placed to the credit of said county by the State Treasurer in the same manner and at the same time as prescribed for the credit of Coroners' fees in the preceding sections of this act.

Same.

SEC. 5. This act shall take effect and be in force, from and after its passage.

To take  
effect.

CHAP. CXXX.—*An Act to legalize the Assessment Roll, and to extend the time for the collection of Taxes in the County of Los Angeles.*

[Approved April 8, 1861.]

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

Assessments  
legalized.

SECTION 1. The assessment of taxes on all property, both real and personal, in the county of Los Angeles, whether for State, or county, purposes, for the fiscal year ending thirtieth day of June, A. D. eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the personal property assessed.

Time  
extended.

SEC. 2. The Tax Collector of the county of Los Angeles shall be allowed until the first Monday of July, A. D. eighteen hundred and sixty-one, to make his final settlement with the Auditor, as provided in section forty-four of the revenue law, of the State of California, for the year eighteen hundred and sixty; and until such fiscal return, or settlement, be made, he shall continue to collect the delinquent taxes, as provided in section forty-six of the revenue law of eighteen hundred and sixty.

SEC. 3. This law to be in effect from and after its approval.

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CHAP. CXXXI.—*An Act to amend an Act entitled An Act to authorize the Board of Supervisors of Tehama County to levy certain Taxes in said County, and create a Contingent Fund, passed April fifteenth, eighteen hundred and sixty.*

[Approved April 8, 1861.]

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

SECTION 1. Section one of said act is amended so as to read as follows :

Contingent  
Fund.

Section 1. The Board of Supervisors of said county are hereby authorized and empowered to levy and assess upon all taxable property in said county, a special tax of ten cents on each one hundred dollars of property, in addition to the tax now authorized by law to be levied and assessed for general county purposes; and the money arising from said special tax shall be set apart by the County Treasurer of said county and shall form the Contingent Fund of said county, to be held subject to the order of the Board of Supervisors of said county, to pay the contingent expenses thereof.

CHAP. CXXXII.—*An Act defining the time of holding the Court of Sessions in the County of Fresno.*

[Approved April 8, 1861.]

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

SECTION 1. A term of the Court of Sessions shall be held at the county seat of Fresno County, on the first Monday of February, May, July, and November, of each year, and shall continue until the commencement of the next term, unless all the business of the court be sooner disposed of. Special terms of the court shall also be held, whenever, in the opinion of the County Judge of Fresno County, the public interests require the same.

Terms of court.

SEC. 2. All acts, or parts of acts, so far as they are inconsistent with the provisions of this act, are hereby repealed.

Repealing clause.

SEC. 3. This act shall take effect on and after the first day of May, A. D. eighteen hundred and sixty-one.

To take effect.

CHAP. CXXXIII.—*An Act authorizing the Board of Supervisors of Tehama County to remove the remains from the old Grave-Yard in Red Bluff, to the new Cemetery, and to levy a tax to pay the cost of the same.*

[Approved April 8, 1861.]

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

SECTION 1. The Board of Supervisors of Tehama County are hereby authorized to contract for the removal of the remains of deceased persons, interred in the old grave yard in Red Bluff, to the new cemetery of said town; said contract to be let out after at least thirty days' public notice in some newspaper, of a readiness to receive sealed proposals therefor; the Board of Supervisors shall award to the lowest responsible bidder, under the instruction and subject to said Board of Supervisors; *provided*, no bid shall be accepted, which, in the judgment of said Board, may be too high.

Removal legalized.

SEC. 2. For the purpose of paying the debt, contracted as above, the Board of Supervisors aforesaid, are hereby authorized to levy a special tax for the present fiscal year, not to exceed five cents on each one hundred dollars of all taxable property in Red Bluff township, in said county, said tax to be levied at any time within thirty days from the time this act takes effect, and be collected, and paid into the county treasury, at the same time and in the same manner, as other taxes for State and county purposes are collected and paid.

To levy tax.

SEC. 3. The moneys collected and paid in, under the provisions of this act, shall be set apart by the County Treasurer, and constitute a county fund, and be paid out upon the orders of the Board of Supervisors, in payment for the work done under the

Disposition of moneys.

contract above provided for; and any surplus remaining in said fund, shall be, upon the order of said Board, placed in the School Fund, for the Red Bluff School District.

To take effect.

SEC. 4. This act shall take effect and be in force, from and after its passage.

CHAP. CXXXIV.—*An Act making an appropriation for the payment of the Claims of I. & S. Wormser, Assignees of Wm. Dougherty and I. C. Lewis, for Newspapers furnished Senate, Eleventh Session.*

[Approved April 8, 1861.]

*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 ninety dollars and forty cents, (\$190 40,) is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to pay the claims of I. & S. Wormser, Assignees.

SEC. 2. The Controller of State is hereby authorized and required to draw his warrant on the Treasurer of State, for the amount mentioned in the first section of this act.

CHAP. CXXXV.—*An Act making an appropriation for the payment of the Claim of I. N. Quinn, for services as State Prison Director, from August eleventh, eighteen hundred and sixty, to January fifth, eighteen hundred and sixty-one.*

[Approved April 8, 1861.]

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

Appropriation. SECTION 1. The sum of one thousand four hundred and eighty dollars (\$1,480) is hereby appropriated out of any money in the State treasury, not otherwise appropriated, to pay the claim of I. N. Quinn; *provided*, he gives a receipt in full for all services, to said January fifth, eighteen hundred and sixty-one.

SEC. 2. The Controller of State is hereby authorized and required, to draw his warrant on the Treasurer of State, for the amount mentioned in the first section of this act.

To take effect.

SEC. 3. This act shall take effect from and after the first day of June next.

CHAP. CXXXVI.—*An Act to change the name of Daniel McDonough, to that of James Henry Warwick.*

[Approved April 8, 1861.]

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

SECTION 1. That the name of Daniel McDonough be, and the same is hereby, changed to that of James Henry Warwick, and by such latter name he shall enjoy and obtain all legal rights that he might, or could have, under his former, or original, name—

Name changed.

CHAP. CXXXVII.—*An Act for the Relief of William Greenhood.*

[Approved April 8, 1861.]

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

SECTION 1. The sum of two hundred and forty-one dollars is hereby appropriated out of any moneys in the General Fund of the treasury not otherwise appropriated, to pay the claim of William Greenhood, as the Assignee of T. R. Eldridge, for translating and indexing certain laws and resolutions, passed at the tenth session of the Legislature, into the Spanish language.

Appropriation.

SEC. 2. The amount hereby appropriated shall be in full satisfaction of said claim of T. R. Eldridge.

CHAP. CXXXVIII.—*An Act to convey certain Real Estate.*

[Approved April 8, 1861.]

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

SECTION 1. *Whereas*, on the twenty-first day of May, eighteen hundred and sixty, Julia Cummings did convey to Wm. B. Alexander, as Trustee, for the use and benefit of Charles A. Hustin, the following described real estate, lying and being situated in the city of Sacramento, county of Sacramento, State of California, and more particularly described as follows: All that certain piece, or parcel, of land, known and designated upon the map of said city as the easterly quarter of lot number three, in the square between L and M streets, and Third and Fourth streets; fronting twenty feet on L street, and running back southerly, at right angles therewith, one hundred and sixty feet, to the alley; together with all and singular the tenements, hereditaments, and ap-

Preamble.

purtenances thereunto belonging, or in anywise appertaining; and, *whereas*, said Charles A. Hustin, who was an Indian, soon after said conveyance, departed this life, leaving no heirs, whereby said real estate has escheated to the State of California—

To execute deed.

*Be it, therefore, enacted*, That John G. Downey, Governor of the State of California, be, and is hereby, empowered, authorized, and directed, to make, execute, acknowledge, and deliver, to said Julia Cummings a deed for all the right, title, and interest, of the State of California, in and to said real estate, whenever satisfactory evidence shall be adduced before him of the fact that said Charles A. Hustin died intestate and without heirs, and that said deed of trust was executed without any other consideration than that of love and affection; and, furthermore, that he, nor his said Trustee had, during his lifetime, nor his said Trustee since the death of the said Charles A. Hustin, in any manner disposed of said real estate; and it is further *provided*, that said W. B. Alexander shall join in said deed, conveying all his right, title, and interest, in and to said real estate.

CHAP. CXXXIX.—*An Act amendatory and supplemental to An Act concerning the offices of Sheriff, County Clerk, County Recorder, County Treasurer, County Collector, and County Assessor, and fixing their compensation, for the County of El Dorado, approved April thirtieth, A. D. eighteen hundred and sixty.*

[Approved April 9, 1861.]

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

SECTION 1. Section two of the act to which this act is amendatory and supplemental, is hereby amended so as to read as follows:

Salary of Sheriff.

Sec. 2. The Sheriff shall receive for all services required of him by law, in his said office, a salary at the rate of four thousand dollars per annum, and he shall be allowed for mileage in criminal cases, to be paid from the county treasury, twenty cents per mile, for each mile actually traveled in going, only, and when several witnesses are to be subpoenaed, or process served on several persons, who reside in the same direction from the county seat, one mileage only, for the distance actually traveled in going, shall be charged for service on all such witnesses, or other persons; *provided*, that for any service rendered the State, he shall receive the payment provided for such service from the State, for his own proper use, in full compensation for such service and expense incurred in performance of such service; *provided*, also, that there shall be allowed him for the transportation of insane persons to Stockton, not exceeding seventy dollars for one person, and when more than one person is transported by



him at the same time, an amount not exceeding one hundred dollars shall be allowed for such service.

SEC. 2. Section four of said act is hereby amended so as to read as follows :

Sec. 4. The County Recorder, for all services required of him in his office, or by virtue of his office, as County Recorder, or *ex officio* as County Auditor, shall receive a salary at the rate per annum of three thousand dollars, which salary shall be in full compensation for all such services rendered ; *provided*, that the per centage which is now allowed him by law, or which may hereafter be allowed him for his services, in connection with foreign miners' licenses and poll tax, shall by the County Treasurer be paid into the County School Fund. The County Recorder shall be allowed one Deputy, who shall be paid by the county, at the rate of one hundred and twenty-five dollars per month.

County  
Recorder.

SEC. 3. The Board of Supervisors of El Dorado County are hereby required, annually, after the first Monday in October, to advertise in one, or more, of the newspapers published in said county, for the period of four weeks, for bids and proposals for boarding, or supplying, with sufficient plain food, the county prisoners. The contract shall be awarded to the lowest bidder, who shall give the necessary bonds to the said Supervisors, for the faithful performance of the contract. The contract shall extend for one year from its date. The Supervisors shall require, for the faithful performance of the contract, such amount of bonds as they may deem proper. The payments to be made in pursuance to the provisions of this section, shall be in warrants drawn upon the General Fund of the county ; *provided*, that for the year eighteen hundred and sixty-one, a contract shall be made in the manner herein provided, as soon as practicable, after the passage of this act, by the Board of Supervisors, for the period of time intervening between the passage of this act and the period fixed for the annual letting of said contract.

Duties of  
Supervisors.

SEC. 4. If the Supervisors shall divide the county of El Dorado into assessment and collection districts, as is contemplated by the general revenue law of the State, the Assessors and Collectors of said county shall receive only the compensation allowed for their services by the said general law ; and in no case shall any county officer in the county of El Dorado, receive more than one rate of compensation for any services which he may perform.

Assessors  
and Col-  
lectors.

SEC. 5. The Collector in the county of El Dorado shall hold his office until the first Monday of March, eighteen hundred and sixty-two ; and thereafter, all Assessors and Collectors shall, in the said county, hold their offices for two years from and after the first Monday of March next succeeding their election.

Terms of  
office.

SEC. 6. The Associate Justices of the Court of Sessions in the county of El Dorado, shall each receive for his compensation, in full, five dollars per day, while actually engaged in the Court of Sessions.

Associate  
Justices.

SEC. 7. The Justices of the Peace in and for the county of El Dorado, shall each be required to keep a separate book, in which shall be entered an accurate list of the fines imposed by him, together with the titles of the causes in which said fines were imposed, which book and list they shall each be required to exhibit

Duties of  
Justices.

at the county seat, to the Board of Supervisors. Such list shall be sworn to before the County Clerk of the county, by the Justice of the Peace presenting it, as being a true, accurate, and full, list of all fines, or charges, imposed by him, since his last settlement; and until such sworn exhibit be made and certified by the County Clerk to the Board of Supervisors, and the amounts set forth in the list due to the county, be paid and receipted for by the County Treasurer, the Board of Supervisors are hereby prohibited from allowing, and the County Auditor from auditing, and the County Treasurer from paying, any claim whatever, of any Justice of the Peace of said county, for any service performed by him.

Of District  
Attorney.

SEC. 8. In the county of El Dorado, no allowance shall be made for the prosecution of criminal causes in Justices' Courts, to the District Attorney, unless he shall appear and prosecute in person.

To take  
effect.

SEC. 9. This act shall take effect and be in force, from and after the first Monday of October, eighteen hundred and sixty-one, except the third and seventh sections, which shall be in force from and after its passage.

CHAP. CXL.—*An Act to authorize the Board of Supervisors of the County of Santa Clara to take and subscribe Two Hundred Thousand Dollars, to the Capital Stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto.*

[Approved April 9, 1861.]

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

To call  
special  
election.

SECTION 1. It shall be the duty of the Board of Supervisors of the county of Santa Clara to order a special election to be held in said county, at the several places for holding elections therein, on the third Tuesday of May next, for the purpose of submitting to the qualified electors of said county the proposition for said Board of Supervisors to take and subscribe two hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, by which a railroad communication shall be formed between the city of San Francisco and the city of San José, in the county of Santa Clara, in said State, by a line running from the said city of San Francisco, through the county of San Mateo, to the city of San José, aforesaid.

Publication  
of notice.

SEC. 2. It shall be the duty of said Board of Supervisors to cause notice, of at least twenty days, to be published in one, or more, newspapers, printed and published in the said county, stating the proposition to be submitted to said electors, and the time and manner of voting thereon. It shall be the further duty of said Board of Supervisors to cause ballots to be prepared, with the words "Subscription of Two Hundred Thousand Dol-

lars to the San Francisco and San José Railroad Company," printed thereon. Every ballot in favor of said proposition shall have the word "Yes," written, or printed, thereon, and every ballot against said proposition shall have the word "No," written, or printed, thereon. Said election shall be conducted in the same manner as other elections for county officers, and sealed returns shall be made of the vote cast on said proposition, within five days after the said election, and in the same manner as provided for in case of the election of county officers, to the Clerk of said county, of the number of voters voting "Yes," and the number voting "No;" which returns shall be on said fifth day, or on the Saturday following the day of said election, opened and counted, in the same manner as the returns of the votes for county officers, and when so opened and counted, the result thereof shall be declared officially by the said Board of Supervisors, who shall at the time prescribed for the opening and counting of the returns of said election, meet as a Board for that purpose, and for perfecting the subscription of stock, as hereinafter provided.

To make returns.

SEC. 3. If, at the said election, a greater number of the electors of said county, voting upon said proposition, shall vote "Yes," than shall vote "No," then, and in that event, is the Board of Supervisors of said county, in the name of said county, hereby authorized, empowered, and directed, immediately after the result of said election is so officially declared, to take and subscribe for the use, benefit, and advantage, of said county, to the capital stock of the San Francisco and San José Railroad Company—a corporation duly organized under the laws of this State, on the twenty-first day of July, A. D. eighteen hundred and sixty—for the purpose mentioned in section one of this act, stock to the amount of two hundred thousand dollars, and therefor to pledge the faith of said county for the payment of the same, in the manner hereinafter provided.

Majority of electors may subscribe.

SEC. 4. The said subscription shall be made by a committee of two members of said Board of Supervisors, to be appointed by an order of the said Board for that purpose, and who shall perform that duty immediately thereafter.

Subscription

SEC. 5. The said subscription shall be made and so received, conditioned to be paid in the bonds of said county, issued as hereinafter directed and not otherwise; and for such subscription, said bonds shall be received at par, dollar for dollar.

Same.

SEC. 6. The said Board of Supervisors of said county, from time to time, as the payment of said subscription to such capital stock so subscribed shall be required to be made by the Board of Directors of said railroad company, not exceeding at any one time, however, an installment of ten per cent. upon the amount of said subscription, in the same manner and upon the same terms as other stockholders, shall, by order, direct the Chairman of said Board of Supervisors, the Auditor and Treasurer of said county, who, for that purpose, in addition to their other duties as such officers and their successors in office, shall constitute a Board of Commissioners, to be styled the "Loan Commissioners," of said county, as such Loan Commissioners to issue bonds, in the sums of five hundred and one thousand, dollars, in equal proportions, for such amount of such subscription to said capital stock as said Board of Supervisors may direct.

To issue bonds.

**Interest.** Said bonds shall draw interest, at the rate of seven per cent. per annum, from the date of their issue, and the principal thereof shall be made payable, on a specified day to be named in the bonds, which shall be fifteen years after the date of their issue, at the office of the Treasurer of said county; the interest accruing on said bonds shall be due and payable semi-annually, so long as such bonds are outstanding and unpaid, and shall be made payable, on a specified day to be named in coupons, at said Treasurer's office, as before provided for the payment of the principal of said bonds. Said bonds shall be signed by the Chairman of said Board of Supervisors, the Auditor and Treasurer of said county, as such officers and *ex officio* Loan Commissioners, and when so signed, shall be presented by the Chairman of said Board of Supervisors to the Clerk of said county, who shall countersign the same, as such Clerk, in the presence of a quorum of such Board, at a meeting thereof; and it shall be the duty of said Board of Supervisors to cause the fact of such countersigning of said bonds to be entered upon their journal, together with the number, date, and amount, of each bond so countersigned by such Clerk; and, upon the countersigning of said bonds, it shall be the duty of said Board of Supervisors to cause the seal of said county to be affixed to each bond, and appoint a committee of two of their number to deliver said bonds to the said railroad company to whom the same shall be issued; and it shall be the duty of such committee to take a receipt from the Secretary of said railroad company for the bonds so delivered by them, setting forth the number, dates, and amounts, of the bonds so delivered, and report the same to the Board of Supervisors.

**Of Board of Supervisors.**

**Coupons.** SEC. 7. Coupons for the interest shall be attached to each bond, so that the coupons may be removed without mutilation to the bond; said coupons shall be signed by the said Loan Commissioners. When any interest shall be paid upon a bond issued under the provisions of this act, the County Treasurer shall detach the coupons for the interest then due and paid, and deliver the same to the Clerk of said county, taking his receipt therefor, whose duty it shall be to file the same in his office and make a report thereof at the next meeting of the Board of Supervisors.

**Proceeds of bonds to be expended in Santa Clara County.**

SEC. 8. The bonds issued from time to time in payment of such stock subscription, by virtue of the provisions of this act, and at least an equal amount of any other funds that may be obtained by said company from other stockholders, or otherwise, or that may be furnished and supplied by the Contractors who are, or may be, engaged in the construction of said road for said company, shall be expended from time to time as the said bonds are required to be issued, in the actual construction of that portion of said company's road situated in the said county of Santa Clara, to the extent and amount of the graduation and full preparation of said road for the superstructure thereof; and thereafter the said company may lay out and expend any balance, or overplus, of said bonds, if any there should be, after the graduation of said road in said county, as before stipulated, on any portion of said road that they, the said company, may see proper, so that the same is applied in the construction and completion

of said road. It shall be the duty of the Secretary and Chief Engineer of said company, from time to time, as the said bonds are required to be issued, to make reports, under oath, in writing, and lay the same before the said Board of Supervisors, of the progress of the work and the amount thereof done and performed, as near as the same can be ascertained, on said road, and in each county through which the same is, or shall be, located. And if, after the issuance of such bonds in payment of the first installment of ten per cent. on such subscription, there should be, at any time, any failure, or refusal, in the expenditure of said bonds with other funds, in the mode and manner provided by this section, in the construction of said road, then and in that event, the said Board of Supervisors may, at their option, withhold any further payment on such subscription, and shall not, thereafter, be liable to any future calls for assessments thereon; and if so declared by said Board of Supervisors, the said subscription shall be held void and of no effect, and the said company shall be liable to said county for any amounts that may have been previously paid on such subscription at the time of such failure, or refusal, recoverable at law in any court having jurisdiction.

Duty of  
Secretary  
and Chief  
Engineer.

Sec. 9. It shall be the duty of said Board of Supervisors, previous to the making out of the duplicate of the general assessment list for said county, in each year, to levy a tax, to be styled an "Interest Tax," sufficient to raise the amount of interest required to be paid each year on said bonds issued hereunder; and previous to the making out of the duplicate of the general assessment list of said county in the year eighteen hundred and sixty-six, and for every year thereafter, until the said bonds issued under this act shall be paid and liquidated, the said Board of Supervisors shall, should it be necessary, levy a tax not exceeding fifteen cents on the one hundred dollars' worth of taxable property of said county, for the purpose of raising a fund for the liquidation of said bonds, which shall be styled a "Loan Fund." The said taxes shall be levied and collected in the same manner as the general taxes for county purposes; and when collected, shall be paid unto the County Treasurer, who shall account for, and deliver the same over, to the said Loan Commissioners, to be by them applied—

To levy tax.

*First*—The interest tax to the payment of the interest falling due on said bonds.

*Second*—The Loan Fund to the redemption of said bonds as hereinafter provided.

Sec. 10. If there shall be collected as such interest tax in any one year, a sum greater than is required to pay the annual interest on said bonds issued hereunder, then the said Loan Commissioners shall pass over such surplus into the said Loan Fund.

Surplus.

Sec. 11. It shall be the duty of said Loan Commissioners to make arrangements for the payment of the interest on said bonds when the same falls due, at least thirty days before the time of payment; and in the event said Interest Fund is insufficient, the said Treasurer shall draw on the Common, or General, Fund of the said county for such purpose, and deliver the same to said Commissioners; and in the event that those funds prove inadequate, the said Commissioners are authorized and required

Duty of  
Loan Com-  
missioners.

to make such contracts and arrangements as may be necessary for the payment of said interest, and the protection of the faith of said county.

Same.

SEC. 12. Whenever, at any time, there shall be in said Loan Fund a sum of money amounting to four thousand dollars, or upwards, the said Commissioners shall advertise in a public newspaper, published in said county, for a space of four weeks, for sealed proposals for the redemption of said bonds; and ten days from the expiration of the time for such publication, the said Commissioners shall open the sealed proposals, and shall pay and liquidate, as far as the Loan Fund then on hand shall extend, such bonds, presented under said proposals, as shall have the lowest value proposed, at which they may be liquidated; *provided*, the same shall not be for more than the par value thereof; and, *provided*, should there be no proposals made for less than par value, then the payment of said Loan Fund on hand shall be made on said bonds according to the number of their issue, of which the said Commissioners shall give four weeks' notice of the number of the bonds to be paid, after which time, such bonds shall cease to draw interest; and, *provided*, whenever there may be sufficient moneys in such Loan Fund for the extinguishment of the bonds issued under this act, it shall be the duty of the said Commissioners to advertise, in like manner, for a space of four weeks, for the redemption of all the outstanding bonds issued under this act, after which time said bonds shall cease to draw interest. Any moneys remaining in said Loan Fund, after the redemption of said bonds, shall be, by the said Commissioners, paid over to the County Treasurer, to be by him held subject to the order of said Board of Supervisors.

Redemption.

Publication of notice.

Canceling bonds.

SEC. 13. Whenever any bonds shall have been paid and redeemed by the said Commissioners, they shall mark the same "Canceled" over their signatures as Commissioners, and immediately deliver the same to the County Clerk, taking his receipt therefor; and the said Clerk, upon the receipt of such canceled bonds, shall file the same in his office.

Duty of County Clerk.

SEC. 14. The County Clerk shall open, with the said Commissioners, an "Interest Tax Account" and a "Loan Fund Account," and shall balance and settle the same quarterly, on the first Mondays of April, July, October, and January, of each year.

Duty of officers.

SEC. 15. The said Commissioners and all other officers herein specified, for the performance of their duties under the provisions of this act, shall in all things herein required of them, be subject to all the liabilities and penalties to which they are subjected on the performance of any other of the duties of their respective offices, and they shall, where the fees, or salary, is not fixed by law, for the services herein required, be allowed by the Board of Supervisors a reasonable compensation therefor, to be paid by said county, as other fees and salaries are paid; and the said Board of Supervisors may, and they are hereby, fully authorized so to do, require of each of said Commissioners such bonds and security, for the performance of their duties herein required of them, as they, the said Board of Supervisors, shall deem proper; *provided*, however, that the penal sums of such bonds to each of said Commissioners, shall not exceed five thousand dollars. The said Commissioners shall, when so required,

Bonds.

execute the said bonds in the same manner as other official bonds are executed, and to be approved by said Board of Supervisors, and filed in the office of the County Clerk.

SEC. 16. The said Board of Supervisors shall have authority to authorize a committee of any one, or more, of their number, or any other persons, to cast all votes representing the capital stock so subscribed by them; and they shall, by order made for that purpose, have full power to sell, transfer, and assign, the said capital stock, or any part thereof, so taken by them under the provisions of this act, whenever on a submission to the qualified voters of said county, at any county, or general election, of a proposition to sell the same, a majority of the votes cast thereat shall approve of such sale. Powers of Supervisors.

SEC. 17. The Board of Supervisors shall have all the rights and powers appertaining to any other subscriber to such capital stock, and shall receive all of the dividends, issues, and profits, arising from such subscription to said capital stock, and shall set apart and transfer the same, together with the taxes that may be paid by said company to said county, from time to time, to the said Loan Fund, to be applied by the said Loan Commissioners to the payment of the interest on the bonds issued as herein provided and the redemption of the principal thereof, in the manner provided by section twelve of this act; and after the full payment of said bonds and the interest on the same, the said dividends, issues, and profits, arising from such stock subscription, shall be applied as follows: one-third part thereof to the School Fund of said county, and the remaining two-thirds to the General Fund Same.

SEC. 18. The subscription of stock authorized by virtue of the provisions of this act, shall be made by said Board of Supervisors on the books of said company, upon the express condition that the said county shall not be liable for any of the debts, or liabilities, of said company, beyond the amount so subscribed; and this provision, as to the liability of said county, shall be a part of, and be expressly stipulated in, all contracts made by said company for the construction and equipment of said road; and in case the said company shall fail, or refuse, to make such stipulation in all of their said contracts, then the said Board of Supervisors shall have power to declare the said subscription void and of no effect, and may recover from said company any previous payments that may have been made thereon, at the time of such failure, or refusal. And the said county shall never make any other, or further, subscription to the capital stock of said company, than that provided for by this act. Same.

SEC. 19. The Board of Supervisors of the county of Santa Clara may refuse to make the stock subscription provided for by this act, unless the counties of San Francisco and San Mateo shall, in pursuance of some law now passed, or hereafter to be passed, subscribe respectively for the following amounts of stock in said railroad company, to wit: the county of San Francisco, the sum of three hundred thousand dollars, and the county of San Mateo, the sum of one hundred thousand dollars. May refuse to subscribe.

SEC. 20. This act shall be taken and deemed a public act, and shall be in force and take effect, from and after its passage. To take effect.

CHAP. CXLI.—An Act to authorize the Board of Supervisors of the County of San Mateo to take and subscribe One Hundred Thousand Dollars, to the Capital Stock of the San Francisco and San José Railroad Company, and to provide for the payment of the same, and other matters relating thereto.

[Approved April 9, 1861.]

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

Special  
election.

SECTION 1. It shall be the duty of the Board of Supervisors of the county of San Mateo to order a special election to be held in said county, at the several places for holding elections therein, on the third Tuesday of May next, for the purpose of submitting to the qualified electors of said county the proposition for said Board of Supervisors to take and subscribe one hundred thousand dollars to the capital stock of the San Francisco and San José Railroad Company, by which a railroad communication shall be formed between the city of San Francisco and the city of San José, in the county of Santa Clara, in said State, by a line running from the said city of San Francisco, through the county of San Mateo, to the city of San José, aforesaid.

Publication.

SEC. 2. It shall be the duty of said Board of Supervisors to cause notice, of at least twenty days, to be published in one, or more, newspapers, printed and published in said county, stating the proposition to be submitted to said electors, and the time and manner of voting thereon. It shall be the further duty of the said Board of Supervisors to cause ballots to be prepared, with the words "Subscription One Hundred Thousand Dollars, to the San Francisco and San José Railroad Company," printed thereon. Every ballot in favor of said proposition shall have the word "Yes," written, or printed, thereon, and every ballot against said proposition shall have the word "No." written, or printed, thereon. Said election shall be conducted in the same manner as other elections for county officers, and sealed returns shall be made of the vote cast on said proposition, within five days after the said election, and in the same manner as provided for in the case of the election of county officers, to the Clerk of said county, of the number of voters voting "Yes," and the number voting "No;" which returns shall be on said fifth day, or on the Saturday following the day of said election, opened and counted, in the same manner as the returns of the votes for county officers, and when so opened and counted, the result thereof shall be declared officially by the said Board of Supervisors, who shall, at the time prescribed for the opening and counting of the returns of said election, meet as a Board for that purpose, and for perfecting the subscription of stock, as hereinafter provided.

Election  
returns.

Subscription.

SEC. 3. If, at the said election, a greater number of the electors of said county, voting upon said proposition, shall vote "Yes," than shall vote "No," then, and in that event, is the Board of Supervisors of said county, in the name of the said county, hereby authorized, empowered, and directed, immediately after the result of said election is so officially declared, to take and



subscribe for the use, benefit, and advantage, of said county, to the capital stock of the San Francisco and San José Railroad Company—a corporation duly organized under the laws of this State, on the twenty-first day of July, A. D. eighteen hundred and sixty—for the purpose mentioned in section one of this act, stock to the amount of one hundred thousand dollars, and therefor to pledge the faith of said county for the payment of the same, in the manner hereinafter provided.

SEC. 4. The said subscription shall be made by a committee <sup>Same.</sup> of two members of said Board of Supervisors, to be appointed by an order of the said Board, for that purpose, and who shall perform that duty immediately thereafter.

SEC. 5. The said subscription shall be made and so received, conditioned to be paid in the bonds of said county, issued as hereinafter directed, and not otherwise; and for such subscription, said bonds shall be received at par, dollar for dollar.

SEC. 6. The said Board of Supervisors of said county, from time to time, as the payment of said subscription to such capital stock so subscribed shall be required to be made by the Board of Directors of said railroad company, not exceeding at any one time, however, an installment of ten per cent. upon the amount of said subscription, in the same manner and upon the same terms as other stockholders, shall, by order, direct the Chairman of said Board of Supervisors, the Auditor and Treasurer, of said county, who, for that purpose, in addition to their other duties as such officers and their successors in office, shall constitute a Board of Commissioners to be styled the "Loan Commissioners" of said county, as such Loan Commissioners to issue bonds in sums of five hundred and one thousand dollars, in equal proportions, for such amount of such subscription to said capital stock as said Board of Supervisors may direct. Said <sup>To issue bonds.</sup> bonds shall draw interest, at the rate of seven per cent. per annum, from the date of their issue, and the principal thereof shall be made payable, on a specified day to be named in said bonds, which shall be fifteen years after the date of their issue, at the office of the Treasurer of said county; the interest accruing on said bonds shall be due and payable semi-annually, so long as such bonds are outstanding and unpaid, and shall be made payable, on a specified day to be named in coupons, at said Treasurer's office, as before provided for the payment of the principal of said bonds. Said bonds shall be signed by the Chairman of said Board of Supervisors, the Auditor and Treasurer of said county, as such officers and *ex officio* Loan Commissioners, and when so signed, shall be presented by the Chairman of said Board of Supervisors to the Clerk of said county, who shall countersign the same, as such Clerk, in the presence of a quorum of such Board, at a meeting thereof; and it shall be the duty of said Board of Supervisors to cause the fact of such countersigning of said bonds to be entered upon their journal, together with the number, date, and amount, of each bond so countersigned by such Clerk; and upon the countersigning of said bonds, it shall be the duty of said Board of Supervisors to cause the seal of said county to be affixed to each bond, and appoint a committee of two of their number to deliver said bonds to the said railroad company, to whom the same shall be issued; and it <sup>Interest.</sup> <sup>Duties of Supervisors.</sup>

shall be the duty of such committee to take a receipt from the Secretary of said railroad company, for the bonds so delivered by them, setting forth the number, dates, and amounts, of the bonds so delivered, and report the same to the Board of Supervisors.

Coupons.

SEC. 7. Coupons for the interest shall be attached to each bond, so that the coupons may be removed without mutilation to the bond; said coupons shall be signed by the said Loan Commissioners. When any interest shall be paid upon a bond issued under the provisions of this act, the County Treasurer shall detach the coupons for the interest then due and paid, and deliver the same to the Clerk of said county, taking his receipt therefor, whose duty it shall be to file the same in his office, and make a report thereof at the next meeting of the Board of Supervisors.

Proceeds of bonds to be expended in San Mateo County.

SEC. 8. The bonds issued, from time to time, in payment of such stock subscription, by virtue of the provisions of this act, and, at least, an equal amount of any other funds that may be obtained by said company from other stockholders, or otherwise, or that may be furnished and supplied by the Contractors who are, or may be, engaged in the construction of said road for said company, shall be expended, from time to time, as the said bonds are required to be issued, in the actual construction of that portion of said company's road, situated in the said county of San Mateo, to the extent and amount of the graduation and full preparation of said road, for the superstructure thereof; and, thereafter, the said company may lay out and expend any balance, or overplus, of said bonds, if any there should be, after the graduation of said road in said county, as before stipulated, on any portion of said road that they, the said company, may see proper, so that the same is applied in the construction and completion of said road. It shall be the duty of the Secretary and Chief Engineer of said company, from time to time, as the said bonds are required to be issued, to make reports, under oath, in writing, and lay the same before the said Board of Supervisors, of the progress of the work, and the amount thereof done and performed, as near as the same can be ascertained, on said road and in each county through which the same is, or shall be, located. And if, after the issuance of such bonds, in payment of the first installment of ten per cent. on such subscription, there should be, at any time, any failure, or refusal, in the expenditure of said bonds, with other funds, in the mode and manner provided by this section, in the construction of said road, then, and in that event, the said Board of Supervisors may, at their option, withhold any further payment on such subscription, and shall not thereafter be liable to any future calls for assessments thereon, and if so declared by said Board of Supervisors, the said subscription shall be held void and of no effect; and the said company shall be liable to said county for any amount that may have been previously paid on such subscription at the time of such failure, or refusal, recoverable at law in any court having jurisdiction.

Duty of Secretary and Chief Engineer.

SEC. 9. It shall be the duty of said Board of Supervisors, previous to the making out of the duplicate of the general assessment list for said county, in each year, to levy a tax, to be styled an "Interest Tax," sufficient to raise the amount of interest re-

quired to be paid each year on said bonds issued hereunder; and previous to the making out of the duplicate of the general assessment list of said county, in the year eighteen hundred and sixty-six, and for every year thereafter, until the said bonds issued under this act shall be paid and liquidated, the said Board of Supervisors shall, should it be necessary, levy a tax, not exceeding twenty-five cents on the one hundred dollars' worth of taxable property of said county, for the purpose of raising a fund for the liquidation of said bonds, which shall be styled a "Loan Fund." The said taxes shall be levied and collected in the same manner as the general taxes for county purposes, and when collected, shall be paid unto the County Treasurer, who shall account for, and deliver, the same over to the said Loan Commissioners, to be by them applied—

To levy tax.

*First*—The Interest Tax, to the payment of the interest falling due on such bonds.

*Second*—The Loan Fund, to the redemption of said bonds as hereinafter provided.

SEC. 10. If there shall be collected as such interest tax in any one year, a sum greater than is required to pay the annual interest on said bonds issued hereunder, then the said Loan Commissioners shall pass over such surplus into the said Loan Fund.

Surplus.

SEC. 11. It shall be the duty of said Loan Commissioners to make arrangements for the payment of the interest on said bonds when the same falls due, at least thirty days before the time of payment; and in the event said Interest Fund is insufficient, the said Treasurer shall draw on the Common, or General, Fund, of the said county for such purpose, and deliver the same to said Commissioners; and in the event that those funds prove inadequate, the said Commissioners are authorized and required to make such contracts and arrangements as may be necessary for the payment of said interest, and the protection of the faith of the said county.

Duty of Loan Commissioners.

SEC. 12. Whenever, at any time, there shall be in said Loan Fund a sum of money amounting to two thousand dollars, or upwards, the said Commissioners shall advertise in a public newspaper published in said county, for a space of four weeks, for sealed proposals for the redemption of said bonds; and ten days from the expiration of the time for such publication, the said Commissioners shall open the sealed proposals, and shall pay and liquidate, as far as the Loan Fund then in hand shall extend, such bonds presented under said proposals, as shall have the lowest value proposed at which they may be liquidated; *provided*, the same shall not be for more than the par value thereof; and, *provided*, should there be no proposals made for less than par value, then the payment of said Loan Fund on hand shall be made on said bonds according to the number of their issue, of which the said Commissioners shall give four weeks' notice of the number of the bonds to be paid, after which time, such bonds shall cease to draw interest; and, *provided*, whenever there may be sufficient moneys in such Loan Fund for the extinguishment of the bonds issued under this act, it shall be the duty of the said Commissioners to advertise in like manner for the space of four weeks for the redemption of all the outstanding bonds issued under this act, after which time, said bonds shall cease to

Same.

Publication of notice.

Redemption.

draw any interest; any moneys remaining in said Loan Fund, after the redemption of said bonds, shall be, by the said Commissioners, paid over to the County Treasurer, to be by him held subject to the order of said Board of Supervisors.

Canceling  
bonds.

SEC. 13. Whenever any bonds shall have been paid and redeemed by the said Commissioners, they shall mark the same "Canceled," over their signatures, as Commissioners, and shall immediately deliver the same to the County Clerk, taking his receipt therefor; and the said Clerk, upon the receipt of such canceled bonds, shall file the same in his office.

Duty of  
County  
Clerk.

SEC. 14. The County Clerk shall open with the said Commissioners an "Interest Tax Account" and a "Loan Fund Account," and shall balance and settle the same quarterly, on the first Mondays of April, July, October, and January, of each year.

Liabilities.

SEC. 15. The said Commissioners and all other officers herein specified, for the performance of their duties under the provisions of this act, shall, in all things herein required of them, be subject to all the liabilities and penalties to which they are subjected in the performance of any other of the duties of their respective offices; and they shall, where the fees, or salary, is not fixed by law for the services herein required, be allowed by the Board of Supervisors a reasonable compensation therefor, to be paid by said county as other fees and salaries are paid; and the Board of Supervisors may, and they are hereby fully authorized so to do, require of each of said Commissioners such bonds and security for the performance of their duties herein required of them as they, the Board of Supervisors, shall deem proper; *provided*, however, that the penal sums of such bonds to each of said Commissioners, shall not exceed five thousand dollars. The said Commissioners shall, when so required, execute the said bonds in the same manner as other official bonds are executed, and to be approved by said Board of Supervisors, and filed in the office of the County Clerk.

Bonds.

Powers of  
Supervisors.

SEC. 16. The said Board of Supervisors shall have authority to authorize a committee of any one, or more, of their number, or any other persons, to cast all votes representing the capital stock so subscribed by them; and they shall, by order made for that purpose, have full power to sell, transfer, and assign, the said capital stock, or any part thereof, so taken by them under the provisions of this act, whenever, on a submission to the qualified voters of said county, at any county, or general, election, of a proposition to sell the same, a majority of the votes cast thereat shall approve of such sale.

Same.

SEC. 17. The Board of Supervisors shall have all the rights and powers appertaining to any other subscriber to such capital stock, and shall receive all of the dividends, issues, and profits, arising from such subscription to said capital stock, and shall set apart and transfer the same, together with the taxes that may be paid by said company to said county, from time to time, to the said Loan Fund, to be applied by the said Loan Commissioners, to the payment of the interest on the bonds issued as herein provided and the redemption of the principal thereof, in the manner provided by section twelve of this act; and after the full payment of said bonds and the interest on the same, the said dividends, issues, and profits, arising from such stock sub-

Interest.

scription, shall be applied as follows: one-third part thereof, to the School Fund of said county, and the remaining two-thirds to the General Fund.

SEC. 18. The subscription of stock authorized by virtue of the provisions of this act, shall be made by said Board of Supervisors on the books of said company, upon the express condition that the said county shall not be liable for any of the debts, or liabilities, of said company beyond the amount so subscribed; and this provision, as to the liability of said county, shall be a part of, and be expressly stipulated in, all contracts made by said company for the construction and equipment of said road; and in case the said company shall fail, or refuse, to make such stipulation in all of their said contracts, then the said Board of Supervisors shall have power to declare the said subscription void and of no effect, and may recover from said company any previous payments that may have been made thereon at the time of such failure, or refusal; and the said county shall never make any other, or further, subscription to the capital stock of said company than that provided for by this act.

SEC. 19. The Board of Supervisors of the county of San Mateo may refuse to make the stock subscription provided for by this act, unless the counties of San Francisco and Santa Clara shall, in pursuance of some law now passed, or hereafter to be passed, subscribe, respectively, for the following amounts of stock in said railroad company, to-wit: the county of San Francisco, in the sum of three hundred thousand dollars, and the county of Santa Clara, in the sum of one hundred thousand dollars.

SEC. 20. This act shall be taken and deemed a public act, and shall be in force and take effect, from and after its passage.

#### CHAP. CXLII.—*An Act concerning Officers.*

[Approved April 9, 1861.]

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

SECTION 1. That in all cases wherein an officer has been, or may hereafter be, authorized, or required, by law, to discharge, *ex officio*, any of the duties of another office than that to which he has been, or may be, elected, or appointed, the official signature, attestation, or certificate, of such officer, in the name of the office the duties of which were, or shall be, discharged by him *ex officio*, shall be as valid, for all purposes whatsoever, as if such officer had added thereto the name of the office to which he had been elected, or appointed.

SEC. 2. This act shall be in force and take effect, from and after its passage.

CHAP. CXLIII.—*An Act to provide for the annulling of Certificates of Purchase of Lands sold on a Credit and declared forfeited for the non-payment of Interest, or Principal, and for the relief of Purchasers of Swamp and Overflowed Lands.*

[Approved April 9, 1861.]

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

Failure to  
pay interest  
or principal.

SECTION 1. Whenever hereafter, under the several acts of this State which provide for the sale of the public lands on a credit, the purchaser, or legal holder, of any certificate of purchase, shall neglect, or refuse, to pay the interest, or principal, of the purchase money now due, or hereafter to become due, in accordance with the provisions of the act under which the purchase was made, it shall be the duty of the Register of the State Land Office to address a letter, through the post-office, informing such purchaser, or the holder of the certificate of purchase, if known, of such failure, and notifying him that if the interest, or principal, then due, be not paid within thirty days from the date of notification, an action will be commenced to obtain a decree foreclosing his interest in the land, and to annul the certificate of purchase.

Action to be  
commenced.

SEC. 2. After the expiration of thirty days from the time of notification, if the interest, or principal, as the case may be, still remains unpaid, it shall be the duty of the Register of the State Land Office to inform the District Attorney of the county in which the land is situate, of such failure, thereupon the District Attorney shall, in the name of the people of the State of California, commence an action in the District Court of the district in which the land is situate, against the purchaser, or holder of the certificate of purchase, to obtain a decree of foreclosure of the interest of the purchaser, or holder of the certificate of purchase, in the land, and to annul said certificate of purchase. If the name of the holder of the certificate of purchase be not known, he may be sued under a fictitious name, and service of the summons may be had by posting one copy of the summons containing a description of the land, for three weeks, at the court-house door of the county, and two copies in public places in the township where the land is situate.

Duties of  
District  
Attorney.

SEC. 3. When a decree shall have been obtained, and within twenty days after the entering up of said decree, the District Attorney shall cause a certified copy of said decree to be filed in the office of the Register of the State Land Office, and another certified copy in the Recorder's Office of the county in which the land is situate. The holder of the certificate of purchase may, at any time before the expiration of the twenty days provided for filing a certified copy of the decree in the offices of the Register of the State Land Office and Recorder of the county, pay to the Sheriff for the State, the amount due the State and the costs of suit that have accrued up to the time of payment, whereupon the District Attorney shall dismiss the suit, and the purchaser, or holder of the certificate of purchase, shall be re-

stored to his rights in the land the same as if no neglect, or forfeiture, had been made.

SEC. 4. After the decree of the court foreclosing the interest of the purchaser, or the holder of the certificate, has been entered, and the certified copies filed in the offices of the Recorder of the county and the State Land Register, the land shall be subject to entry and sale, and a certificate of purchase may be issued in the same manner as if the land had never been entered and sold. Upon the obtaining of a decree foreclosing the interest of the purchaser, or of his assigns in the land and annulling the certificate of purchase, the expenses and costs shall be taxed by the court, and shall be a charge to be paid from the twenty per cent. of the principal of the purchase money, or from the interest paid by the purchaser at the time of the original location and entry of the land; *provided*, that the total costs shall not be taxed at a sum in any case to exceed thirty-two dollars.

SEC. 5. No action shall be commenced to obtain a decree of foreclosure, or to annul a certificate of purchase, because of a non-compliance with that provision of section six of the act entitled An Act to provide for the sale of the Swamp and Overflowed Lands belonging to this State, approved April twenty-eighth, eighteen hundred and fifty-five, which requires that one-half the land be reclaimed by the purchaser within the period of five years from the time of purchase, the purchasers of land under said act being hereby released from said provisions.

SEC. 6. A second certificate shall in no case be issued for the same tract of land, except the first certificate be surrendered as is provided in the second section of the act entitled An Act for the relief of the Purchasers of Lands from the State of California, approved April eighth, eighteen hundred and fifty-nine, or except the first certificate be annulled by a decree duly entered in a District Court, as in this act provided; and where persons have sought to re-enter lands for which a certificate has once been issued and is outstanding and has not been surrendered, or annulled, as herein provided, or when persons who have purchased lands under any law of this State which have, since said purchase, been claimed and sold by the United States, such persons are hereby authorized to float their claims to any unentered lands of the same class.

SEC. 7. Where by neglect, or otherwise, parties having purchased lands from this State have failed to pay either interest, or principal, at the time required by law, they shall have the right to make such payments, and thereupon shall have all the rights and privileges to which they would have been entitled had such failure to pay never occurred; *provided*, that this section shall not apply where such lands have been re-entered by third parties.

SEC. 8. When the payments referred to in section seven have been heretofore made, the Surveyor-General is hereby directed to recognize as valid all such payments, as if such payments had been made at the time and in the manner required by law.

SEC. 9. An additional credit of two years is hereby granted for the payment of the principal due upon lands purchased from this State under the provisions of An Act to provide for the sale

Certificate of purchase.

Foreclosure.

Not to issue second certificate.

Principal and interest.

Duty of Surveyor-General.

Credit granted.

of the Swamp and Overflowed Lands, approved April twenty-eighth, eighteen hundred and fifty-five.

Repealing  
clause.

SEC. 10. All acts, or parts of acts, conflicting with the provisions of this act, are hereby repealed.

To take  
effect.

SEC. 11. This act shall take effect from and after its passage.

CHAP. CXLIV.—*An Act concerning the City of San José, and to ratify and confirm a certain Ordinance of the Common Council of said City.*

[Approved April 9, 1861.]

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

SECTION 1. *Whereas*, the Common Council of the city of San José passed an ordinance on the thirteenth day of July, A. D. eighteen hundred and sixty, which ordinance is in the words and figures following, to wit :

*“The Mayor and Common Council of the City of San José, do ordain as follows :*

Franchise  
granted.

Section 1. The exclusive right is hereby granted to James Hagan and his assigns, to supply the inhabitants of the city of San José with gas, for the term of fifteen years, from and after the passage of this ordinance ; *provided*, he will complete his works, and introduce gas for use, within one year and a half from date ; and, *provided*, further, that he shall not charge to exceed ten dollars per one thousand cubic feet for any gas consumed, and sell to the city on the same terms as other customers.

Franchise.

Sec. 2. The exclusive right is hereby granted to James Hagan and his assigns, to lay pipes through the streets of this city, for the purpose of supplying gas for the term of fifteen years, as specified in the preceding section ; *provided*, that after the expiration of said term, it shall not be lawful for any person, company, or corporation, to lay any pipes, for the same purpose, nearer than two and one-half feet of those to be laid by the said Hagan, except where they may require to cross the same.

City to purchase gas.

Sec. 3. Should the city authorities determine to light the city, or any of its public buildings, with gas, within the fifteen years herein provided for, it is agreed, on behalf of said city, to and with said Hagan and his assigns, in consideration of the erection of the proper works therefor, that said city will take the gas required therefor, from said Hagan, or his assigns, and pay therefor the current rates per thousand cubic feet of gas consumed.

Not to injure  
streets.

Sec. 4. It shall be the duty of said Hagan and his assigns, in laying pipes and making other required fixtures, in pursuance of this ordinance, to restore the streets and sidewalks to the same good order in which he, or they, shall find them, and where the streets and sidewalks have not been graded and improved, said pipes and fixtures shall be so laid as not to interfere with making said improvements.



Sec. 5. That said Hagan, or assigns, shall submit his location for his gas works to the Mayor and Common Council, for approval; and if approved, shall not be required, during the term of fifteen years, to remove the same. Location.

Sec. 6. That if said Hagan, or his assigns, shall, within six months from date, have invested the sum of one thousand dollars in the erection of such necessary machinery as may be used for the sole and exclusive purpose of furnishing said city with gas, it shall be deemed good and sufficient security for the performance of the same; and a failure to complete the work within eighteen months from date, shall forfeit all the rights and privileges granted to the said Hagan, or assigns. Forfeiture.

Sec. 7. That said Hagan, or assigns, shall be required to furnish as good quality of coal gas as is furnished to other cities in the State, and when required so to do, shall submit the same to such tests as may determine the quality of the same, and upon general failure to furnish such quality of gas, shall forfeit the privileges herein granted. Quality of gas.

Sec. 8. That if it shall appear, at the expiration of five years from the date hereof, that gas can be furnished cheaper than now, having reference to the price of labor and material used in the manufacture of gas, (coal being now rated at fifty-three dollars per ton,) it shall then be lawful for the city authorities to make such reduction, in their discretion, as shall seem just, so that the rates shall not be less remunerative than they would be now; and at the end of ten years, a like reduction may be made, should labor and material still further reduce" — May reduce the price of gas.

*Be it, therefore, enacted,* That the within, and before, recited ordinance be, and the same is hereby, ratified and confirmed.

CHAP. CXLV.—*An Act to amend an Act entitled An Act prescribing the mode of maintaining and defending Possessory Actions on Public Lands in this State, approved April twentieth, eighteen hundred and fifty-two.*

[Approved April 10, 1861.]

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

SECTION 1. Section four of said act, is hereby amended so as to read as follows:

[Sec. 4.] Within ninety days after the date of said record, the party recording is hereby required to improve the land thus recorded to the value of two hundred dollars, by putting such improvements thereon as shall partake of the realty, unless such improvements shall have been made prior to the application to record, according to section third, and unless the lands are in litigation under some pretended Mexican, or Spanish, grant, in which last mentioned case, if the party can so describe the land claimed by him as to give the quarter section, or fractional section, township, and range, in accordance with the govern- Improvements.  
Lands in litigation.

ment lines, then he shall have ninety days after the rejection of said grant to make the required improvements.

CHAP. CXLVI.—*An Act granting the right to lay a Railroad Track through certain Streets in the City of Sacramento, and to use and maintain the same.*

[Approved April 10, 1861.]

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

Franchise granted.

SECTION 1. The right to lay down, maintain, and operate, a single, or double, track railroad upon the following streets in the city of Sacramento, viz: Commencing at the intersection of Second Street with R Street, and running thence along Second Street to L Street; also from Front Street, along L Street, to Thirty-First Street; along Eighth Street, from L Street, to its intersection with G Street; thence along G Street to Twentieth Street; thence along Twentieth Street to E Street, in the said city of Sacramento, is hereby granted to John G. Hyer, Joseph H. Nevett, A. B. Nixon, H. W. Harkness, and D. W. Whitmore, and their associates, for the term of thirty years, subject to the provisions, limitations, and restrictions, hereinafter provided. That before the parties herein named shall commence the construction of said road, or any portion thereof, they shall obtain the consent of the Board of Supervisors of the city and county of Sacramento to the construction of said road, which consent shall be given whenever the parties herein named shall have first obtained and filed with the Clerk of said Supervisors, the written consent of at least one-half of the owners, or occupants, of real property, according to the assessed value thereof, adjoining on each side of the whole line on which it is proposed to construct said road.

To be kept in repair.

SEC. 2. The parties designated in section first shall grade, entirely at their own expense, and keep in thorough repair, the line on which said road shall be constructed; shall provide and maintain suitable and proper crossings at the streets intersecting said road, and the grading of said road and crossings shall conform to the grade of said streets, as the same has been established by law. The said road shall be laid in the center of said streets, if a single track; but if a double track, it shall not occupy a space of more than twenty-two feet from outside rail to outside rail.

Limit.

SEC. 3. Said parties shall, within the period of three years from and after the passage of this act, complete the construction of all roads to be built in pursuance of the provisions of this act, and have the same in good running order; and after the expiration of three years from the passage of this act, said parties shall not be at liberty to construct any road, or part of any road, by virtue of the rights hereby granted to them.

SEC. 4. No car propelled by steam shall ever be run upon any

portion of any road, constructed in pursuance of the provisions of this act, but horses and mules shall alone be used on said roads; nor shall any car be driven over any portion of said roads at a speed greater than eight miles per hour; and the Board of Supervisors of the city and county of Sacramento shall, from time to time, prescribe, by ordinance, such penalties for the violation of any of the provisions of this act, as they may deem proper.

Not to use steam-power.

SEC. 5. Said parties shall have running, during the hours from sunrise until nine o'clock each day, Sundays excepted, sufficient and comfortable cars for passengers, as well as others for business purposes; *provided*, that no freight shall at any time be carried over, or upon, any portion of said roads, except materials intended to be used for building purposes, and such as may be used for filling in the streets.

Running hours.

SEC. 6. The parties named in the first section of this act, their assigns, and successors in interest, shall, after they have commenced running cars for the transportation of passengers, on any part of said roads, make quarterly reports to the Board of Supervisors of the city and county of Sacramento, of the gross receipts of said road, or roads, which reports shall each be verified by the oath, or affirmation, of the President, or other managing agent, of said company, or road, and also of the Treasurer of said company, or road; and the parties owning, or controlling, said road, or roads, shall quarterly pay to the Treasurer of the city and county of Sacramento for the use of the common schools of said city, three per cent. of the gross receipts of said road, or roads; and said Board of Supervisors shall have the right from time to time to regulate the rate of tolls, freight, fare, or other profits, upon said roads; *provided*, that the rate of fare shall not, at any time, exceed ten cents for each passenger, for any distance on said roads.

To make report.

SEC. 7. The said roads and all property belonging to, or leased by, the parties, mentioned in the first section of this act, and connected with, and used upon, said roads, or any portion of them, shall be liable to taxation, as other property.

Roads to be taxed.

SEC. 8. Any person, persons, or company, having, or obtaining, the right to lay down any track, or tracks, along any street, or streets, that may cross any track, laid down in pursuance of the provisions of this act, shall have the right to cross said track, or tracks, at right angles. Such crossings shall be made at the expense of the persons, or company, desiring to cross the track, or tracks, provided for in this act, in a substantial and workmanlike manner, without obstruction to, or altering, the grade of such track, or tracks, used, without causing any injury to the same.

Rights of company.

SEC. 9. The franchise granted by this act, shall continue for a period of thirty years.

Term of franchise.

SEC. 10. The parties mentioned in the first section, may, at their option, construct a branch track on Thirteenth Street, from L Street to B Street, also on E Street, from Twentieth Street to Thirty-First Street, at any time within three years from the passage of this act, upon the same terms, conditions, and limita-

Franchise extended.

tions, as provided in relation to the other roads mentioned in this act.

SEC. 11. Nothing in this act contained shall be construed to give the parties first mentioned, any exclusive privilege to construct railroads upon the streets mentioned in this act, but the Legislature may, at pleasure, grant to any person, or persons, the right to construct railroads on any of the streets mentioned in this act.

To take effect.

SEC. 12. This act shall take effect from its passage.

CHAP. CXLVII.—*An Act to grant certain parties the right of laying a Railroad Track along certain Streets, within the City and County of Sacramento.*

[Approved April 10, 1861.]

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

Franchise granted.

SECTION 1. It shall be lawful for Thomas A. Talbert, J. R. Hardenburg, William S. Long, David Maddux, John F. Madden, Frank Hereford, J. B. Dayton, John S. Barrett, and M. M. Estee, or a majority of said parties and others whom they may associate with themselves, to construct a double track iron railroad, commencing at the intersection of M and Third streets, in the city of Sacramento, thence running up the middle of M Street to the middle of Tenth Street, thence along the middle of Tenth Street to the middle of H Street, thence along the middle of H Street to Thirty-First Street, in said city; and they may also extend said road down the middle of M Street to Front Street, and down the middle of Third Street to R Street; *provided*, that before the parties herein named shall commence the construction of said road, or any portion thereof, they shall obtain the consent of the Board of Supervisors of the city and county of Sacramento, to the construction of said road, which consent shall in no event be given, until the parties herein named shall have first obtained and filed with the Clerk of said Supervisors the written consent of at least one-half of the owners, or occupants, of real property, according to the assessed value thereof, adjoining on each side of the whole line on which it is proposed to construct said road.

Grade.

SEC. 2. The parties designated in the first section of this act, shall grade entirely at their own expense, and keep in repair, the line of which said road shall be constructed, and said line of road shall not occupy a space of more than twenty-two feet from outside rail to outside rail, and the grading of said road shall conform to the grade of said streets, as the same has been established by the Board of Supervisors of the city and county of Sacramento; and said parties shall make, and keep in repair, good and suitable crossings for wagons, carriages, and other vehicles, on all streets over which said road shall pass.

SEC. 3. The said parties shall complete the construction of

said road within three years from the passage of this act; and in case of their failure so to do, they shall pay to the city and county of Sacramento, for the use of the city of Sacramento, the sum of fifty dollars, for each and every month during which said road shall remain unfinished beyond the period herein limited for its construction, which sum shall be recoverable in the name of the city and county of Sacramento against said parties, in any court of competent jurisdiction; and should said parties fail to finish said road within the period of four years from the passage of this act, then the franchise hereby granted and said road, with all its appurtenances, in its then condition, shall revert to the city and county of Sacramento, for the use and benefit of said city, unless the Board of Supervisors of said city and county shall extend the time for the completion of said road.

Time for completion.

SEC. 4. No car propelled by steam shall be run on said road, nor shall any car be run upon any portion of said road, at a rate of speed greater than eight miles per hour, and the Board of Supervisors of said city and county shall, from time to time, prescribe by ordinance, such penalties for any violation of the provisions of this section, as they may deem proper.

Steam not to be used.

SEC. 5. Said parties shall have running, during the hours from sunrise until nine o'clock, P. M. each day, Sundays excepted, sufficient and comfortable cars for passengers, as well as others for business purposes; *provided*, that no freight shall at any time be carried upon, or over, said road, except materials intended to be used for building purposes, and such as may be used for filling in the streets.

Running hours.

SEC. 6. The parties named in the first section of this act, their assigns and successors in interest, shall, after they have commenced running cars for the transportation of passengers over any part of said road, make quarterly reports to the Board of Supervisors of the city and county of Sacramento, of the gross receipts of said road, which reports shall each be verified by the oath, or affirmation, of the President, or other managing agent, of said company, or road, and also of the Treasurer and Secretary of said company, or road, and they shall also quarterly pay to the Treasurer of said city and county, for the use of the common schools of said city, three per cent. of the gross receipts of said road for said quarter; and said Board of Supervisors shall have the right, from time to time, to regulate the rates of tolls, freights, fare, or other profits, upon such road.

To make report.

SEC. 7. The said road and property belonging to said parties mentioned in the first section, or hired by them, and used upon, or connected with, the said road, shall be liable to taxation, as other property in the city and county of Sacramento.

Taxation.

SEC. 8. Any person, or persons, or company, having, or obtaining, the right to lay down any track, or tracks, along any street, or streets, that may cross any track that may be laid down in pursuance of the provisions of this act, shall have the right to cross said track, or tracks, at right angles; such crossings shall be made at the expense of the persons, or company, desiring to cross the track, or tracks, provided for in this act, in a substantial and workmanlike manner, without obstruction to, or altering, the grade of such track, and without causing any injury to the same.

Rights of companies.

Term of  
franchise.

SEC. 9. The franchise granted in this act shall continue for a period of thirty years, unless forfeited as hereinbefore provided, but shall not be construed to be an exclusive privilege granted to the said parties mentioned in the first section of this act.

SEC. 10. This act shall be in force from and after its passage.

CHAP. CXLVIII.—*An Act to provide for the construction of a Macadamized Road within the limits of the City and County of San Francisco.*

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

Franchise  
granted.

SECTION 1. Eben Johnson, Charles G. Shipman, and James McKay, and their associates and assigns, are hereby granted the right to construct and maintain a macadamized road within the limits of the city and county of San Francisco, commencing at the junction of Mason and Francisco streets, thence to Fort Point, along the shore of the bay of San Francisco, with the right to levy and collect tolls thereon for all animals and vehicles passing over the line of said road.

Width of  
road.

SEC. 2. Said grantees shall grade, at their own expense, and keep in repair, the entire line of the road provided for in this act, which road shall be, at least, twenty-four feet in width, and as near as may be, of a uniform grade.

When to  
commence.

SEC. 3. Said grantees shall commence within one year, and within two years next following the passage of this act, shall complete a section of said road equal to one-half of its entire length, and the balance of the same within one year thereafter, unless interrupted by the United States authority.

May be  
forfeited.

SEC. 4. To insure the completion of said road, it is hereby provided that if said grantees shall fail to fulfill any of the conditions contained in section three in respect thereto, then the franchise herein granted shall be declared forfeited and determined, unless such failure be caused by the refusal of the United States authorities to permit the construction of the same, and thereupon the section, or sections, of said road, or the parts thereof, completed, shall revert, with all their appurtenances, to said city and county.

To erect  
toll-gates.

SEC. 5. Said grantees shall, after the completion of the first half of said road, as provided in section three, have the right to erect and maintain, not to exceed, two toll-gates, at such point, or points, on the line of said road, as they may determine, not east of Leavenworth Street, and to levy and collect thereat, such rates of toll as may be reasonable and just, not to exceed the rates now allowed by law to be levied and collected on the Mission Street Road, until the completion of the last half of the road, after which time the Board of Supervisors may, from time to time, alter, or reduce, the rates, but the same shall not, without the consent of the grantees, be so reduced as to produce less than eighteen per cent. per annum for the first eight years, nor

less than twelve per cent. per annum thereafter, in net receipts upon the actual cost of said road ; and for the purpose of ascertaining the cost and income of said road, the Board of Supervisors shall have access to the books of the company, and may examine said parties, or their employés, under oath.

SEC. 6. The franchise hereby granted shall continue during a period of twenty years, subject, nevertheless, to the condition that said grantees are required to sell, transfer, and convey, the said road to the city and county of San Francisco, at any time after the completion of the same, upon a demand being made to that effect by said city and county, and upon the payment to said parties the true value of the structure and improvements made by them ; *provided*, that private parties cannot make such purchase, and that the government of said city and county shall not substitute other parties in respect to any of the rights reserved to said city and county in this section.

Limit and condition of franchise.

SEC. 7. This act shall take effect from and after its passage.

To take effect.

This bill was returned to the Senate on the tenth of April, eighteen hundred and sixty-one, without the approval of the Governor, and passed by a constitutional majority of votes of the Senate, and on the twelfth day of April was sent to the Assembly, and by a constitutional majority of votes passed that body, notwithstanding the objection of the Governor.

DAN. SHOWALTER,  
Speaker *pro tem.* of the Assembly.

RICHARD IRWIN,  
President *pro tem.* of the Senate.

Attest: DAVID J. WILLIAMSON,  
Assistant Secretary of the Senate.

J. M. ANDERSON,  
Clerk of the Assembly.

CHAP. CXLIX.—*An Act to refund to Martin Brannan the amount paid into the Treasury of State for certain Poll Tax Receipts, the same having been mislaid.*

[Approved April 15, 1861.]

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

SECTION 1. The sum of one hundred and twenty-three dollars and ninety-three cents is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay Martin Brannan, Assessor of Nevada County, for poll tax receipts paid by him, the same having been mislaid, but now returned to the State.

Appropriat'n.

SEC. 2. The Controller is hereby required to cancel said poll tax receipts, and draw his warrant upon the Treasurer for the sum of one hundred and twenty-three dollars and ninety-three cents, payable out of the General Fund.

To draw warrant.

SEC. 3. This act shall take effect immediately after its passage.

To take effect.

CHAP. CL.—*An Act to authorize Peter Davidson to execute a certain Conveyance in behalf of his Infant Children.*

[Approved April 15, 1861.]

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

**To execute deed.** SECTION 1. Peter Davidson, of the city of San José, Guardian of his infant children, to wit : Peter A. Davidson and John Davidson, is hereby authorized and empowered for, and in the name of, said infant children, to make, execute, and deliver, to George W. Crane, his heirs and assigns, a good and sufficient deed of conveyance, conveying to the said Crane and his heirs, the following real estate, situate in said city of San José, to wit : all that lot, or parcel, of land commencing on San Pedro Street, adjoining the lot on which is situated the present residence of the said Peter Davidson ; thence running southerly on a line with San Pedro Street, forty-two (42) feet, to the northeast corner of Mariano Castro's lot ; thence westerly to the Assequia ; thence northerly along the Assequia, forty-two (42) feet, to the line of said Davidson's residence ; thence easterly along said line to the place of beginning, together with all improvements thereon.

**When valid.** SEC. 2. The deed of conveyance authorized in the first section of this act, shall be acknowledged and recorded in the office of the County Recorder of the county of Santa Clara, and when so executed, acknowledged, and recorded, it shall be deemed sufficient, in all courts, as a valid and proper conveyance to the said George W. Crane and his heirs, of all the estate, right, and title, at law, or in equity, which the said infant children of said Peter Davidson now have in said premises, and shall be in like manner effectual to convey to said Crane any right, or title, to said premises which any child of said Davidson hereafter to be born, might otherwise acquire in said premises.

**Conditional.** SEC. 3. No conveyance in pursuance of this act, shall be valid or effectual for any purpose, unless the same be made under the direction of, and be approved by, the Judge of the Probate Court of Santa Clara County, and a copy of the order, directing and approving the same, shall be recited at length in such conveyance.

CHAP. CLI.—*An Act concerning the Office of Tax Collector in the County of Placer.*

[Approved April 15, 1861.]

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

**Mileage.** SECTION 1. The Tax Collector of each revenue district in the county of Placer shall be entitled to, and receive, twenty cents per mile for each mile traveled by him in going to, and returning from, the county seat of said county, to make his monthly set-



tlements with the Auditor and Treasurer of said county, as required by the provisions of an act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, A. D. eighteen hundred and sixty.

SEC. 2. The Board of Supervisors of Placer County shall, at their next regular meeting, establish, by ordinance, the distance for which the Tax Collector of each revenue district in said county shall be entitled to mileage under the provisions of section one of this act. Same.

SEC. 3. The Auditor of Placer County shall, at the time of settlement with the Tax Collector of each revenue district in said county, calculate the amount to which said Tax Collector is entitled under the provisions of this act, and include the same in his statement of the amount due him for collections, which shall be allowed to said Tax Collector and retained by him out of the amount of revenue belonging to the General Fund of said county, on such settlement. Duties of Auditor.

SEC. 4. This act shall take effect and be in force, from and after the first day of May, A. D. eighteen hundred and sixty-one. To take effect.

CHAP. CLII.—*An Act to separate the Offices of County Auditor and County Recorder from the Office of County Clerk in the County of Calaveras.*

[Approved April 15, 1861.]

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

SECTION 1. From and after the next general election the offices of County Auditor and County Recorder, in the county of Calaveras, shall be separate from the office of County Clerk. Offices separated.

SEC. 2. At the next general election, and the general election of every succeeding two years thereafter, there shall be elected in said county a County Auditor, who shall also be *ex officio* County Recorder, and who shall enter upon the discharge of the duties of his office on the first Monday in the month next succeeding such election, and shall hold such office for the term of two years and until his successor is elected and qualified. Election of Auditor.

SEC. 3. Upon the qualification of said Auditor to perform the duties of his office, it shall be the duty of the County Clerk of said county to deliver to him on demand all papers, books, furniture, and other property, belonging to the offices of County Auditor and County Recorder. Duty of County Clerk.

SEC. 4. All duties and liabilities heretofore imposed upon the County Clerk of said county, as Auditor and Recorder, shall attach to the office hereby created; and the County Auditor, elected under the provisions of this act, shall give such bonds as now by law are required to be given by the County Clerk as Auditor and Recorder, to be approved in the same manner. Duties and liabilities.

SEC. 5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Repealing clause.

CHAP. CLIII.—*An Act to amend an Act entitled An Act to authorize the Administrator of the Estate of Charles White, deceased, to sell and convey Real Estate, approved April sixth, eighteen hundred and sixty.*

[Approved April 15, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows :

May sell  
real estate.

Section 1. The Administrator of the estate of Charles White, deceased, now, or hereafter, to be appointed; is hereby authorized to sell at public, or private, sale, at his discretion, and without having first obtained an order of the Probate Court therefor, the whole, or any portion, of the real estate, or any right, title, or interest, therein, claimed, held, or owned, by the said Charles White, at the time of his death, as, in the judgment of such Administrator, will best promote the interests of those entitled to said estate.

CHAP. CLIV.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to procure Chambers for the Judges of certain Courts.*

[Approved April 15, 1861.]

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

To procure  
chambers  
for Judges.

SECTION 1. It shall be lawful for the Board of Supervisors of the city and county of San Francisco to procure a room for the use of the Judge of the District Court of the Twelfth Judicial District, in and for said city and county, to be used by said Judge in attending to such duties as should be performed at chambers. It shall also be lawful for said Board to procure a room for the use of the County Judge of said city and county, to be used by said Judge in attending to that part of his duties which should be performed at chambers.

Repealing  
clause.

SEC. 2. All acts and parts of acts inconsistent with the provisions of this, are hereby repealed.

To take  
effect.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CLV.—*An Act authorizing the constructing of a Wagon Road over the Coast Range of Mountains, in San Luis Obispo County.*

[Approved April 15, 1861.]

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

SECTION 1. John McDougal, or his Assignees, are hereby authorized to construct a wagon road, not to exceed the width of eighty feet, commencing at a point on the Pacific Coast, at, or in the vicinity of, the bay of San Simeon, in San Luis Obispo County, and running across the Coast Range of Mountains, to a point on the Salinas River, as may be determined upon by the Engineer of said McDougal, or his Assignees. Right granted.

SEC. 2. Said road shall be surveyed and completed at any time within twelve months after the passage of this act. Limit.

SEC. 3. The act of May twelfth, eighteen hundred and fifty-three, Authorizing the formation of Corporations for the construction of Plank, or Turnpike, Roads, and the act of April twenty-second, eighteen hundred and fifty-three, to Provide for the incorporation of Wagon Road Companies, are made applicable to this act, except so far as they may conflict with the provisions hereof. Acts made applicable.

SEC. 4. The franchise herein granted shall cease and determine, within twenty years after the passage of this act. Term of franchise.

CHAP. CLVI.—*An Act to incorporate the Town of Grass Valley.*

[Approved April 15, 1861.]

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

SECTION 1. The inhabitants of the town of Grass Valley, county of Nevada, are hereby constituted a body politic and corporate, under the name and style of the "Town of Grass Valley," and by that name and style they and their successors shall be known in law, and have perpetual succession, and be invested with all the rights and privileges conferred by, and be subject to, all liabilities, restrictions, and provisions, of an act entitled An Act to provide for the Incorporation of Towns, approved April nineteenth, eighteen hundred and fifty-six, so far as the provisions of said act may be consistent with the provisions of this act. Act of incorporation.

SEC. 2. The area of said town shall be twelve hundred yards square, lying north and south, of which the northwest corner of the Congregational Church shall be the center. Area.

SEC. 3. The Board of Trustees of said town, shall not have the power to incur any expense, unless there be money in the treasury to pay the same. Conditional powers of Board.

SEC. 4. In addition to the Board of Trustees, the officers of the town shall consist of a Clerk, Treasurer, Assessor, and Mar- Officers.

shal, and no other; the Trustees shall appoint all of said officers, and have power to remove, and to put others in their stead, when in their judgment the interests of the town may require, except the Assessor and Marshal, who shall be elected at the same time, and in the same manner, and for the same term, as are the Trustees of said town. The Marshal shall be the collector of all the taxes levied by the Board of Trustees. The compensation of the officers shall be as follows: Trustees, each, one dollar per annum; Clerk, fifty dollars per annum; Assessor, fifty dollars per annum; Treasurer, five dollars per annum, and the Marshal, one hundred dollars per annum.

Duties of Trustees.

SEC. 5. The Board of Trustees shall have power only to pass such ordinances as they may deem necessary to prevent and remove nuisances, to improve the streets and alleys, and to build and repair sidewalks, to provide such means as their discretion may direct to protect the town from injuries by fire, to collect the legal road tax for the year eighteen hundred and sixty-one and thereafter, and to collect annually a tax on all the property of the town, not exceeding one per cent. on the assessed value thereof.

To give notice.

SEC. 6. William Loutzenheiser, J. H. Henderson, C. W. Smith, M. S. Norton, and W. C. Pape, or any three of them, are authorized and required to give not less than five days' public notice of an election, on the first Monday in May, eighteen hundred and sixty-one, for the election of five Trustees for the town of Grass Valley. They shall also appoint three Judges, to act at said election; the three Judges shall give certificates of election to the five persons having the highest number of votes for Trustees.

To take effect.

SEC. 7. This act shall go into effect immediately after and from its passage.

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CHAP. CLVII.—*An Act making an appropriation for the payment of the claim of James R. Hardenbergh, for Postage Stamps furnished Senate, Eleventh Session.*

[Approved April 15, 1861.]

*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 fifty-two dollars and twenty cents, (\$152 20,) is hereby appropriated, out of any money in the State treasury not otherwise appropriated, to pay the claim of James R. Hardenbergh.

To draw warrant.

SEC. 2. The Controller of State is hereby authorized and required, to draw his warrant on the Treasurer of State, for the amount mentioned in the first section of this act.

CHAP. CLVIII.—*An Act in relation to the compensation of the County Auditor of Butte County.*

[Approved April 15, 1861.]

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

SECTION 1. The Board of Supervisors of Butte County are hereby authorized to allow the County Auditor of said county a sum not to exceed forty dollars per month, for services rendered. Compensa'n.

SEC. 2. Any sum audited and allowed by the said Board of Supervisors of Butte County, shall be paid quarterly, in like manner as other claims against said county, out of the General Fund. When and how paid.

SEC. 3. The Board of Supervisors of the said county of Butte, shall at their first session after the approval of this act, consider, and if they see proper, audit and allow to John F. Kimmel, late County Auditor of said county, and to A. Stevenson, the present incumbent of said office, the sum of forty dollars per month, for each and every month that they have served the said county of Butte as such Auditor. Further compensation.

SEC. 4. The Board of Supervisors of Butte County, shall in no case allow any sum exceeding forty dollars per month, but nothing in this act shall be so construed as to prevent the said Board of Supervisors from allowing said County Auditors a less sum than forty dollars per month, neither shall there be anything compulsory upon said Board of Supervisors, but leaving it discretionary with them, whether anything shall be allowed, or not. Amount limited.

SEC. 5. The compensation in this act herein provided, to be in addition to that now provided by law, for both the present and the last incumbent of said office, in said county of Butte.

SEC. 6. All acts and parts of acts heretofore passed, which may conflict with the provisions of this act, are hereby repealed. Repealing clause.

CHAP. CLIX.—*An Act appropriating Money for the payment of the Copying of the Legislature during the Twelfth Session.*

[Approved April 15, 1861.]

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

SECTION 1. The sum of five thousand dollars is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, for the copying done for the Senate, and five thousand dollars for copying done for the Assembly, to be known as the Copying Fund of the Senate, and the Copying Fund of the Assembly, respectively. Appropriat'n.

SEC. 2. The sum appropriated by this act is hereby expressly exempted from the provisions of An Act to create a Board of Examiners, to define their powers and duties, and to impose certain duties upon the Controller and Treasurer, approved April Exempted from certain acts.

twenty-first, eighteen hundred and fifty-eight, but shall be disbursed under the direction of the body to which it may respectively belong; *provided*, that whatever copying shall be done for the Twelfth Session of the Senate and Assembly, after their adjournment, which shall remain unfinished, shall be examined and certified to, by the Secretary of State, and the Controller shall thereupon draw his warrant for the amount so certified to, upon the Treasurer for the same, to be paid out of the remaining unexpended part of the Copying Fund made and provided in this act. The Treasurer shall thereupon pay the amount so drawn for, out of the money appropriated by this act, and the balance remaining unexpended shall revert to the General Fund of the treasury.

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

To take effect.

CHAP. CLX.—*An Act to reimburse to Mary B. Russell certain Monies expended by the Sisters of Mercy for the burial of the Dead.*

[Approved April 15, 1861.]

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

Appropriation.

SECTION 1. The sum of two thousand seven hundred and ninety dollars, being the just proportion chargeable to the State of California, of certain expenses incurred by Mary B. Russell and the Sisters of Mercy, in burying certain persons who were State patients, and who died in the hospital of the city and county of San Francisco, is hereby audited and allowed.

To allow claims.

SEC. 2. The Board of Supervisors of the city and county of San Francisco are hereby authorized and required, to allow, and the Auditor of said city and county to audit, and the Treasurer of said city and county to pay, to, and in favor of, the said Mary B. Russell, for the use of the Sisters of Mercy, the sum of thirteen hundred and ninety-five dollars, being the just proportion chargeable to said city and county, of the expenses incurred by said Mary B. Russell and the Sisters of Mercy, in burying certain persons who were city patients, and who died in the said hospital.

To take effect.

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

CHAP. CLXI.—*An Act to authorize the Board of Supervisors of Calaveras County to levy a Special Tax, and to provide for building a Bridge in said County.*

[Approved April 15, 1861.]

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

SECTION 1. The Board of Supervisors of Calaveras County, (whenever a sufficient guarantee is given them that the sum of three hundred dollars is secured by private subscription, to be paid toward building a bridge across the Calaveras River at, or near, the town of Jenny Lind, in said county, as hereinafter provided,) are hereby empowered and required, in addition to the taxes already authorized by law to be collected, to levy for the year eighteen hundred and sixty-one and cause to be collected, as other taxes are collected, on all property, real and personal, throughout the tenth township of said county, liable to taxation, such sum as, in their judgment, may be necessary to finish and complete said bridge, in addition to the sum otherwise provided for in this act; and, *provided*, that the said tax shall not exceed the sum of seventy-five cents on each one hundred dollars' worth of property so subject to taxation within said tenth township.

Tax to be levied.

SEC. 2. P. W. Cornwell, Solomon Wangenheimer, and Alexander Dennis, are hereby appointed Commissioners to locate and superintend the construction of said bridge.

Commissioners.

SEC. 3. Said Commissioners shall contract with the lowest responsible bidder for the construction of said bridge upon such plan as they may designate, first giving thirty days' notice, by publication in some newspaper published in the county of Calaveras, or by public notices set up in three of the most public places in said tenth township where such improvement is proposed to be made.

SEC. 4. The money collected from said special tax, shall be paid into the county treasury by the Collector, as other moneys, and shall constitute a Special Bridge Fund; and upon the completion of the bridge according to contract, and upon the approval of the Board of Supervisors of the account for the same, the Auditor shall draw his warrant upon the Treasurer of said county, payable out of said Special Bridge Fund; *provided*, that no warrant shall be drawn for a greater sum than shall be in said fund.

Disposition of moneys.

SEC. 5. If the tax thus levied and collected, together with the amount secured by private subscription, shall not be sufficient to complete said bridge, the Supervisors of said county are hereby authorized and empowered to appropriate from the General Fund of said county, an amount not to exceed two hundred and fifty dollars, for the completion of the same, and of the road leading to and from said bridge, if in their judgment the public good and convenience require it.

To draw from General Fund.

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

To take effect.

CHAP. CLXII—*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 third, A. D. eighteen hundred and fifty-two.*

[Approved April 15, 1861.]

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

SECTION 1. Section four of said act is amended so as to read as follows :

Duties of Supervisors.

[Sec. 4.] The Board of Supervisors shall meet at the city of San Diego on the first Monday of July, October, January, and April, of each year, and whenever they deem it necessary for the interests of the county. It shall be the duty of the Board which expires on the first Monday of July, annually, to meet on said day, in order to deliver over to the Board elected the accounts and vouchers, together with an abstract account of the financial situation of said county. Three qualified Supervisors shall constitute a quorum for the transaction of all business legally coming before them; their proceedings shall be public; they shall elect one of their number to act as Chairman, who shall have power to administer oaths in all matters touching the business of said Board; each Supervisor shall be allowed the sum of three dollars per day for each day's attendance on the stated meetings of the Board, but no pay shall be allowed to Supervisors for attendance on special meetings.

SEC. 2. Section five of said act is amended so as to read as follows :

Powers of.

[Sec. 5.] The Board of Supervisors shall have power to make such orders concerning the corporate property of said county as they may deem expedient, and to sell, or otherwise dispose of, the same, appropriating the proceeds thereof to the use of the county; they shall audit the accounts of all officers having the management, collection, or disbursing, of any moneys, or funds, belonging to the county; to examine, settle, and allow, all amounts legally chargeable against the county, and to raise such sums, in manner as herein provided, as may be necessary to pay the same; to establish townships and election districts, and to alter the same; to have the management and control of public ferries, roads, and bridges, and to make all necessary orders concerning the same; to impose and enforce a tax upon roads, bridges, and ferries, such as they may deem just and equitable; and shall have power to examine all books, accounts, and vouchers, of the County Treasurer and County Auditor, audit and settle the same, pursuant to law, which examination shall take place at least once in every three months; and shall have power to take and approve all bonds executed by county officers for the faithful discharge of their official duties; *provided*, that for the disposal of any of the property of the county, it shall require a majority of all the members of the Board of Supervisors, at a regular quarterly meeting of the Board, to adopt any resolution, or order, for such disposal, which order, or resolution, shall be published, by posting in one, or more, public places in each township of the county, at least sixty days previous to the next quar-



terly meeting of the Board, when said resolution, or order, shall be again considered by the Board, and if it shall be approved by a majority of all the Supervisors of said county at said meeting, then they may proceed and dispose of such property at public auction, and not otherwise, giving at least fifteen days' public notice.

SEC. 3. Section nine of said act is amended so as to read as follows:

SEC. 9. No member of the Board shall, in any manner, be interested in any contract, or undertaking, with said county; they shall not be permitted to allow any interest on any claim against the county, or to audit, or allow, any claim for damages, or non-performance, of any contract on the part of the county. Not to be interested.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. CLXIII.—*An Act to define and establish the Boundary Line of the City of Sonora.*

[Approved April 15, 1861.]

*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 Trustees of the city of Sonora, to employ a suitable and competent Surveyor, who shall, under the direction of the said Trustees, proceed and run the following line, viz: (according to Cooper, and Gullledge, and Trask's, surveys) beginning at a point on the bridge, sixty feet from the northwest corner of the City Hotel, in the city of Sonora, and running north sixty-five degrees, east one-half mile; at the eastern terminus of said half mile, shall be, and is hereby, constituted the initial, or beginning, point of the boundary line of the city of Sonora. Duty of Trustees.

SEC. 2. At the eastern terminus of the half mile, as provided to be run in section one of this act, the Trustees of the city of Sonora shall cause to be erected a suitable post, monument, or landmark, of stone, or other durable material. To erect landmark.

SEC. 3. The boundary of the city of Sonora shall, hereafter, be as follows, viz: beginning at the post, monument, or landmark, ascertained and provided to be erected in section one and two of this act, and running thence north twenty-five degrees, west, one-half mile; thence south, sixty-five degrees, west, one mile; thence south, twenty-five degrees, east, one mile; thence north, sixty-five degrees, east, one mile; thence north, twenty-five degrees, west, one-half mile, to the initial point, or place of beginning, which is the middle of the eastern boundary line of the city of Sonora, the limits being one mile square. Boundaries.

SEC. 4. All acts, or parts of acts, contrary to the provisions of this act, are hereby repealed. Repealing clause.

SEC. 5. This act shall take effect from and after its passage. To take effect.

CHAP. CLXIV.—*An Act concerning Roads and Highways in the County of Klamath.*

[Approved April 15, 1861.]

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

Public  
highways.

SECTION 1. All roads in the county of Klamath which have been declared such by the Court of Sessions, or Board of Supervisors, are hereby declared public highways

Board to  
have care of.

SEC 2. The Board of Supervisors in said county shall have the general care and supervision of highways and bridges, and it shall be their duty to cause to be kept in good repair the highways and bridges in said county, as hereinafter provided; to regulate the roads, as already laid out, and to alter such of them as may be deemed inconvenient; to lay out new roads, as provided in this act, and to divide the county into not less than three, nor more than five, road districts, and to let out by contract, as herein provided, the construction and repair of highways and bridges.

Private  
roads.

SEC 3. No public, or private, road shall be laid out through any buildings, or fixtures, of any kind, or through any inclosed, or cultivated, land, without the consent of the owner thereof, except due compensation shall be made such owner, as hereinafter provided.

Who may  
petition.

SEC 4. Every person liable to be assessed for road tax in the county, may apply to the Board of Supervisors thereof to alter, discontinue, or lay out, any new road within the county. Every such application shall be in writing, addressed to the Board of Supervisors, and signed by at least fifteen persons, and shall state the point of beginning, course, and terminus, of the proposed road, with particularity; also, the character and condition of the land, with the names of the owners, when known to them, over which the road will pass, and whether the land be improved, or not.

To appoint  
Viewers.

SEC 5. On receiving such application the Board may appoint three Viewers, who shall be tax payers of the county, and disinterested in the proposed road, and who shall, on a day to be named by the Board, and at least ten days after their appointment, assemble to view out and mark the line of the proposed road, and to hear all reasons that may be offered for and against laying out the same. They shall, within a reasonable time, report to the Board of Supervisors in writing, signed by at least two of them—

*First*—The feasibility of the proposed road.

*Second*—The necessity for such road.

*Third*—The probable cost of its construction.

*Fourth*—The amount of damage that will be sustained by any person, or persons, severally, by reason of laying out the same, with the recommendation that the same be, or be not, laid out; *provided*, that if the Viewers shall fail to comply with the law in an essential respect, they shall receive no compensation for their services; the Board may set aside their report and order another view to be had.

SEC 6. The Board of Supervisors shall cause three, or more,

notices to be posted in the most public places in the vicinity of the proposed road, at least ten days prior to the meeting of the Viewers, stating the point of beginning, course, and terminus, of the proposed road; also the names of the persons over whose lands the same will pass, when known, and the day on which the Viewers will assemble to view and mark out the line of the same. The Board shall also notify the owners of the land, when known, over which it is proposed to construct such road, of the time and place of the meeting of the Viewers, by having such notice served on them personally, or left at their usual place of abode, or if absent from the county, then upon their Agents.

Notices to be posted.

SEC. 7. In the case of the Viewers' report against the laying out of the proposed road, the Board of Supervisors may refuse to lay out the same; but if they shall report in favor of laying out the road, and the same does not pass through any inclosed, improved, cultivated, or occupied, lands, they may, by an order filed with the County Clerk, lay out the same if they deem it proper to do so.

Viewers' report.

SEC. 8. In case the Viewers report in favor of paying damages to any person, or persons, in consequence of laying out any road, and the Board of Supervisors, on the part of the county, are satisfied that such damages are just and reasonable, and the party claiming damages is willing to accept the same in full satisfaction, the Board may order the amount thereof paid out of the county treasury, taking of the party a receipt in full for such damages, and proceed to declare the road a public highway, as provided in section seven of this act.

If in favor of paying damages.

SEC. 9. In case the Board of Supervisors, on the part of the county, or the person claiming damages, shall be dissatisfied with the amount allowed by the Viewers, the Board shall appoint a commission consisting of three persons, tax payors of the county, and disinterested in the proposed road, who shall, on a day to be named by the Board, go upon the ground and personally examine the line of the proposed road, and hear witnesses that may be offered regarding the value of the land through which the road will pass, and the damages that will be sustained by any party in consequence of laying out the same, and shall, within reasonable time, report to the Board, in writing, the amount of damages that will be sustained by any party by reason of the location of the said road, which report shall be signed by a majority of said Commissioners, and the damages allowed shall be ordered paid by the Board of Supervisors, and shall be final in the premises.

If Board be dissatisfied.

SEC. 10. In case any person claiming damages in consequence of the laying out of any highway through his lands shall fail to present such claim to the Board of Supervisors within thirty days after the time appointed for the meeting of the Viewers, they shall be forever barred from collecting such claim for damages, unless damages were reported by the Viewers, in favor of such persons, or their predecessors in interest, or unless it shall appear that they failed to receive notice of the action of the Board of Supervisors in the premises, or were under some legal disability to present such claim for damages; *provided*, that no claim for damages shall be allowed in any case, unless presented

Failure to present claim.

within six months from the time of the meeting of the Viewers. In case any proposed road shall pass through any improved, occupied, or cultivated, land, and the party owning the same shall fail to present a claim for damages, or to give the right of way through such land, the Board shall not declare such road a public highway, until the expiration of thirty days aforesaid.

To make  
oath.

SEC. 11. The Viewers of Highways and Commissioners appointed by the Board of Supervisors, for determining damages, shall, before they enter upon the discharge of their duties, take an oath, before some Justice of the Peace, or other person duly qualified to administer oaths, that they will faithfully and impartially discharge the duties imposed upon them by this act, and shall have power to administer oaths to witnesses that may come before them, in the capacity of Viewers and Commissioners.

Damages.

SEC. 12. In case the Commissioners shall report in favor of a greater amount of damages than was allowed by the Viewers, the expenses of the Commissioners, not exceeding three dollars per day, each, shall be paid out of the county treasury; but in all other cases they shall be paid by the party claiming damages.

Compensation.

SEC. 13. Viewers shall be paid out of the county treasury, not exceeding three dollars per day, each, for every day's service actually rendered.

SEC. 14. In assessing damages, Viewers and Commissioners shall always take into consideration the advantages the proposed road will be to the party claiming damages.

Form of  
petition.

SEC. 15. The petition for the discontinuance of a public, or private, road, and the proceedings under it, shall be the same as in cases of laying out a new road, up to the finding of the report of the Viewers, which shall be in favor, or against, the discontinuance of said road. In case the report be against the discontinuance of such road, the Board of Supervisors shall refuse to discontinue the same; but if the report be in favor of the discontinuance of the road, the Supervisors may, in their discretion, by an order to be filed with the County Clerk, discontinue such road.

Width of  
roads.

SEC. 16. All public highways hereafter laid out, shall be of the width of sixty feet; private roads shall not exceed forty feet.

SEC. 17. All duties enjoined upon the Board of Supervisors by this act may be performed either at general, or special, meetings thereof.

Private  
roads.

SEC. 18. Private roads may be laid out in the same manner as public roads, except the expenses of laying out the same; and the damages to be paid in consequence thereof, if any, shall be paid by the parties petitioning for the same. All private roads shall be opened and kept in good repair by the parties for whose benefit the same was laid out, and said parties shall cause good and substantial gates to be erected and kept in good repair, across said road, where it shall pass through any fence that may surround the inclosure, through which said road may pass.

To levy tax.

SEC. 19. The Board of Supervisors shall have power to levy an annual tax on all able-bodied men between the ages of twenty-one and fifty years, of three dollars to each man.

How to  
collect.

SEC. 20. The tax levied under the preceding section of this act, shall be collected by the Assessor, or Sheriff, of said county, as the Board of Supervisors may direct, at the same time and in

the same manner, as the poll and property tax is collected, and the officer appointed shall have the same powers to enforce the collection thereof as in the collection of poll and property tax, and for all moneys so collected he shall receive five per cent.

Sec. 21. Whenever any contract for the opening and construction of roads, the building of bridges, or the improvement and the repairing of the same, is to be made, advertisement thereof shall be given by the Board of Supervisors, by posting written notice thereof in three of the most public places in the road district in which said work is to be done, ten days prior to the letting of such contract, and all contracts shall be let to the lowest responsible bidder, subject to the approval of the Board; *provided*, that contracts for keeping it in repair may be let for a term not to exceed one year; and the said Board, in their discretion, may employ laborers by the month, or day, for the construction of roads, bridges, and trails, or the repairing of the same.

Manner of construction.

Sec. 22. The Board of Supervisors shall cause blank road tax receipts to be issued, numbered and signed by their Clerk, for the use of the Sheriff, or Assessor, who shall, upon delivery, receipt for the same, and in his statement account for all unreturned receipts as so much money collected.

Duties of Supervisors.

Sec. 23. If any person shall obstruct any public road, by felling any tree across the same, or by placing any other obstruction therein, or damaging, digging, or deepening, a creek, or river, or its banks, so as to destroy a ford, or crossing, or 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 public highway by digging in it, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding five hundred dollars, which shall be paid into the county treasury for the use of the road district in which the misdemeanor was committed.

Obstructions

Sec. 24. The Board of Supervisors shall have power to levy a property tax for road purposes, not to exceed fifteen cents on each one hundred dollars' value of property, to be levied and collected at the same time and in the same manner, as other property taxes are collected.

To levy tax.

Sec. 25. All moneys collected under the provisions of this act, for road purposes, shall be paid by the Sheriff, or Assessor, into the county treasury at the same time he pays in other moneys collected as taxes on property, and shall be kept separate and apart from other moneys in the treasury, and shall be appropriated by the Board of Supervisors exclusively for road and bridge purposes in said county.

Disposition of moneys.

Sec. 26. The taxes herein provided for may be levied by the Board of Supervisors, for the present year, at any time prior to the twentieth day of May.

Time of levy

Sec. 27. This act shall be in force from and after the date of its passage.

To take effect.

Sec. 28. All acts and parts of acts, in conflict with the provisions of this act, are hereby declared inapplicable to the county of Klamath.

Conflicting acts inapplicable.

CHAP. CLXV.—*An Act to authorize the County Auditors of the Counties of San Luis Obispo and Tulare, to issue certain Bonds, and to provide for the construction of a Road herein named.*

[Approved April 15, 1861.]

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

To issue  
bonds.

SECTION 1. The County Auditors of the counties of San Luis Obispo and Tulare, are hereby authorized, upon the order of the Board of Supervisors of the said counties, to issue the bonds of said counties, respectively, for any amount not to exceed the sum of eleven thousand dollars for each county.

Purpose.

SEC. 2. Said bonds may be issued at such times as in the opinion of said Board of Supervisors may be required for the construction and completion of a public road from the town of San Luis Obispo, in the county of San Luis Obispo, to Visalia, in the county of Tulare. They shall be issued by the County Auditors, upon the order of the Boards of Supervisors, and shall be countersigned by the Treasurers of said counties respectively, and shall have the seal of the counties attached thereto, and shall be of the denomination of one hundred dollars each, but none of said bonds shall be made payable after the year eighteen hundred and seventy-one.

Surplus.

SEC. 3. After the cost of the road mentioned in section two of this act is ascertained, the Boards of Supervisors of the counties of San Luis Obispo and Tulare, are authorized to employ the surplus funds arising from the sale of the bonds of said counties, for the construction, or repair, of other roads in their respective counties.

Interest.

SEC. 4. Said bonds may bear a rate of interest not exceeding ten per cent. per annum, payable semi-annually, at the county seat of said counties, or at any other place designated by the Board of Supervisors of said counties. When issued, said bonds may be sold, or otherwise negotiated, by the Board of Supervisors of said counties, or some duly authorized Agent, appointed by the Board for that purpose, the proceeds of which bonds shall only be used and applied for the purposes mentioned in sections two and three of this act, but none of said bonds shall be sold at a discount of more than fifteen per cent. When said bonds are so disposed of, the counties of San Luis Obispo and Tulare shall become liable for the payment of the principal and interest of said bonds respectively, according to their face.

When to be  
paid.

SEC. 5. The interest on said bonds shall be paid semi-annually, as herein provided, on the first Monday of July and of December in each year, upon the presentation of the coupons attached to the bonds. Coupons shall be attached to each bond, and shall be duly numbered and express thereon the amount of interest due each year, when and where payable, and shall be signed by the County Auditors, and countersigned by the Treasurers of said counties respectively, in the same manner as the bonds are required to be signed. The interest shall be paid by the Treasurers of said counties.

SEC. 6. It shall be the duty of the Board of Supervisors of

said counties to keep a record of the number, denomination, and amount, of all bonds issued, showing the date of issue, to whom issued, and the number of each bond.

To keep record of bonds.

SEC. 7. The duties of the County Auditors and Treasurers of said counties under this act shall be deemed a part of their official duties, and upon any dereliction of duties imposed by the provisions of this act, shall be liable upon their official bonds.

SEC. 8. On, or before, the first Monday in each, after the present year, the County Auditors of the counties of San Luis Obispo and Tulare shall present to the Board of Supervisors of their respective counties, a certified statement of the amount required to pay the semi-annual interest on all the bonds outstanding, and also the amount required to redeem the one-tenth part of the first principal of the said road debt in each year; and before the first day of July in the present year, the said Auditors shall present a like statement, by computation, of the amount likely to be required to pay the first annual installment of the interest on said bonds.

Duty of County Auditors.

SEC. 9. In addition to the taxes now authorized by law to be levied in said counties of San Luis Obispo and Tulare, there shall be levied and collected, by the proper officers of said counties, a tax, to be called the "Road Debt Tax," to meet the requirements mentioned in section eight of this act. The manner of levying and collecting said tax shall be the same as that provided by law for levying and collecting State and county taxes; *provided*, that for the present year the same may be levied and assessed at a special meeting of the Board of Supervisors of said counties respectively, to be held for that purpose.

Road debt tax.

SEC. 10. On the first Monday of June, eighteen hundred and sixty-two, and annually thereafter, it shall be the duty of the Treasurers of said counties, from the money in their hands, raised by the said Road Debt Tax, to redeem the one-tenth part of the first principal of said bonds, or such amount of said bonds as the surplus money in their hands will redeem, at the lowest value at which they may be proposed to be liquidated, after advertising for two weeks, by publication for sealed proposals for the redemption of said bonds. The said Treasurers shall open the said proposals at the time and place specified in the publication, in the presence of such persons as choose to be present, and shall accept of such only as shall cancel the greatest amount of said bonds; *provided*, that no bonds shall be redeemed at a greater sum than par, without interest.

Redemption of bonds.

SEC. 11. Whenever the County Treasurers of said counties shall pay any coupons, or bonds, under the provisions of this act, they shall cancel the same and preserve the said canceled coupons and bonds, and keep a record thereof, giving the number, date, and amount, of each, and from whom received, and shall write across said bonds and coupons the words "Canceled by me," and sign his name thereto, as Treasurer.

To cancel bonds.

SEC. 12. A Board of five Commissioners shall be appointed, to be called the "San Luis Obispo and Visalia Road Commissioners," whose duty it shall be to cause to be constructed the road mentioned in section two of this act, and the said Commissioners, or a majority of them, shall lay out, view, and locate, said road.

Commissioners.

SEC. 13. The said Commissioners shall be appointed as fol-

Manner of  
appointing.

lows, viz: one by the Board of Supervisors of the county of San Luis Obispo, one by the Board of Supervisors of the county of Tulare, the third shall be the County Surveyor of the county of San Luis Obispo, the fourth shall be the County Surveyor of the county of Tulare, and the fifth shall be some person chosen by the aforementioned Commissioners, or a majority thereof.

To advertise  
for proposals

SEC. 14. Said Board of Commissioners shall, as soon as practicable after plans and specifications have been agreed upon, advertise for at least twenty days in Visalia and San Luis Obispo, for sealed proposals to construct said road, stating whether by sections, or otherwise, the time within which each contract shall be fulfilled, and the mode and manner of payments upon said contract, and whether in money, or the bonds of said counties.

Contract:

SEC. 15. On the day appointed by said advertisement, the said Commissioners shall meet in the town of San Luis Obispo, and publicly open and compare all proposals, and shall award each contract to the lowest responsible bidder, or bidders; *provided*, that proposals wherein the bonds of said counties will be received, the cash value of said bonds shall not be computed at a greater discount than fifteen per cent.; and, *provided*, further, that no proposals shall be considered as the basis of any contract, unless accompanied by a written undertaking in double the amount of the contract, guaranteed by two, or more, responsible sureties, conditioned for the faithful performance of the work, the sufficiency of which undertaking shall be determined by the Board of said Commissioners.

Not to be  
interested.

SEC. 16. The said Commissioners, or either of them, shall not be in any manner interested in any contracts, which may be awarded by this Board under this act; and any violation of this section shall be deemed a misdemeanor, and shall be punished, upon conviction by any competent tribunal, by a fine of five hundred dollars, which said fine shall be paid into, and form a part of, the Road Debt Fund of said counties, one-half thereof to each county respectively.

Compensa'n.

SEC. 17. Said Commissioners shall each receive four dollars per day, for each day's service actually rendered; *provided*, no Commissioner shall receive in the aggregate, a sum greater than one hundred dollars. Each county shall pay the Commissioners appointed in their behalf, and the Commissioner chosen by the other four shall be paid out of the General Fund of said counties respectively.

To take  
effect.

SEC. 18. This act shall take effect and be in force, from and after its passage.



CHAP. CLXVI.—*An Act to change the Boundary Line between the Counties of Butte and Yuba, at the Woodville House.*

[Approved April 15, 1861.]

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

SECTION 1. The dividing line between Butte and Yuba counties be and is hereby altered, as follows: Beginning at a station tree on the established line between said counties, about twenty-six chains easterly from the house known as the "Woodville House," thence, on a right line fifty chains, more or less, to the third station tree, westerly from the said Woodville House, on the said established line, said right line passing about three chains northerly of said house, and leaving the same, with all of the out-buildings, in Yuba County. Boundaries changed.

SEC. 2. All acts and parts of acts, in conflict with the provisions of this act, are hereby repealed. Repealing clause.

CHAP. CLXVII.—*An Act to audit and pay the Claim of Gregory Yale.*

[Approved April 15, 1861.]

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

SECTION 1. The claim of Gregory Yale, for the balance due for services as Attorney and Counselor-at-Law in the State Prison litigation, in the year eighteen hundred and fifty-nine and eighteen hundred and sixty, as audited and allowed by the Board of Examiners and transmitted to the Legislature, for the sum of eleven hundred dollars, is hereby audited and allowed; and the Controller of State is hereby authorized and required to draw his warrant on the Treasurer of State for the said sum of eleven hundred dollars, payable out of the General Fund, in favor of the said Yale; and the Treasurer is hereby authorized and required to pay the said warrant out of the said fund. Claim allowed.

CHAP. CLXVIII.—*An Act to authorize John Atkinson, of Placer County, to remove the Remains of Deceased Persons.*

[Approved April 15, 1861.]

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

SECTION 1. John Atkinson, of Placer County, is hereby empowered to remove all of the remains of deceased persons in- To remove remains.

terred on the court-house lot in the town of Auburn in said county, and cause them to be interred in the Auburn Cemetery, within sixty days after the passage of this act.

To erect  
tombstones.

SEC. 2. It shall be the duty of the said John Atkinson to cause said remains to be decently interred, and to cause any and all tombstones, ornaments, and inscriptions, on the graves of said remains to be re-erected in as good order on the new as on the original graves.

Claim  
audited.

SEC. 3. The Supervisors of Placer County are hereby authorized and directed to audit and allow the claim of said John Atkinson, and the Auditor directed to draw his warrant on the Treasurer of said county for a sum not to exceed the sum of one hundred and fifty dollars for the removal and reinterment of said remains of deceased persons, and the same shall be paid out of the General County Fund, in like manner as other claims against the county.

To take  
effect.

SEC. 4. This act to take effect from and after its passage.

CHAP. CLXIX.—*An Act to amend An Act to fund the Debt of the County of Sonoma, and to provide for the payment of the same, approved April twentieth, eighteen hundred and sixty.*

[Approved April 15, 1861.]

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

SECTION I. Section five of said act is amended so as to read as follows:

Funding  
of debt.

SEC. 5. Any person holding true and lawful warrants against the county of Sonoma, as provided in the third section of this act, shall have the privilege of receiving, in exchange therefor, ten per cent. bonds, as provided in the first section of this act; and the Treasurer is hereby directed and authorized to issue said bonds to the person holding said warrants, at the rate of dollar for dollar, including interest which may have accrued on said warrants; *provided*, that said warrants be presented on, or before, the first day of July, A. D. eighteen hundred and sixty-one, to the Treasurer of said county.

Time  
extended.

SEC. 2. The time allowed for funding the debt of the county of Sonoma, as prescribed in the act referred to in the first section of this act, is hereby extended until the first day of July, A. D. eighteen hundred and sixty-one.

To take  
effect.

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

CHAP. CLXX.—*An Act making the County Clerk of San Bernardino County ex officio County Superintendent of Public Instruction.*

[Approved April 15, 1861.]

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

SECTION 1. The County Clerk of the county of San Bernardino shall be *ex officio* County Superintendent of Public Instruction, and for such service he shall annually receive such sum as may be determined by the Board of Supervisors of said county. Additional duties.

SEC. 2. This act shall take effect from and after the expiration of the term of office of the present incumbent.

CHAP. CLXXI.—*An Act authorizing and empowering Juana M. Estudillo to sell and convey the interest in certain Real Estate of her infant Child.*

[Approved April 15, 1861.]

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

SECTION 1. Juana M. Estudillo, the Guardian of her infant heir, Jesus Maria Estudillo, is hereby authorized and empowered May sell  
real estate. to sell at private sale, and convey the whole, or any portion, of the interest of her said infant child, in and to the property situated in the county of Alameda, and known as the "Rancho of San Leandro," for such price and on such terms, as she may deem proper; *provided*, that no such sale shall be made unless the Probate Court of Alameda County shall first determine, upon proper showing, that the said sale is necessary and advantageous for the interest of said infant heir; and, also, *provided*, that no such sale, or conveyance, shall be valid until the same shall have been approved by the Probate Court of said Alameda County.

SEC. 2. In all deeds of conveyance made under the provisions of this act, there shall be inserted a copy of this act, and of the order of said Probate Court approving the sale; and such deeds of conveyance shall be deemed effectual in any court of law, or equity, to vest in the grantee therein all right, title, and interest, of said infant in the premises described in such deed; *provided*, that said Probate Court shall require of said Guardian such additional bonds, from time to time, as shall be sufficient to protect the interest of said infant child, in moneys arising out of sales made under this act. Validity  
of deed.

SEC. 3. This act shall take effect from and after its passage. To take  
effect.

CHAP. CLXXII.—*An Act authorizing the holding of Special Terms of the District Court, in the Counties of Amador and Calaveras.*

[Approved April 15, 1861.]

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

Special terms.

SECTION 1. A special term of the District Court of the Sixteenth Judicial District, shall be held in the county of Amador, beginning on the first Monday in May, A. D. eighteen hundred and sixty-one, and shall continue for two weeks, unless the business be sooner disposed of. And a special term of said court shall be held in the county of Calaveras, beginning on the third Monday in May, and shall continue until the commencement of the next regular term in Amador County.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CLXXIII.—*An Act concerning the compensation of the Deputy District Attorney, in the City and County of Sacramento.*

[Approved April 15, 1861.]

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

Compensation restricted.

SECTION 1. The compensation of the Deputy District Attorney, for prosecuting in the Justices', or Police, Courts, in the city and county of Sacramento, shall be restricted to five dollars for each conviction, cognizable in said courts, or for each case, when the party is held over to answer before the grand jury, to be collected from the defendant, and when not so collected, then to be allowed and paid out of the Salary Fund of the city, in all city cases, and in all other cases, out of the County Salary Fund.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CLXXIV.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to provide for paying the expenses of a Survey of the Harbor of San Francisco.*

[Approved April 15, 1861.]

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

For survey of harbor.

SECTION 1. The Board of Supervisors of the city and county of San Francisco, are hereby authorized to allow and order paid out of the General Fund, a sum not exceeding ten thousand dollars, for the expenses of surveying the harbor of San Francisco,

by the officers detailed for that purpose by the United States Government.

SEC. 2. The Auditor of said city and county is hereby authorized to audit, and the Treasurer of the same is hereby authorized to pay, any and all sums that may be allowed and ordered paid by said Board of Supervisors by authority of this act. To audit and pay.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CLXXV.—*An Act to amend Section Thirty-Six of an Act entitled An Act to repeal An Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento.*

[Approved April 15, 1861.]

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

SECTION 1. Section thirty-six of said act is amended so as to read as follows:

Sec. 36. The revenue collected, or accruing, prior to the first day of January, in the year eighteen hundred and fifty-nine, throughout the city and county, except such as may be collected for municipal purposes, within the city limits, is hereby set apart and apportioned as follows, namely: Twelve per cent. to a School Fund, to be used for school purposes, as provided by law; eight per cent. to the Pauper and Indigent Sick Fund; eighteen per cent. to the Salary Fund; twelve per cent. to the Contingent Fund, and the balance to a General Fund, which shall be applied to the payment of the outstanding Auditor's warrants, lawfully drawn on the treasury, and payable in the order of their registry; and the revenue accruing and collected for the county after the said first day of January, A. D. eighteen hundred and fifty-nine, when paid into the treasury, twenty-five per cent. shall go into the Interest and Sinking Fund; ten per cent. to the School Fund; eight per cent. to the Pauper and Indigent Sick Fund; twenty-five per cent. to the Salary Fund, and the balance, thirty-two per cent. to the General Fund; *provided*, that all moneys derived from the sale of lots, or from burial permits, in the City Cemetery, shall be set apart as a Cemetery Fund, to be applied to the payment of expenses incurred in maintaining and ornamenting the City Cemetery, all of which shall be exclusively applied to the several purposes for which such funds were set apart; and if at the close of any fiscal year there shall remain a surplus in either of the funds mentioned in section thirty-five, such surplus moneys shall be transferred to the Interest and Sinking Fund provided in such thirty-fifth section; and if a surplus shall be found at the end of any fiscal year in either fund mentioned in section thirty-six, except the Cemetery Fund, such surplus shall be transferred to the Interest and Sinking Fund, mentioned in said thirty-sixth section; and any transfer of any sum, or over-

Disposition of moneys.

Proviso.

plus, from one of the funds mentioned in sections thirty-five and thirty-six, to another fund made at any other time, or in any other manner than as provided in this act, is hereby strictly prohibited; and any violation of such provisions on the part of any officer, shall constitute a misdemeanor, punishable by fine of not less than five hundred dollars, or imprisonment in the county jail not less than three months. All moneys now in the treasury shall be appropriated as provided in this section.

CHAP. CLXXVI.—*An Act to appropriate Money to pay for services rendered under the Act creating the State Land Office, approved April tenth, eighteen hundred and fifty-eight, in the segregation of certain Swamp Lands of this State.*

[Approved April 15, 1861.]

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

Appropriat'n. SECTION 1. The sum of two hundred and ten dollars is hereby appropriated for the purpose of paying John T. Peabody, Agent of the State, under section three of the act creating the State Land Office, approved April tenth, eighteen hundred and fifty-eight, for services rendered in the month of December, eighteen hundred and fifty-eight, and January and February, eighteen hundred and fifty-nine, in the segregation of certain swamp lands in Solano County.

Same. SEC. 2. The sum of two hundred and forty dollars is hereby appropriated for the purpose of paying George H. Goddard, Agent of the State, under said act, for services rendered in the month of September to December, eighteen hundred and fifty-nine, and of October and November, eighteen hundred and sixty, in the segregation of swamp lands in Sacramento, Placer, and Sutter, counties.

To draw warrant. SEC. 3. The Controller of State is hereby authorized and required to draw his warrants on the Treasurer in favor of the above named John T. Peabody, for two hundred and ten dollars, and George H. Goddard, for two hundred and forty dollars, and the Treasurer is hereby directed to pay said warrants out of any money in the Swamp Land Fund not otherwise appropriated.

CHAP. CLXXVII.—*An Act to amend An Act to authorize certain Counties to retain the State's portion of the Poll Tax, less that portion authorized by law to be paid into the General School Fund, which shall be collected in said Counties for the year eighteen hundred and fifty-nine, and for the year eighteen hundred and sixty, to be applied to the construction and improvement of a Wagon Road, from Cloverdale to Yreka, approved April eighteenth, eighteen hundred and fifty-nine.*

[Approved April 15, 1861.]

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

SECTION 1. Section three of said act is hereby amended so as to read as follows :

Sec. 3. The Board of Supervisors of Mendocino County shall cause the money to be received according to the provisions of this act, from the County Treasurers of said counties of Sonoma, Napa, and Mendocino, to be expended for the construction and improvement of a wagon road leading from Cloverdale, through the Russian River Cañon, by Feliz's Ranch, through Ukiah Valley, Little Lake Valley, Long Valley, and to the southern boundary line of Humboldt County. The present site, or location, of the road leading from Cloverdale *via* Hutton's Ranch, to Sanel, known as the State Road, shall be transferred, changed, or located, as hereinafter provided, to wit : Commencing at Cloverdale, in Sonoma County, thence running north, crossing Russian River at, or near, Fouts' Mill, in the Russian River Cañon, thence running on the present traveled route, as near as practicable, recently laid out and partially completed, in the cañon, and from thence the nearest and best route to the old crossing, at, or near, the Ranch House of Feliz, thence across Russian River, thence in a northwesterly direction until it intersects said State Road, at, or near, Conner's Store.

To construct wagon road.

SEC. 2. This act shall take effect from and after its passage.

To take effect.

CHAP. CLXXVIII.—*An Act to extend the term of Office, define the duties and powers, in certain cases, and establish the Salaries of the Board of Supervisors of San Bernardino County.*

[Approved April 15, 1861.]

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

SECTION 1. At the next general election there shall be elected, in the county of San Bernardino, three Supervisors, who shall be elected by the qualified electors of each district, who shall hold their office for the term of one, two, and three, years, respectively ; and at the first meeting of the Board of Supervisors after their election, they shall draw lots for the terms one, two, and

To elect Supervisors.

three, years, respectively; and the Supervisor who draws one year, shall hold office for one year from the time of his election, and until his successor is elected and qualified; and the Supervisor who draws two years, and the Supervisor who draws three years, shall hold office for the term of two years and three years respectively, and until their successors are elected and qualified.

Same.

SEC. 2. Said Supervisors shall be qualified electors of the respective districts which they represent, and shall be elected by the qualified electors thereof. There shall be one Supervisor elected in said county every year thereafter, to hold office for the term of three years. They shall be elected by their respective districts alternately, as the term of office of each Supervisor expires.

Not to be interested.

SEC. 3. The Board of Supervisors shall not act upon any bill, or claim, in which a majority of them may have a direct, or contingent, interest, nor shall any member of said Board vote upon any bill, or claim, in which he is interested, either directly, or contingently, nor shall they appoint either of their number to any position of honor, or profit, which they may be authorized by law to create, or fill.

To redistrict county.

SEC. 4. It shall be the duty of the present Board of Supervisors of said county to-redistrict the county, at their regular meeting next preceding the next general State election, dividing the county into three Supervisor Districts, with due regard to the population and topography of the county, and declare and define the boundaries thereof, and they shall number the same consecutively, from one to three; *provided*, that the city and rancho of San Bernardino, except that portion of the rancho known as the Yucaipa Valley, shall not be divided, and shall contain but one election precinct.

Compensation.

SEC. 5. Each member of the Board of Supervisors of San Bernardino County shall be entitled to receive for each day's necessary attendance on the business of the county, a sum to be fixed by the Board, not to exceed four dollars per day, and in the aggregate, during one year, not to exceed one hundred and twenty dollars; and each one of said Supervisors shall be entitled to receive twenty cents per mile for each mile necessarily traveled in going to the county seat, to be allowed and audited as other accounts against the county; *provided*, that no mileage shall be allowed for more than one trip at each session of the Board. The per diem of each Supervisor shall be allowed and audited annually, by the Board, at their first regular meeting after each general State election; and if any member shall have been absent at any regular meeting of the Board, he shall forfeit to the county the amount of one day's services for each day's absence, to be deducted from his claim for services, unless such absentee shall have been detained by sickness, in which case he shall be excused from payment of said forfeiture; *provided*, he officially notify the Clerk of the Board of his cause of absence. It shall be the duty of the Clerk to enter such notice, at length, upon the journals of the Board.

When to meet.

SEC. 6. The Board of Supervisors of San Bernardino County shall meet regularly, on the third Monday of each of the following months, viz: February, May, August, and November, at the county seat in said county, for the transaction of business, and



shall continue in session till all the business presented for their action shall be completed. The Board shall also meet on the second Monday after each general election, to canvass the election returns; two special terms, and no more, may be held within the same year, unless for the purpose of filling such vacancies in office as the Board of Supervisors are authorized and required by law to fill; *provided*, however, that nothing in this section shall be so construed as in any manner to interfere with the present law regulating and defining the powers and duties of the Board of Equalization in said county.

SEC. 7. If by the death, resignation, or removal, from the district, of either of the members of the Board, or by any other cause, a vacancy should occur, it shall be the duty of the County Judge, County Clerk, and County Treasurer, to appoint some qualified elector of said district to fill such vacancy until the next general election, at which time, if the term shall not have expired, it shall be filled by election. Vacancies.

SEC. 8. The Supervisor filling the term nearest expiration shall be Chairman of said Board; *provided*, that in no instance shall this provision apply to a member of the Board elected to fill a vacancy, unless each member composing said Board shall have been elected, or appointed, to serve out an unexpired term. Chairman.

SEC. 9. So much of an act entitled An Act to create a Board of Supervisors in the Counties of this State, and define their duties and powers, approved March twentieth, eighteen hundred and fifty-five, and all other acts and parts of acts which conflict with this act, are hereby repealed. Repealing clause.

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CHAP. CLXXIX.—*An Act to audit and allow the Claim of John Herzo, Assignee.*

[Approved April 17, 1861.]

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

SECTION 1. The claim of John Herzo, Assignee of Marvin & Hitchcock, for the sum of seven hundred and fifty-two dollars and ninety cents, for stationery, etc., furnished the Supreme Court and State Officers during the year A. D. eighteen hundred and fifty-four, is hereby audited and allowed. Claim allowed.

CHAP. CLXXX.—*An Act for the relief of the Clerk of the Board of Supervisors of Sacramento City and County.*

[Approved April 17, 1861.]

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

Claim  
allowed.

SECTION 1. The Board of Supervisors of the city and county of Sacramento are hereby authorized and required to audit and allow the claims of the Clerk of said Board for necessary services rendered in his office, from the first day of May, A. D. eighteen hundred and sixty, a sum not exceeding one hundred and fifty dollars per month, the same being for the services of an Assistant, or Deputy, Clerk, employed by him, in the duties of said office, at the request of said Board of Supervisors, for the payment of which no provision is made in the existing law.

How paid.

SEC. 2. The claims mentioned in the first section of this act, shall be a city and county charge; and the President of said Board of Supervisors and the Auditor of said city and county, are hereby required to draw their warrant, or warrants, for said claims, payable, one-half out of the City Contingent Fund and one-half out of the County Contingent Fund; said claims to be allowed and said warrant, or warrants, to be drawn in the manner provided by law.

To take  
effect.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CLXXXI.—*An Act to authorize the Board of Supervisors of the County of Tehama to levy, assess, and collect, certain Taxes in said County.*

[Approved April 17, 1861.]

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

To levy tax.

SECTION 1. The Board of Supervisors of said county are hereby authorized and required to levy and assess upon all the taxable property in said county, a tax, not to exceed twenty-five cents on each one hundred dollars of taxable property, in addition to the tax now authorized by law to be levied, assessed, and collected, for county purposes; and the money arising from said tax shall constitute a Building Fund and be applied to the payment of the indebtedness of said county for the building of the court-house, to be and remain in force until the indebtedness of the building of said court-house be fully paid; and any surplus that may accrue under this act shall then be paid into the General Fund of said county.

Manner of.

SEC. 2. All taxes authorized to be levied, assessed, and collected, under this act, shall be levied, assessed, and collected, at the same time and in like manner, as other taxes for State and county purposes are levied, assessed, and collected; *provided*, that the taxes herein provided for the present fiscal year, may

be assessed by the Board of Supervisors of said county within sixty days from the passage of this act.

SEC. 3. Before the Board of Supervisors shall levy the tax imposed in this act, Virgil Baker shall return the warrants he holds against the General Fund of Tehama County, and take instead, a warrant, or warrants, on this fund, for five thousand five hundred and fourteen dollars, bearing ten per cent. interest from the time the warrants on the General Fund were drawn; and should he fail to deliver said warrants on the General Fund, then this act shall be null and void. Conditions.

SEC. 4. This act to be in force from and after its passage. To take effect.

CHAP. CLXXXII.—*An Act for the Relief of John T. Carey, Treasurer of Klamath County.*

[Approved April 17, 1861.]

*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 directed to draw a warrant on the Treasurer of State, in favor of John T. Carey, Treasurer of Klamath County, for the sum of seventy-one dollars and twenty-five cents, the same being an amount overpaid by said Carey, into the State treasury in his settlement of July, A. D. eighteen hundred and fifty-eight. To draw warrant.

SEC. 2. The sum of seventy-one dollars and twenty-five cents is hereby appropriated, out of any money in the treasury not otherwise appropriated, for the payment of said claim. Appropriation.

CHAP. CLXXXIII.—*An Act for the preservation and protection of Trout.*

[Approved April 17, 1861.]

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

SECTION 1. It shall not be lawful for any person, or persons, to cast, draw, or make use of, any seine, or net, hook and line, or other appliances, for the purpose of catching trout, in any of the streams, rivers, or lakes, in this State, during the time intervening between the twentieth day of October, of each year, and the first day of April, of the following year. When unlawful to catch trout.

SEC. 2. Any person who shall be convicted of an offense against the provisions of the foregoing section, or who shall buy, or sell, or expose to be bought, or sold, the species of fish named therein, within the time specified, shall be fined, for any and each offense, in the sum of fifty dollars, one-half of which fine shall be in each case paid to the informer. Penalty.

**Jurisdiction** · SEC. 3. It shall be the duty of all Justices of the Peace in the counties of this State, to take cognizance of all offenses under this law; and the fines herein imposed shall be collected in like manner as fines in criminal cases under the laws of this State.

CHAP. CLXXXIV.—*An Act to amend an Act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty.*

[Approved April 17, 1861.]

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

SECTION 1. Section seventy-four of said act is hereby amended so as to read as follows:

**Officers,  
when elected**

Sec. 74. There shall be elected in each county, at the next general election for county officers, and every two years thereafter, a County Auditor, who may also be *ex officio* County Recorder; and after such election, no County Auditor shall perform the duties of County Clerk, but the office of Auditor and County Clerk shall be a separate and distinct office; *provided*, that in the counties of Napa, Mendocino, Solano, San Mateo, Yolo, Stanislaus, Trinity, Humboldt, Klamath, Del Norte, Contra Costa, Sutter, Los Angeles, San Bernardino, Tulare, Santa Barbara, San Diego, San Luis Obispo, Fresno, Buena Vista, Monterey, Santa Cruz, Marin, Amador, Calaveras, Plumas, Merced, Alameda, Siskiyou, Shasta, Colusa, and Tehama, the County Clerk shall be *ex officio* Auditor and County Recorder; and in the county of Yuba the County Recorder shall be *ex officio* County Auditor. The Auditor, in addition to his bonds as Recorder, shall, within twenty days next after his election, execute two bonds as County Auditor to the people of the State of California, each in the sum of ten thousand dollars, one to be approved by the Governor and Controller of State, and filed in the office of the Controller; the other to be approved by the County Judge, and filed in the office of the County Clerk; which bonds shall be conditioned for the faithful performance of the duties of his office as County Auditor, and he shall take the oath of office as required by law, and he shall receive for his services a stated quarterly salary, to be fixed by the Board of Supervisors of his county; *provided*, that in the counties of Calaveras, Yolo, Solano, Napa, Trinity, Humboldt, Mariposa, Tulare, Merced, Stanislaus, Buena Vista, Fresno, and Amador, the salary of the Auditor shall not be fixed at a less amount than the amount of fees and per centage now allowed to the Auditor, Recorder, and Clerk, on foreign miners' license, poll tax, merchant's, trader's, and other, licenses. The provisions of this section shall not apply to the county of Tuolumne.

**To take  
effect.**

SEC. 2. This act shall be in force from and after its passage.

CHAP. CLXXXV.—*An Act to authorize the Trustees of the Contra Costa Educational Association of the County of Contra Costa to sell, or mortgage, the Real Estate, or other Property, belonging to the Association, for certain purposes.*

[Approved April 17, 1861.]

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

SECTION 1. The Trustees of the Contra Costa Educational Association, who were elected at a meeting of the stockholders of the association, held on the twenty-seventh day of August, eighteen hundred and fifty-nine, and their successors in office, while acting as Trustees under the constitution and by-laws of the association, are authorized and empowered to mortgage, or sell, and convey the real estate, or other property, belonging to the association. Any sale, mortgage, or conveyance, shall be signed by the Board of Trustees and acknowledged as other mortgages and deeds of conveyance are required to be acknowledged, and shall operate as a mortgage, or conveyance, of all the right, title, and interest, of the association, or its stockholders, in the real estate, or other property, mortgaged, or conveyed; and any mortgage executed by the Trustees, as provided in this act, may be foreclosed in a court of competent jurisdiction, and the property may be sold under such foreclosure as in other cases; and in such suit, it shall only be necessary that the Trustees be made parties defendant.

Duty of Trustees.

SEC. 2. The Trustees shall not execute any mortgage on the property of the association, except to secure the payment of the present existing indebtedness of the association; and no mortgage, or conveyance, of the property of the association shall be made by the Trustees, except they be authorized by a resolution adopted at any regular meeting of the stockholders of the association, or at a special meeting, a quorum of the stockholders of the association being present at such special meeting, authorizing, or directing, the Trustees to mortgage, or sell and convey, the property; and such resolution shall be embraced in, or referred to, in such mortgage, or conveyance.

Restrictions

SEC. 3. This act shall take effect from its passage.

To take effect.

CHAP. CLXXXVI.—*An Act to support and maintain a Fire Department in the City of Nevada.*

[Approved April 17, 1861.]

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

SECTION 1. There shall hereafter be annually levied by the Board of Trustees of the city of Nevada and collected by the Marshal thereof, twenty cents on each one hundred dollars of the assessed valuation of property within said city for support

To levy tax.

and maintenance of companies, having for their object the protection of the property of the city against fires.

Manner of collection.

SEC. 2. Such taxes shall be levied and collected at the time and in the same manner as other regular city taxes are levied and collected, and neither the Marshal, nor the Treasurer, shall receive any compensation for the collection, or disbursement, of any moneys collected under the provisions of this act.

Disposition of moneys.

SEC. 3. The moneys collected under the provisions of this act shall be paid over to the City Treasurer, who shall set it apart as a Fire Fund, and it shall be devoted to paying the necessary current expenses of the fire companies organized according to law in said city, and shall be subject to the disposition hereinafter provided.

To report monthly.

SEC. 4. The Board of Delegates shall furnish to the Board of Trustees of the city at the end of each month, a statement of the current expenses necessarily incurred of each fire company in the city; and if such statement shall be deemed just and reasonable, the Board of Trustees shall cause to be issued warrants on the Fire Fund for the respective sums, payable to the Foreman of the respective companies, and the City Treasurer shall pay the same out of said fund.

Transfer of funds.

SEC. 5. Whatever sums of money shall remain in the Fire Fund on the first day of January of each year, shall be paid into the General Fund of the city treasury.

To take effect.

SEC. 6. This act shall take effect on and after its passage.

CHAP. CLXXXVII.—*An Act to amend An Act passed April thirtieth, eighteen hundred and fifty-one, entitled An Act to regulate Rodeos.*

[Approved April 17, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows:

General rodeos.

Section 1. Every owner of an uninclosed stock farm shall be obliged to give, yearly, one general rodeo within the limits of his farm, between the first day of April and the thirty-first day of July, in the counties of San Luis Obispo, Santa Barbara, and San Diego, and in the remaining counties between the first day of March and the thirty-first day of August; and the person giving such general rodeos shall give notice thereof to all the owners of adjoining farms, at least four days previous to said rodeos being made, in order that parties interested may meet for the purpose of separating their respective cattle, it being understood that this requisite will be complied with by giving verbal notice to the owners of such adjoining farms, or by leaving a notice at their respective farm residences with any servant, or member, of the family; *provided*, that in the county of Monte-

rey, the Board of Supervisors shall prescribe and regulate the time and manner of giving rodeos in said county.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CLXXXVIII.—*An Act to authorize the construction of a Wagon Road in the Cajon Pass, in the County of San Bernardino.*

[Approved April 17, 1861.]

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

SECTION 1. Henry M. Willis, George L. Tucker, and John Brown, or their assigns, are hereby authorized to construct a wagon road, not to exceed eighty feet in width, commencing at the base of the mountains at the mouth of the Cajon Pass, in the county of San Bernardino, and running through said pass across the Sierra Nevada, to such point at the northern base of said mountains as may be determined upon by the Engineer of said grantees, or their assigns; and said grantees, or their assigns, shall be authorized to collect tolls on said road, for a period of twenty years, from and after the completion of said road. Franchise granted.

SEC. 2. The Board of Supervisors of San Bernardino County shall from year to year regulate the tolls to be collected on said road; *provided*, that they shall not so establish, or reduce, the rates of toll, so as to make the dividend on said road less than three per cent. per month upon a fair valuation of the said road, to be determined by the Board of Supervisors of said county. To regulate tolls.

SEC. 3. Said road shall be surveyed and completed at any time within eighteen months after the passage of this act, and shall not hinder nor obstruct the existing traveled road through said pass. Conditions.

SEC. 4. The act of May twelfth, eighteen hundred and fifty-three, authorizing the formation of Corporations for the construction of Plank, or Turnpike, Roads, and the act of April twenty-second, eighteen hundred and fifty-three, to provide for the Incorporation of Wagon Road Companies, are made applicable to this act, except so far as they may conflict with the provisions of this act. Acts applicable.

SEC. 5. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CLXXXIX.—*An Act to grant the right to construct and maintain a Ferry across the Salinas River at the City of St. Paul, in the County of Monterey.*

[Approved April 17, 1861.]

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

Franchise granted.

SECTION 1. Paul Lezer and his assigns shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, hereinafter mentioned; *provided*, he and they shall abide by and fulfill the conditions hereinafter named.

Term of franchise.

SEC. 2. The said Lezer and his assigns shall have full power to construct, operate, and maintain, a public ferry across the Salinas River, and what is known as the Elkhorn Slough, to run between any point on said Lezer's levee, in the city of St. Paul, in the county of Monterey, to any convenient points on the opposite bank of said river and slough, not to exceed one hundred yards above and below the mouth of what is known as Phipps' Slough, opposite said city of St. Paul, and shall have and enjoy all the rights, privileges, and immunities, thereunto belonging, and shall have the right of way across said river and slough, and the privilege of using the same for that purpose, which is hereby granted, and ceded to the said Lezer and his assigns for the term of twenty-one (21) years; *provided*, that the said Lezer, or his assigns, shall, within two months from the passage of this act, commence the construction of a ferry boat, and within ten months fully complete the same, or that they shall, within said period of ten months, procure and supply a proper, safe, and convenient, boat for said purpose; otherwise the right to maintain the same shall be forfeited.

Conditions.

SEC. 3. Said ferry boat shall be constructed upon the most approved plan, in a substantial manner, and of durable materials, and shall always be kept in good working order and condition, and be supplied with a sufficient number of skillful ferrymen to work the same; and said ferry and its owner, or owners, shall be responsible and liable for all damages to persons and property crossing said ferry, caused by the negligence, or failure, in working said boat, or keeping the same in proper repair.

To collect tolls.

SEC. 4. Said Lezer and his assigns shall have power to demand and collect of, and from, all persons and property, crossing said ferry, such rates of toll as shall be fixed by the Board of Supervisors of Monterey County; and it shall be the duty of said Board of Supervisors to fix and regulate, from time to time, the rates of toll to be charged for crossing on said ferry. And the rates of toll so fixed shall be posted in a conspicuous place at, or near, said ferry, and on said boat.

Obstructions.

SEC. 5. Nothing in this act shall be so construed as to authorize any one to obstruct, or in any way interfere with, the free navigation of said river and slough.

To take effect.

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



CHAP. CXC.—*An Act to provide for the appointment of Commissioners in Equity.*

[Approved April 17, 1861.]

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

SECTION 1. There shall be appointed and commissioned by the Governor, in the same manner as Notaries Public are now appointed and commissioned, four persons, residents of the city and county of San Francisco, of the degree of Counselors of the Supreme Court, to be denominated and known as Commissioners in Equity, who shall hold their office for the term of two years, and until their successors are appointed and qualified. Commis-  
sioners.

SEC. 2. Said Commissioners in Equity shall be authorized, upon an order made for that purpose by any court, to take testimony in equity cases, to be used on the trial, or argument, of such cases, take and state accounts between parties, and perform such other duties as the court may direct. To take  
testimony.

SEC. 3. Said Commissioners in Equity shall be entitled to receive for their services for taking testimony in equity cases the same fees as are now allowed by law to Notaries Public for like services. Fees.

SEC. 4. Said Commissioners in Equity, before entering upon the duties of their office, shall execute bonds to the State in the same manner and amount as is now required by law in relation to Notaries Public. To give bond

CHAP. CXCI.—*An Act amendatory of An Act to make certain Offices in Tuolumne County, salaried Offices, approved February twenty-second, A. D. eighteen hundred and sixty-one.*

[Approved April 17, 1861.]

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

SECTION 1. Section six of An Act to make certain Offices in Tuolumne County, salaried Offices, approved February twenty-second, A. D. eighteen hundred and sixty-one, is hereby amended to read as follows :

Sec. 6. The Collector shall collect all taxes and licenses of every kind required by law for State and county purposes, and he shall receive a salary at the rate of three thousand dollars per annum; *provided*, the Supervisors of the county make the county one collection district; if more than one district, the said sum of three thousand dollars to be divided by the Supervisors as salaries to the Collectors of each district, which salary, if for the whole county, or the due proportion to each Collector, if more than one, shall be in full compensation for all services required of the Collectors by law; *provided*, that when the Collec- Duties of  
Collectors.

tors shall personally perform the service of collecting license taxes, poll taxes, and foreign miners' licenses, said Collectors shall be entitled to receive the fees now allowed by law to Deputy Collectors for the performance of such service.

CHAP. CXCII.—*An Act to define the duties and liabilities of Pawnbrokers and Pledges.*

[Approved April 17, 1861.]

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

Register  
book.

SECTION 1. Every person, or firm, carrying on the business of a pawnbroker, or pledgee, in this State, shall keep a register book, wherein shall be entered, in the English language, the date, duration, amount, and rate of interest, of every loan made by him, her, or them, an accurate account and description of the property pledged, and the name and residence of the pledger, and, at the same time, deliver to said pledger, a written, or printed, memorandum signed by him, her, or them, containing a copy of the said entry, and shall also, in like manner, keep an account of all sales made by him, her, or them.

Rate of  
interest.

SEC. 2. The rate of interest, or per centage, which shall be lawfully charged by any pawnbroker, or pledgee, shall not exceed four per cent. per month, in advance, on all loans exceeding twenty dollars, which shall include all charges for discount, commissions, storage, brokerage, wasting, and all and every charge, or charges, thereupon; nor shall said interest at any time be compounded.

Liabilities.

SEC. 3. Any pawnbroker, or pledgee, who shall directly, or indirectly, charge, or receive, any interest greater than four per cent. per month, or by charging commissions, discount, brokerage, storage, wastage, or other charge, or shall attempt to increase said interest, or shall compound said interest, shall forfeit three times the value of the article pledged, or to be pledged, to be recovered by the owner, or pledger, in a civil action which may be brought by the party aggrieved.

When to sell.

SEC. 4. No pawnbroker, or pledgee, shall sell, or dispose, of any article pledged to them and unredeemed, until it has remained in his, her, or their, possession six months after the last day of redemption; and all such sales shall be at public auction upon notice of five days, published in some newspaper printed at the place where the sale takes place; and if no newspaper is there printed, then by posting notices in two public places, five days before the sale, giving the place where the article will be sold, and a list of said articles, which sales shall, in all cases, take place in the town, or city, where such articles are pledged.

Redemption  
of property.

SEC. 5. After deducting from the proceeds of any sale as aforesaid, the amount of the loan, the interest then due as herein provided, and four per cent. on the loan additional for the ex-

pense of the sale, such pawnbroker, or pledgee, shall pay the balance to the person entitled to redeem such property; if no sale had been made, and if not so paid on demand, three times the amount thereof shall be forfeited, to be recovered by the owner, or pledger, in a civil action to be brought by him therefor.

SEC. 6. Every pawnbroker, or pledgee, shall exhibit his, her, or their, register book, and all articles received by him, her, or them, in pledge, and his, her, or their, account of sales to any Sheriff, Constable, or Police Officer, possessing the necessary writ, or warrant, to search for personal property. <sup>To exhibit register book</sup> It shall be the duty of every pawnbroker, or pledgee, to produce his register book for inspection to any Sheriff, Constable, or Police Officer, whenever so required by the order of any Committing Magistrate of the county, and such order may be made by such magistrate whenever he shall deem it expedient for the purpose of ascertaining the place of concealment of any stolen property.

SEC. 7. Every pawnbroker, or pledgee, who shall violate the provisions of this act, shall be deemed guilty of a misdemeanor, <sup>Penalty.</sup> and shall be fined in a sum not less than fifty, nor exceeding five hundred, dollars, or imprisoned in the county jail for a term not exceeding six months.

CHAP. CXCIH.—*An Act to amend an Act entitled An Act for the protection of Game, passed May thirteenth, eighteen hundred and fifty-four.*

[Approved April 17, 1861.]

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

SECTION 1. Section one is hereby amended so as to read as follows :

[Section 1.] It shall not be lawful for any person, or persons, hereafter to take, kill, or destroy, any of the following game within the time hereinafter specified, namely : quails, partridges, or grouse, mallard duck, wood duck, teal duck, and spoonbill duck, <sup>When to kill game.</sup> and all other broad bill ducks, shall not be taken, killed, or destroyed, between the fifteenth day of March and the fifteenth day of September in each year; *provided*, that in the counties of San Bernardino and Los Angeles, the taking, killing, or destroying, of any of the birds, or game, above enumerated, shall be lawful at any time between the first day of August and the first of April of each year, and at no other time.

SEC. 2. The act of April thirtieth, eighteen hundred and sixty, supplemental to An Act for the protection of Game, passed May thirteenth, eighteen hundred and fifty-four, is hereby repealed. <sup>Repealing clause.</sup>

CHAP. CXCIV.—*An Act to authorize Pacificus Ord to sell certain Real Estate of his Infant Children.*

[Approved April 17, 1861.]

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

SECTION 1. Pacificus Ord, as the Guardian of his infant children, Mary Elizabeth Ord and Joseph Pacificus Ord, now, or hereafter, to be appointed by the court, or Probate Judge of Butte County, upon his executing, as such Guardian, a bond, in such penalty as such court, or Judge, shall direct, is hereby empowered to sell at public, or private, sale any and all real estate, and any right, title, and interest, therein, belonging to said infant children, or either of them, in this State.

To sell real estate.

SEC. 2. The said Guardian shall make a full report of any and all sales that he shall make, by virtue of the power herein granted, to the said Probate Court, and the Judge of said court shall, either in term time, or in vacation, in open court, or in chambers, examine the same, and confirm, or set aside, the said sale, or sales, as he may deem just and proper, and for the interest of said infants.

To report.

SEC. 3. Upon the approval of the sale, or sales, by the said court, or the Judge thereof, the said Guardian shall execute and deliver a deed, or deeds, of conveyance of the lands sold, which deed, or deeds, shall convey to the purchaser, or purchasers, all the right, title, and interest, of the said infants, or either of them, in and to the land sold by such Guardian and described in such deed, or deeds, and shall be as valid, to all intents, as if made under an order of the proper Probate Court in due course of law.

To execute conveyance.

CHAP. CXCV.—*An Act fixing the salary of the County Judge of San Bernardino County.*

[Approved April 17, 1861.]

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

SECTION 1. The County Judge of San Bernardino County shall receive for his services a salary of seven hundred and fifty dollars per annum, payable every three months.

Salary.

SEC. 2. This act shall take effect from and after the expiration of the term of the present incumbent of said office.

To take effect.

SEC. 3. All acts and parts of acts conflicting with this act are hereby repealed.

Repealing clause.

CHAP. CXCVI.—*An Act for the relief of James McCauley, County Assessor of Yolo County.*

[Approved April 17, 1861.]

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

SECTION 1. The County Auditor of Yolo County, in making his settlement with James McCauley, County Assessor of Yolo County, shall credit said McCauley with the sum of two hundred and thirty-eight dollars, (\$238 00,) being the proceeds of sixty-nine poll tax receipts and of three hundred and twenty-five military tax receipts, less his per centage for collecting the same, it being the amount stolen from said McCauley on the night of Sunday, the second day of December, A. D. eighteen hundred and sixty. To give credit.

CHAP. CXCVII.—*An Act to provide for a Railroad within the City and County of San Francisco.*

[Approved April 17, 1861.]

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

SECTION 1. The right is hereby granted to Michael Skelly, John Gardner, and Thomas Donahue, and their associates, and to them and their, or any of their, assigns, to lay down and maintain an iron railroad within the city and county of San Francisco, along and upon the following streets, namely: Commencing at, or near, the southern end of Third Street; along Third to Howard; along Howard to Second; along Second to Market; along and across Market to Sansome; along Sansome to Washington; along Washington to Stockton; along Stockton to Union; along Union to Powell; along Powell to, or near, its northern end; and from the intersection of Sansome with Washington, connecting with the road above described at said intersections; along Sansome to Jackson; along Jackson to Stockton, there connecting with the railroad along Stockton to Union, as aforesaid. And from the intersection of Market and Third, along Third to Howard; along Howard to Center; along Center to its intersection with Dolores; with a single track only from the intersection of Sansome with Washington, along Washington to Stockton; along Stockton to Jackson; and from the said intersection of Sansome with Washington, along Sansome to Jackson; along Jackson to Stockton; and from the intersection of Market and Third, and upon the other streets mentioned, with a single, or double, track, at the option of the said grantees, their associates, and assigns; the rails to be of the most improved pattern used in the eastern cities, with the proper and necessary switches and turnouts along the entire routes, and to run cars thereon not exceeding twenty-four feet in length, at convenient Franchise granted.

hours of every day and night, for the transportation of passengers.

Owners  
to plank.

SEC. 2. The owners of said railroads shall pave, or plank, (as the proper authorities of the said city and county shall direct,) the streets through which the said railroads shall run, along the whole length thereof, for a width extending two feet on each side of said roads, and shall keep the same constantly in repair.

Width of  
track.

SEC. 3. The track of said railroads shall be not more than five feet wide within the rails, with a space between the double tracks sufficient for the passage of the cars. It shall be laid as nearly as possible in the center of each street, and flush with the level of the street, and so as to offer as little obstruction as possible to the crossing of vehicles; and where the roads, herein provided for, shall intersect any other road, the rails of each road shall be so altered, or cut, as to permit the cars to cross without obstruction; and nothing in this act shall be so construed as to prevent any other railroad company, hereafter formed, from crossing the roads herein mentioned, at any point, in like manner in the city and county of San Francisco.

Obstruc-  
tions.]

SEC. 4. For the purpose of laying down, or repairing, the said railroads, not more than the length of one block in any one street, within the present fire limits of the city and county, shall be obstructed at one time, nor for a longer period, at one time, than ten working days.

Rates of  
fare.

SEC. 5. The rates of fare of each passenger upon each of said railroads, for any distance, going, or returning, shall not exceed five cents for each passenger when two, or more, passages, or tickets for passage, are purchased. When a single passage is required, it shall be chargeable at ten cents; *provided*, that only one fare shall be charged on the route from the southern end of Third Street to the northern end of Powell Street, whether the passage thereon shall be going, or returning, either through Washington, or Jackson, street.

Cars, how  
to be built.

SEC. 6. The cars upon said railroad shall be of the most approved construction for the comfort and convenience of passengers, and shall be provided with sufficient brakes and other means for stopping the same when required. They shall be moved by horses, or mules, and not otherwise, and at a speed not exceeding eight miles an hour; and in case of a violation of this provision, the owner, or owners, of said railroad shall be subject to a fine, not exceeding one hundred dollars, for each offense.

May change  
route.

SEC. 7. It shall be lawful for the owners of said franchise, hereby granted, at any time to change the said route, so as to pass from Market to and through Montgomery to Jackson, by surrendering said route from the intersection of Market and Second through Sansome to Jackson, and from Sansome to Montgomery; and upon such surrender, the franchise, so far as it relates to Sansome Street, shall utterly cease and determine, and they shall leave the same in as good condition as the adjoining portion of said street; *provided*, that they shall first obtain the consent, in writing, of a majority of the owners of the property abutting upon such substituted route, estimated by the front foot.

SEC. 8. Any person willfully obstructing the said railroads shall be deemed guilty of a misdemeanor, and punished accordingly. Penalty for obstructing.

SEC. 9. The franchises and privileges, hereby granted, shall continue for the period of twenty-five years, to date from and after the passage of this act; *provided*, nevertheless, that the whole line of said railroad shall be completed, at least upon a single track and passenger cars running thereon, within two years from and after May first, eighteen hundred and sixty-one, and the grantees shall, within six months after the passage of this act, commence the construction of said roads, but no time during which they shall be prevented therefrom by legal process, shall be counted as a part of said six months; and shall, within three months after the passage of this act, execute to the city and county of San Francisco a bond with good and sufficient sureties, to be approved by the County Judge of said city and county, conditioned, in the sum of thirty thousand dollars, for the completion of the railroads according to the requirements and privileges of this act, and file the same with the Treasurer of said city and county for the benefit thereof; and upon a failure to comply with the provisions of this section, the franchises and privileges, hereby granted, shall utterly cease and determine, and the amount of the said bond may be recovered from the obligors therein named in an action brought in the name of the city and county of San Francisco. Limit of franchise.

SEC. 10. The owners of said railroads are required to sell, transfer, and convey, the same, together with the cars which may be employed thereon, to the city and county of San Francisco, at any time after the expiration of fifteen years from the completion of the same, upon a demand being made to that effect by the said city and county, and upon the payment to said parties by said city and county, the appraised value thereof, exclusive of the value of said franchises, or the purchase of said roads, they, together with the franchise, shall vest in the said city and county; said appraisal to be made by five Commissioners, in the manner following: The Board of Supervisors of the city and county of San Francisco, shall appoint two Commissioners and notify the grantees, or their assigns, of such appointment, who, within ten days after the receipt of such notice, shall appoint two Commissioners, and notify the Board thereof. The four Commissioners so appointed shall elect a fifth; but in case of their inability to agree upon such fifth Commissioner within ten days, he shall be appointed by the County Judge of said city and county. In case of the failure of the grantees, or their assigns, to appoint Commissioners on their part as above provided, or in case of their refusal to act, the County Judge shall have the power of appointing them. Said Commissioners shall make their appraisal, and present their report, within thirty days after the completion of the commission, and file the same in the office of the Clerk of the Board of Supervisors. A majority of said Commissioners shall constitute a quorum, and the award of a majority shall be final and binding upon the parties. The amount of the award shall be paid by the Treasurer of the city and county to the grantees, or their assigns, within sixty days To transfer franchise.

after the filing of said award, and, thereupon, the title to the said railroads and cars shall vest in the said city and county.

How to  
construe act.

SEC. 11. Nothing in this act shall be so construed as, in anywise, to prevent the proper authorities of the said city and county of San Francisco from sewerage, grading, paving, plank-ing, repairing, or altering, any of the streets hereinbefore speci-fied; but all such work shall be so done, if possible, as not to ob-struct the free passage of the cars upon the said railroads; and where the same shall not be possible, the said authorities, before the commencement of such work, shall allow to the owners of said railroads time sufficient to enable them to shift the rails, or take other means, so as to avoid said obstruction during the con-tinuanee thereof, which they, the said owners, are hereby au-thorized to do.

To pay  
license.

SEC. 12. The owners of said railroads shall pay to the city and county of San Francisco the sum of fifty dollars per annum, as a license upon each car used by them upon said railroads, which payment shall be made quarterly to the said city and county.

CHAP. CXCVIII.—*An Act to provide for Street Railroads within the City and County of San Francisco.*

[Approved April 17, 1861.]

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

Franchise  
granted.

SECTION 1. The right is hereby granted to Robert Allen, A. J. Bowie, and John Center, and their associates, and to them and their, or any of their, assigns, to lay down and maintain an iron railroad within the city and county of San Francisco, along and upon the following streets, namely: Commencing at the intersec-tion of California and Montgomery streets, and running through said California Street to Battery Street; thence along Battery Street to Bush Street; thence in a direct line to the intersection of First and Market streets; thence along First Street to Folsom Street; thence along Folsom Street to Center Street; thence to the southern boundary line of the city and county of San Fran-cisco, with a double track over the entire route; the rails to be of the most approved pattern used in the eastern cities, with the proper and necessary switches and turnouts along the entire route, and to run cars thereon, not exceeding twenty-four feet in length, at convenient hours of every day and night, for the trans-portion of passengers; *provided*, that by the franchise herein granted the corporation shall not have the right to lay tracks, or run cars, upon streets occupied by any other railroad corpo-ration, except when it shall be necessary to cross the same at right angles.

Owners  
to plank.

SEC. 2. The owners of said railroad shall pave, or plank, as the proper authorities of said city and county shall direct, the streets through which the said railroad shall run, along the whole



length thereof, for a width extending two feet on each side of said road, and shall keep the same constantly in repair.

SEC. 3. The track of said railroad shall not be more than five feet wide within the rails, with a space between the double tracks sufficient for the passage of the cars. The tracks shall be laid flush with the level of the street, and so as to offer as little obstruction as possible to the crossing of vehicles; and when the route herein provided for shall intersect any other road, the rails of each road shall be so altered, or cut, as to permit the cars to cross without obstruction; and nothing in this act shall be so construed as to prevent any other railroad company, hereafter formed, from crossing the ways herein mentioned, at any point, in like manner, in the city and county of San Francisco.

Width of track.

SEC. 4. For the purpose of laying down, or repairing, the said railroad, not more than the length of one block in any one street within the present fire limits of the said city and county, shall be obstructed at one time, nor for a longer period at one time than ten working days.

Not to obstruct.

SEC. 5. The rates of fare of each passenger upon each of said railroads, for any distance, going, or returning, shall not exceed five cents for each passenger, when two, or more, passages, or tickets for passages, are purchased; when a single passage is required it shall be chargeable at ten cents.

Rates of fare

SEC. 6. The cars upon said railroad shall be of the most approved construction, for the comfort and convenience of passengers, and shall be provided with sufficient brakes and other means for stopping the same when required. They shall be moved by horses, or mules, and not otherwise, and at a speed not exceeding eight miles an hour; and in case of a violation of this provision, the owner, or owners, of said railroad shall be subject to a fine not exceeding one hundred dollars for each offense.

Cars, how to be built.

SEC. 7. Any person willfully obstructing the said railroad, shall be deemed guilty of a misdemeanor, and punished accordingly.

Penalty for obstructing.

SEC. 8. The franchise and privileges hereby granted shall continue for the period of twenty-five years, to date from and after the passage of this act; *provided*, nevertheless, that said parties shall complete, within the period of twelve months next following the passage of this act, a section of said railroad which shall be equal to one-fourth of the distance from the point of commencement to the point of termination; and within a period of four months next following, a second section, equal to another fourth of said distance; and within a period of four months next following, a third section, equal to the third fourth of said distance; and within the period of twenty months thereafter, shall complete the remaining section to the said southern boundary line of the city and county of San Francisco; and the grantees shall, within six months after the passage of this act, commence the construction of said road, but no time during which they shall be prevented therefrom by legal process shall be counted as a part of said six months; and shall within three months after the passage of this act execute to the city and county of San Francisco, a bond, with good and sufficient sureties, to be approved

Limit of franchise.

by the County Judge of said city and county, conditioned in the sum of thirty thousand dollars, for the completion of the railroad, according to the requirements and privileges of this act, and file the same with the Treasurer of said city and county, for the benefit thereof; and upon a failure to comply with the provisions of this section, the franchise and privileges hereby granted shall utterly cease and determine, and the amount of the said bond may be recovered from the obligors therein named, in an action brought in the name of the city and county of San Francisco.

To transfer  
franchise.

SEC. 9. The owners of said railroad are required to sell, transfer, and convey, the same, together with the cars which may be employed thereon, to the city and county of San Francisco, at any time after the expiration of fifteen years from the completion of the same, upon a demand being made to that effect by the said city and county, and upon the payment, to said parties, the appraised value, [by said city and county,] thereof, exclusive of the value of said franchise. On the purchase of said road, it, together with the franchise, shall vest in the said city and county; said appraisal to be made by five Commissioners in the manner following: The Board of Supervisors of the city and county of San Francisco shall appoint two Commissioners, and notify the grantees, or their assigns, of such appointment, who, within ten days after the receipt of such notice, shall appoint two Commissioners, and notify the Board thereof. The four Commissioners so appointed shall select a fifth; but in case of their inability to agree upon such fifth Commissioner within ten days, he shall be appointed by the County Judge of said city and county. In case of the failure of the grantees, or their assigns, to appoint Commissioners on their part, as above provided, or in case of their refusal to act, the County Judge shall have the power of appointing them. Said Commissioners shall make their appraisal and present their report, within thirty days after the completion of the commission, and shall file the same in the office of the Clerk of the Board of Supervisors. A majority of said Commissioners shall constitute a quorum, and the award of a majority shall be final and binding upon the parties. The amount of the award shall be paid by the Treasurer of the city and county, to the grantees, or their assigns, within sixty days after the filing of said award, thereupon the title to the said railroads and cars shall vest in the said city and county.

How to  
construe act.

SEC. 10. Nothing in this act shall be so construed, as in anywise, to prevent the proper authorities of the said city and county of San Francisco from grading, paving, planking, repairing, or altering, any of the streets hereinbefore specified; but all such work shall be so done, if possible, as not to obstruct the free passage of the cars upon said railroad; and where the same shall not be possible, the said authorities, before the commencement of such work, shall allow to the owners of said railroad time sufficient to enable them to shift the rails, or take other means, so as to avoid said obstruction during the continuance thereof, which they, the said owners, are hereby authorized to do.

To pay  
license.

SEC. 11. The owners of said railroad shall pay to the city and county of San Francisco the sum of fifty dollars per annum, as a license upon each car used by them upon said railroad, which payment shall be made quarterly to the said city and county.

CHAP. CXCIX.—*An Act to grant to certain Persons the right of way for a Railroad Track within the corporate limits of the City and County of San Francisco, and to run Horse-Cars thereon.*

[Approved April 17, 1861.]

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

SECTION 1. Charles M. Hitchcock, Joseph C. Tucker, William Sherman, and their associates and assigns, are hereby granted the right of way whereon to construct and lay down a railway track within the corporate limits of the city and county of San Francisco and to run horse-cars thereon, as follows : Commencing at the south end of Fourth Street ; thence through said street to Mission Street ; through Mission to First Street ; through First and Battery streets and by the northern limits of said city outside of Telegraph Hill, to the north end of Mason Street ; thence through Mason Street to Union Street ; through Union to Powell Street ; through Powell Street to Broadway ; down Broadway to Kearny Street ; through Kearny to Geary Street ; through Geary to Dupont Street ; through Dupont to, along, and across, Market Street to Fourth Street, and thence back on the line of Fourth Street, to the southern limits of said city.

Franchise granted.

SEC. 2. Through each street, one track shall be laid on each side of the center of said street, and as near the center as will permit the cars to pass and repass with safety ; on Kearny, the other street named, a single track only. The rails shall be of the most approved pattern used in eastern cities, with the proper and necessary switches and turnouts along the entire route ; and to run cars thereon, not exceeding twenty-four feet in length, at convenient hours of every day and night, for the transportation of passengers and freight.

Single and double tracks.

SEC. 3. The owners of said railroad shall pave, or plank, as the proper authorities of said city and county shall direct, the streets through which said railroad shall run, along the whole length thereof, for a width extending two feet on each side of said road, and shall keep the same constantly in repair.

Owners to plank.

SEC. 4. The track of said railroad shall not be more than five feet wide within the rails ; it shall be laid as nearly as possible in the center of each street, and flush with the level of the street, and so as to offer as little obstruction as possible to the crossing of vehicles ; and where the road herein provided for shall intersect any other road, the rails of each road shall be so altered, or cut, as to permit the cars to cross without obstruction ; and nothing in this act shall be so construed as to prevent any other railroad company hereafter formed, from crossing the road herein mentioned at any point in like manner, in the city and county of San Francisco.

Width of track.

SEC. 5. For the purpose of laying down, or repairing, the said railroad, not more than the length of one block in any one street, within the present fire limits of said city and county, shall be obstructed at one time, nor for a longer period of time than ten working days.

Not to obstruct.

**Rates of fare** SEC. 6. The rates of fare of each passenger upon said railroad, for any distance, going, or returning, shall not exceed five cents for each passenger when two, or more, passengers, or tickets for passengers, are purchased; when a single passage is required, it shall be chargeable at ten cents.

**Cars, how to be built.**

SEC. 7. The cars upon said railroad shall be of the most approved construction for the comfort and convenience of passengers, and shall be provided with sufficient brakes and other means, for stopping the same when required; they shall be moved by horses, or mules, and not otherwise, and at a speed not exceeding eight miles per hour; and in case of a violation of this provision, the owner, or owners, of said railroad, shall be subject to a fine not exceeding one hundred dollars for each offense; and any person willfully obstructing said railroad shall be deemed guilty of a misdemeanor, and punished accordingly.

**Limit of franchise.**

SEC. 8. The franchise and privileges hereby granted shall continue for the period of twenty-five years, to date from and after the passage of this act; *provided*, nevertheless, that the whole line of said railroad shall be completed at least upon a single track and passenger cars running thereon, within two years from and after May first, eighteen hundred and sixty-one; and the grantees shall, within six months after the passage of this act, commence the construction of said road, but no time during which they shall be prevented therefrom by legal process, shall be counted as a part of said six months, and shall, within three months after the passage of this act, execute to the city and county of San Francisco, a bond with good and sufficient sureties to be approved by the County Judge of said city and county, conditioned in the sum of thirty thousand dollars, for the completion of the said railroad, according to the requirements and privileges of this act, and file the same with the Treasurer of said city and county, for the benefit thereof; and upon a failure to comply with the provisions of this section, the franchise and privileges herein granted shall utterly cease and determine, and the amount of the said bond may be recovered from the obligors therein named, in an action brought in the name of the city and county of San Francisco.

**To transfer franchise.**

SEC. 9. The owners of said railroad are required to sell, transfer, and convey, the same, together with the cars that may be employed thereon, to the city and county of San Francisco, at any time after the expiration of fifteen years from the completion of the same, upon a demand being made to that effect by the said city and county, and upon the payment to said parties by said city and county, of the appraised value thereof, exclusive of the value of said franchise. On the purchase of said roads, they, together with the franchise, shall vest in the said city and county; said appraisement to be made by five Commissioners, in the manner following: The Board of Supervisors of the city and county of San Francisco shall appoint two Commissioners, and notify the grantees, or their assigns, of such appointment, who, within ten days after the receipt of such notice, shall appoint two Commissioners and notify the Board thereof. The four Commissioners so appointed shall select a fifth; but in case of their inability to agree upon such fifth Commissioner, within ten days, he shall be appointed by the

County Judge of said city and county. In case of failure of the grantees, or their assigns, to appoint Commissioners on their part, as above provided, or in case of their refusal to act, the County Judge shall have the power of appointing them. Said Commissioners shall make their appraisal and present their report within thirty days after the completion of the commission, and file the same in the office of the Board of Supervisors. A majority of said Commissioners shall constitute a quorum, and the award of the majority shall be final and binding upon the parties. The amount of the award shall be paid by the Treasurer of the city and county to the grantees, or their assigns, within sixty days after the filing of said award.

SEC. 10. Nothing in this act shall be so construed as in any-wise to prevent the proper authorities of said city and county of San Francisco from sewerage, grading, paving, planking, repairing, or altering, any of the streets hereinbefore specified; but all such work shall be so done, if possible, as not to obstruct the free passage of the cars upon the said railroad; and where the same shall not be possible, said authorities, before the commencement of such work, shall allow to the owners of said railroad, time sufficient to enable them to shift the rails, or take other means, so as to avoid said obstruction during the continuance thereof, which they, the said owners, are hereby authorized to do.

SEC. 11. The owners of said railroad shall pay to the city and county of San Francisco the sum of fifty dollars per annum, as a license upon each car used by them upon said railroad, which payment shall be made quarterly to the said city and county.

CHAP. CC.—*An Act to ascertain and correct the errors and defects of the Statute Laws of this State.*

[Approved April 19, 1861.]

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

SECTION 1. The Judges of the Supreme Court and the several Judges of the District Courts of this State, are hereby directed to require the Clerks of their respective courts to make such note, or memorandum, in a suitable book kept for the purpose, of any and all mistakes, errors, ambiguities, conflicts, defects, or cases of imperfect operation, of the laws of this State, as may come to their knowledge in the course of the administration and execution of the law and the trial of causes in their respective courts.

SEC. 2. Each of the Clerks of the said courts is hereby directed and required, on, or before, the tenth day of January, of each year, to make to the Governor of the State, a full and complete report, under seal of the court of which he may be Clerk, of any and all mistakes, errors, ambiguities, conflicts, or cases of imperfect operation of the laws of this State of which he may have made a note, or memorandum, under the direction of the

Judges, or Judge, of the court of which he may be Clerk, as provided in section one of this act.

SEC. 3. It shall be the duty of each of the said Clerks to embody in his report, as provided in section second of this act, any amendments, corrections, or revisions, of the law which may be suggested by the Judges, or Judge, of the court of which he may be Clerk.

**Penalty.** SEC. 4. Any Clerk of the hereinbefore mentioned courts who shall neglect to comply with the provisions and requirements of this act, shall be deemed guilty of contempt of court, and be liable to a fine of not less than fifty, nor more than five hundred, dollars, for each offense, to be imposed by such court, as in other cases of contempt.

CHAP. CCI.—*An Act to authorize the Board of Supervisors of the County of San Mateo to levy a Special Tax for Road purposes.*

[Approved April 19, 1861.]

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

**To levy tax.** SECTION 1. The Board of Supervisors of the county of San Mateo are hereby authorized and empowered to levy a special tax for the year eighteen hundred and sixty-one, in addition to the taxes now authorized by law, not to exceed the sum of twenty-five cents on each one hundred dollars of the taxable property of said county, for the purpose of grading, bridging, turnpiking, and improving, that part which lies in said county, of the county road, leading through said county from San Francisco to San José; and the said tax shall be collected in the same manner as other taxes in said county.

**Purpose.** SEC. 2. The said tax, when collected, shall be set apart as a special fund, to be used for the purpose of improving the road mentioned in the first section of this act, and shall be used for no other purpose whatever.

**Duty of Supervisors** SEC. 3. The said Board of Supervisors shall divide the said road into convenient sections, and shall make out full and complete plans and specifications of the work and improvements which may be deemed necessary in each section thereof, and after giving at least two weeks' public notice, by publication in some public newspaper of general circulation in said county, and also by posting in at least three public places in the district where such improvement is to be made, of the time and place, when and where, bids for such work will be received and opened, and also of the place where such plans and specifications may be examined, they shall have power to let the said work, in sections, by contract, in writing, to the lowest responsible bidder therefor.

**To let contracts.** SEC. 4. As soon as the said Board of Supervisors shall have made such levy, they may proceed to let contracts for the improvement of said road, in accordance with the provisions of the preceding section, stating in their notices that they have made the levy authorized by this act, and that payment for

the work contracted for, will be made as soon as the money arising therefrom shall come in the treasury. Upon the completion of the work so contracted for, and upon the approval and acceptance of the same by them, the Board of Supervisors shall audit and allow the account and claim due upon such work; and thereupon the County Auditor shall draw his warrant upon the Treasurer for the amount due, payable out of said special fund; *provided*, that no warrant shall ever be drawn upon said special fund for a greater sum than there shall be in such fund, or will come into said fund through the levy authorized by this act; and, *provided*, further, that nothing in this act shall be deemed to prohibit the said Board of Supervisors from using the General Road Fund of said county towards the improvement of said road, so far as it may be necessary so to do, as in other cases.

SEC. 5. This act shall take effect from and after its passage. To take effect.

CHAP. CCII.—*An Act amendatory of, and supplementary to, An Act in relation to Personal Mortgages in certain cases, passed May eleventh, eighteen hundred and fifty-three, approved April twenty-ninth, eighteen hundred and fifty-seven.*

[Approved April 19, 1861.]

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

SECTION 1. Section one of the act amendatory of, and supplementary to, An Act in relation to Personal Mortgages in certain cases, passed May eleventh, eighteen hundred and fifty-three, approved April twenty-ninth, eighteen hundred and fifty-seven, is amended so as to read as follows:

Section 1. Chattel mortgages may be made on the following property, to secure the payment of just indebtedness; Upholstery and furniture used in hotels and public boarding-houses, when mortgaged to secure the purchase money of the identical articles mortgaged, and not otherwise; mining claims, saw-mill, grist-mill, and steamboat machinery; tools and machinery used by machinists, foundrymen, and other mechanics; steam boilers, steam engines, locomotive engines, and the rolling stock of railroads; printing presses, and other printing materials; possessory claims on the lands of the State, with the improvements thereon; quartz claims, with the machinery and buildings connected therewith; water ditches, flumes and aqueducts; tunnels, cuts, and other improvements in mining claims; instruments and chests of a surgeon, physician, or dentist, with their professional library, and libraries of all other persons; stock in any incorporated company. No mortgage made by virtue of this act shall have any legal force, or effect, (except between the parties thereto,) unless the residence of the mortgagor and mortgagee, their profession, trade, or occupation, the sum to be secured, the rate of interest to be paid, when and where payable, shall be set out in

Articles  
subject to  
mortgage.

the mortgage, and the mortgagor and mortgagee shall make affidavit that the mortgage is *bona fide* and made without any design to defraud, or delay, creditors; which affidavit shall be attached to such mortgage.

SEC. 2. Section two of said act is hereby amended so as to read as follows:

To be recorded.

SEC. 2. All mortgages made in pursuance of this act (with the affidavit attached,) shall be recorded in the county where the mortgagor lives, and also in the county, or counties, where the property is located, or used; *provided*, that property *in transitu* from the possession of the mortgagee to the county of the residence of the mortgagor, or to a location for use, shall, during a reasonable time for such transportation, be considered as located. It shall be the duty of the County Recorders of this State to provide proper books of record and of index, in which they shall make a true copy, or record, of all mortgages made in pursuance of the provisions of this act, and left with them for record, and they shall enter, in alphabetical order, the names of the mortgagee and mortgagor in such index books. The Recorders shall note on the mortgages and in the index books the time (in like manner as mortgages on real estate) when the same was received into the office for record; and the recording shall take effect from that time. The Recorder's fees for recording and indexing, shall be the same as are allowed him by law for like services for recording deeds of real estate, to be paid in advance by the person presenting the same for record.

To take effect.

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

CHAP. CCIII.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to take and subscribe Three Hundred Thousand Dollars to the Capital Stock of the "San Francisco and San José Railroad Company," and to provide for the payment of the same, and other matters relating thereto.*

[Approved April 19, 1861.]

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

Special election.

SECTION 1. It shall be the duty of the Board of Supervisors of the city and county of San Francisco, to order a special election to be held in said city and county, at the several places for holding elections therein, on the third Tuesday of May next, for the purpose of submitting to the qualified Electors of the said city and county, the proposition for said Board of Supervisors to take and subscribe three hundred thousand dollars to the capital stock of the "San Francisco and San José Railroad Company," by which a railroad communication shall be formed between the said city of San Francisco and the city of San José, in the county of Santa Clara in said State, by a line running from the said city of San Francisco, through the county of San Mateo, to the city of San José aforesaid.



SEC. 2. It shall be the duty of said Board of Supervisors to cause notice of at least twenty days, to be published in one, or more, newspapers printed and published in said city and county, stating the proposition to be submitted to said electors, and the time and manner of voting thereon. It shall be the further duty of the said Board of Supervisors, to cause ballots to be prepared, with the words "Subscription of three hundred thousand dollars to the San Francisco and San José Railroad Company," printed thereon. Every ballot in favor of said proposition shall have the word "Yes," written, or printed, thereon, and every ballot against said proposition [shall] have the word "No," written, or printed, thereon. Said election shall be conducted in the same manner as other elections for city and county officers, and sealed returns shall be made of the vote cast on said proposition, within five days after the said election, and in the same manner as provided for in the case of the election of city and county officers, to the Clerk of said city and county, of the number of voters voting "Yes," and the number voting "No;" which returns shall be, on said fifth day, or on the Saturday following the day of said election, opened and counted, in the same manner as the returns of the votes for city and county officers; and when so opened and counted, the result thereof shall be declared officially by the said Board of Supervisors, who shall, at the time prescribed for the opening and counting of the returns of said election, meet as a Board for that purpose and for perfecting the subscription of stock, as hereinafter provided.

Publication  
of notice.

Election  
returns.

Subscription

SEC. 3. If, at the said election, a greater number of the electors of said city and county, voting upon said proposition, shall vote "Yes" than shall vote "No," then and in that event, is the Board of Supervisors of said city and county, in the name of the said city and county, hereby authorized, empowered, and directed, immediately after the result of said election is officially declared, to take and subscribe, for the use, benefit, and advantage, of said city and county, to the capital stock of the San Francisco and San José Railroad Company—a corporation duly organized under the laws of this State, on the twenty-first day of July, A. D. eighteen hundred and sixty—for the purpose mentioned in section one of this act, stock to the amount of three hundred thousand dollars, and therefor to pledge the faith of said city and county for the payment of the same in the manner hereinafter provided.

SEC. 4. The said subscription shall be made by a committee of three members of said Board of Supervisors, to be appointed by an order of the said Board for that purpose, and who shall perform that duty immediately thereafter.

SEC. 5. The said subscription shall be made and so received, conditioned to be paid in the bonds of said city and county, issued as hereinafter directed, and not otherwise; and for such subscription said bonds shall be received at par, dollar for dollar.

Bonds  
to be taken  
at par.

SEC. 6. The said Board of Supervisors of said city and county, from time to time, as the payment of said subscription to such capital stock so subscribed shall be required to be made by the Board of Directors of said railroad company, not exceeding, at any one time, however, an installment of ten per cent. upon

the amount of said subscription, in the same manner and upon the same terms as other stockholders, shall, by order, direct the President of said Board of Supervisors, the Auditor and Treasurer of said city and county, who, for that purpose, in addition to their other duties as such officers, and their successors in office, shall constitute a Board of Commissioners to be styled the "Loan Commissioners" of said city and county, as such Loan Commissioners to issue bonds, in the sums of five hundred, and one thousand, dollars, in equal proportions, for such amount of such subscription to said capital stock as said Board of Supervisors may direct. Said bonds shall draw interest, at the rate of seven per cent. per annum from the date of their issue, and the principal thereof shall be made payable on a specified day to be named in said bonds, which shall be fifteen years after the date of their issue, at the office of the Treasurer of said city and county; the interest accruing on said bonds shall be due and payable, semi-annually, so long as such bonds are outstanding and unpaid, and shall be made payable on a specified day to be named in coupons, at said Treasurer's office, as before provided for the payment of the principal of said bonds; said bonds shall be signed by the President of said Board of Supervisors, the Auditor, and Treasurer, of said city and county, as such officers and *ex officio* Loan Commissioners, and when so signed, shall be presented by the President of said Board of Supervisors, to the Clerk of said city and county, who shall countersign the same as such Clerk, in the presence of a quorum of such Board at a meeting thereof; and it shall be the duty of said Board of Supervisors to cause the fact of such countersigning of said bonds to be entered upon their journal, together with the number, date, and amount, of each bond so countersigned by such Clerk; and upon the countersigning of said bonds, it shall be the duty of the said Board of Supervisors to cause the seal of said city and county to be affixed to each bond, and appoint a committee of three of their number to deliver said bonds to the said railroad company, to whom the same shall be issued; and it shall be the duty of such committee to take a receipt from the Secretary of said railroad company for the bonds so delivered by them, setting forth the number, dates, and amounts, of the bonds so delivered, and report the same to the Board of Supervisors.

Loan Commissioners.

Manner of signing bonds.

Coupons.

SEC. 7. Coupons for the interest shall be attached to each bond, so that the coupons may be removed, without mutilation, to the bond; said coupons shall be signed by the said Loan Commissioners. When any interest shall be paid upon a bond issued under the provisions of this act, the City and County Treasurer shall detach the coupons for the interest then due and paid, and deliver the same to the Auditor of said city and county, taking his receipt therefor, whose duty it shall be to file the same in his office, and make a report thereof at the next meeting of the Board of Supervisors.

Bonds, how applied.

SEC. 8. The bonds issued from time to time in payment of such stock subscription by virtue of the provisions of this act, and at least an equal amount of any other funds that may be obtained by said company from other stockholders, or otherwise, or that may be furnished and supplied by the Contractors who are, or may be, engaged in the construction of said road for said

company, shall be expended, from time to time, as the said bonds are required to be issued, in the actual construction of that portion of said company's road situated in the said city and county of San Francisco, to the extent and amount of the graduation and full preparation of said road, for the superstructure thereof; and thereafter, the said company may lay out and expend any balance, or overplus, of said bonds, if any there should be, after the graduation of said road in said city and county, as before stipulated, on any portion of said road that they, the said company, may see proper, so that the same is applied in the construction and completion of said road. It shall be the duty of the Secretary and Chief Engineer of said company, from time to time, as the said bonds are required to be issued, to make reports, under oath, in writing, and lay the same before the said Board of Supervisors, of the progress of the work and the amount thereof done and performed, as near as the same can be ascertained, on said road and in each county through which the same is, or shall be, located. And if, after the issuance of such bonds in payment of the first installment of ten per cent. on such subscription, there should be at any time any failure, or refusal, in the expenditure of said bonds with other funds, in the mode and manner provided by this section, in the construction of said road, then and in that event the said Board of Supervisors may, at their option, withhold any further payments on such subscription, and shall not thereafter be liable to any further calls for assessments thereon; and if so declared by said Board of Supervisors, the said subscription shall be held void and of no effect, and the said company shall be liable to said city and county for any amount that may have been previously paid on such subscription at the time of such failure, or refusal, recoverable at law in any court having jurisdiction.

Duties of  
Secretary  
and Chief  
Engineer.

SEC. 9. It shall be the duty of said Board of Supervisors, previous to the making out of the duplicate of the general assessment list for said city and county, in each year, to levy a tax, to be styled an "Interest Tax," sufficient to raise the amount of interest required to be paid each year on said bonds issued hereunder; and previous to the making out of the duplicate of the general assessment list of said city and county in the year eighteen hundred and sixty-six, and for every year thereafter, until the said bonds issued under this act shall be paid and liquidated, the said Board of Supervisors shall, should it be necessary, levy a tax not exceeding ten cents on the one hundred dollars' worth of taxable property of said city and county, for the purpose of raising a fund for the liquidation of said bonds, which shall be styled a "Loan Fund." The said taxes shall be levied and collected in the same manner as the general taxes for said city and county purposes, and when collected, shall be paid unto the City and County Treasurer, who shall account for, and deliver the same over, to the said Loan Commissioners, to be by them applied—

To levy tax.

Loan Fund.

*First*—The interest tax to the payment of the interest falling due on said bonds.

*Second*—The Loan Fund to the redemption of said bonds, as hereinafter provided.

SEC. 10. If there should be collected as such interest tax, in

**Surplus.** any one year, a sum greater than is required to pay the annual interest on said bonds issued hereunder, then the said Loan Commissioners shall pass over such surplus into the said Loan Fund.

**Duty of Loan Commissioners.**

SEC. 11. It shall be the duty of said Loan Commissioners to make arrangements for the payment of the interest on said bonds when the same falls due, at least thirty days before the time of payment; and in the event said Interest Fund is insufficient, the said Treasurer shall draw on the Common, or General, Fund of the said city and county for such purpose, and deliver the same to said Commissioners; and in the event that those funds prove inadequate, the said Commissioners are authorized and required to make such contracts and arrangements as may be necessary for the payment of said interest and the protection of the faith of the said city and county.

**Redemption of bonds.**

SEC. 12. Whenever at any time there shall be in said Loan Fund a sum of money amounting to five thousand dollars, or upwards, the said Commissioners shall advertise in a public newspaper published in said city and county, for a space of four weeks, for sealed proposals for the redemption of said bonds; and ten days from the expiration of the time for such publication, the said Commissioners shall open the sealed proposals, and shall pay and liquidate, as far as the Loan Fund then on hand shall extend, such bonds presented under said proposals as shall have the lowest value proposed at which they may be liquidated; *provided*, the same shall not be for more than the par value thereof; and, *provided*, should there be no proposals made for less than par value, then the payment of said Loan Fund on hand shall be made on said bonds according to the number of their issue, of which the said Commissioners shall give four weeks' notice of the number of the bonds to be so paid, after which time such bonds shall cease to draw interest; and, *provided*, whenever there may be sufficient moneys in such Loan Fund for the extinguishment of the bonds issued under this act, it shall be the duty of the said Commissioners to advertise in like manner, for the space of four weeks, for the redemption of all the outstanding bonds issued under this act, after which time, said bonds shall cease to draw interest. Any moneys remaining in said Loan Fund after the redemption of said bonds, shall be by the said Commissioners paid over to the City and County Treasurer, to be by him held, subject to the order of said Board of Supervisors.

**Manner of canceling.**

SEC. 13. Whenever any bonds shall have been paid and redeemed, by the said Commissioners, they shall mark the same "Canceled," over their signatures as Commissioners, and immediately deliver the same to the City and County Auditor, taking his receipt therefor; and the said Auditor, upon the receipt of such canceled bonds, shall file the same in his office.

**Duty of County Auditor.**

SEC. 14. The City and County Auditor shall open with the said Commissioners an "Interest Tax Account," and a "Loan Fund Account," and shall balance and settle the same quarterly, on the first Mondays of April, July, October, and January, of each year.

**Liabilities.**

SEC. 15. The said Commissioners and all other officers herein specified, for the performance of their duties under the provisions of this act, shall in all things herein required of them, be

subject to all the liabilities and penalties to which they are subjected in the performance of any other of the duties of their respective offices, and they shall, where the fees, or salary, is not fixed by law, for the services herein required, be allowed by the Board of Supervisors a reasonable compensation therefor, to be paid by said city and county, as other fees and salaries are paid; and the said Board of Supervisors may, and they are hereby fully authorized so to do, require of each of said Commissioners, such bonds and security for the performance of their duties herein required of them, as they the said Board of Supervisors, shall deem proper; *provided*, however, that the penal sums of such bonds to each of said Commissioners, shall not exceed ten thousand dollars. The said Commissioners shall, when so required, execute the said bonds in the same manner as other official bonds are executed, and to be approved by said Board of Supervisors, and filed in the office of the Clerk of said city and county.

Compensat'n.

SEC. 16. The said Board of Supervisors shall have authority to authorize a committee of any one, or more, of their number, or any other persons, to cast all votes representing the capital stock so subscribed by them, and they shall, by order made for that purpose, have full power to sell, transfer, and assign, the said capital stock, or any part thereof, so taken by them under the provisions of this act, whenever, upon a submission to the qualified voters of said city and county, at any city and county, or general, election of a proposition to sell the same, a majority of the votes cast thereon shall approve of such sale.

Supervisors  
may sell  
stock

SEC. 17. The Board of Supervisors shall have all the rights and powers appertaining to any other subscriber to such capital stock, and shall receive all the dividends, issues, and profits, arising from such subscription to said capital stock, and shall set apart and transfer the same, together with the taxes that may be paid by said company to said city and county from time to time, to the said Loan Fund, to be applied by the said Loan Commissioners to the payment of the bonds issued as herein provided and the redemption of the interest on the principal thereof, in the manner provided by section twelve of this act; and after the full payment of said bonds and the interest on the same, the said dividends, issues, and profits, arising from such stock subscription shall be applied as follows: One-third part thereof, to the School Fund of said city and county, and the remaining two-thirds, to the General Fund.

Rights and  
powers.

SEC. 18. The subscription of stock authorized by virtue of the provisions of this act, shall be made by said Board of Supervisors on the books of said company, upon the express condition that the said city and county shall not be liable for any of the debts, or liabilities, of said company beyond the amount so subscribed; and this provision, as to the liability of said city and county, shall be a part of, and so expressly stipulated in, all contracts made by said company for the construction and equipment of said road; and in case the said company shall fail, or refuse, to make such stipulation in all of their said contracts, then the said Board of Supervisors shall have power to declare the said subscription void and of no effect, and may recover from said company any previous payments that may have been

County not  
liable.

made thereon at the time of such failure, or refusal; and the said city and county shall never make any other, or further, subscription to the capital stock of said company than that provided for by this act.

**May refuse to subscribe.** SEC. 19. The Board of Supervisors of the city and county of San Francisco may refuse to make the stock subscription provided for by this act, unless the counties of Santa Clara and San Mateo shall, in pursuance of some law now passed, or hereafter to be passed, subscribe, respectively, for the following amounts of stock in said railroad company, viz: The county of Santa Clara, in the sum of two hundred thousand dollars, and the county of San Mateo, in the sum of one hundred thousand dollars.

**To take effect.** SEC. 20. This act shall be taken and deemed a public act, and shall be in force and take effect from and after its passage.

CHAP. CCIV.—*An act entitled An Act to grant certain Wharf privileges to Paul Shirley, and T. B. Storer, and their Assigns.*

[Approved April 19, 1861.]

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

**Franchise granted.** SECTION 1. Paul Shirley, and T. B. Storer, and their assigns, are hereby granted the right and privilege of extending the present wharf, now owned and occupied by them in Benicia, Solano County, one hundred and fifty feet into the Straits of Carquines, and to collect tolls thereon.

**Grant of land.** SEC. 2. All of the land below the mark of ordinary high water, covered by, or used for, the object and purpose of said extension, is hereby granted to said Shirley, and Storer, and their assigns, for wharf purposes, for the period of twenty years.

**Rates of wharfage.** SEC. 3. The Board of Supervisors of the county of Solano shall, from time to time, fix the rates of wharfage to be collected at said wharf, and said Shirley, and Storer, and their assigns, may, from time to time, charge and collect such wharfage as may be prescribed by the Board of Supervisors of Solano County. The rates of wharfage which may be prescribed under the provisions of this act shall be conspicuously posted upon said wharf.

**Term of franchise.** SEC. 4. The franchise, hereby granted, shall extend for a period of twenty years, at the expiration of which time the said wharf, with all its appurtenances, shall revert to the State.

CHAP. CCV.—*An Act appropriating Moneys for the benefit of the Home for the care of Inebriates in the City and County of San Francisco.*

[Approved April 19, 1861.]

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

SECTION 1. The Controller of State is hereby directed and required to draw his warrant on the Treasurer of State for the sum of two thousand dollars, payable to the President and Treasurer of the institution known by the name of the "Home for the care of the Inebriate," in the city and county of San Francisco, for the use of said institution; and for the purpose of paying said warrant, the sum of two thousand dollars is hereby appropriated out of any moneys which may be in the State treasury not otherwise appropriated, on the first day of July next; *provided*, that the donation hereby made shall not be taken as implying the obligation of an annual appropriation, or donation, to the said institution.

SEC. 2. The President and Treasurer of said institution are hereby required to report to the Legislature of this State, on, or before, the fifteenth day of January next, and on, or before, the same day of each year thereafter, until the whole of said money shall have been expended, a detailed statement, on oath, of the expenditure of the above named appropriation. The said President and Treasurer, before receiving said money, are also required to execute to the people of the State of California a bond, according to law, with two sufficient sureties, to be approved by the Governor, conditioned for the faithful expenditure and application of said moneys to the use of said institution, and the purposes for which the same was organized.

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CHAP. CCVI.—*An Act to amend An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento, approved April twenty-fourth, eighteen hundred and fifty-eight.*

[Approved April 19, 1861.]

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

SECTION 1. Section six of the act of which this act is amendatory, is hereby amended so as to read as follows :

Sec. 6. The sessions of the Board shall commence on the first and third Mondays of each month; shall be public, and shall continue until all the business before them is disposed of; and the record of their proceedings, and the documents and papers

belonging to their office, shall be open to public inspection during office hours.

SEC. 2. Section twenty-six of said act, is hereby amended so as to read as follows :

Pay and mileage.

Sec 26. The Supervisors, elected in accordance with the provisions of this act, and their successors in office, shall be allowed seven dollars per day for each day's actual attendance at the meetings of the Board, and mileage, at the rate of twenty-five cents per mile, in going only from their residence to the county seat; *provided*, that no compensation, for a longer time than four days, and one mileage to each session of the Board, shall be allowed, except when acting as a Board of Equalization, they shall receive seven dollars per day for each day's actual service; *provided*, further, that the Supervisors shall not receive the increased compensation, provided for in this act, for any services rendered prior to the first day of April, A. D. eighteen hundred and sixty-one.

CHAP. CCVII.—*An Act to amend an Act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty.*

[Approved April 19, 1861.]

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

SECTION 1. Section one hundred and one is amended so as to read as follows :

Counties excepted.

Sec. 101. The provisions of this act shall not apply to the city and county of San Francisco, or to the city and county of Sacramento, but in the said cities and counties the revenue laws in force prior to, and at, the time of the passage of this act, to which this is amendatory, to wit: On the thirtieth day of April, A. D. eighteen hundred and sixty, shall remain in full force and effect; and nothing in this act shall be considered as repealing, or conflicting, with any section, or portion, of an act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to incorporate the City and County of Sacramento, approved April twenty-fourth, eighteen hundred and fifty eight; *provided*, that in the city and county of Sacramento the Assessor shall be allowed to retain from the moneys collected for poll tax the per centage allowed by law in other counties of this State.



CHAP. CCVIII.—*An Act to authorize the Board of Supervisors of the County of Santa Clara to grant the Right of Way for the construction of Turnpike Roads.*

[Approved April 22, 1861.]

*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 Santa Clara are hereby authorized and empowered to grant the right of way over, or along, any public road, or highway, or any part thereof, which is now, or may hereafter be, established, laid out, or declared, as such, in said county, to any company that is, or may be, formed, or organized, under the laws of this State, for the construction of plank, or turnpike, roads in said county.

Powers granted.

SEC. 2. Such grant of the right of way shall not be made until after the persons composing, or forming, such company, shall have elected their President, Treasurer, and Secretary, and designated and adopted their corporate name, and shall have filed in the office of the County Recorder of said county a certificate of such election, and the adoption of their corporate name; and such grant of the right of way shall not be valid, or effectual, for any purpose, if such company shall fail to completely organize as a corporation, as prescribed by law, nor shall it continue in force after such company shall have been dissolved, or shall have expired by its own limitation, nor for more than twenty years from and after the date of the grant of such right of way.

Conditions of grant.

SEC. 3. The company desiring to have the grant of the right of way, as aforesaid, made to it, shall file with the Clerk of the Board of Supervisors of said county a petition for such grant, at least four weeks before the time for the hearing thereof, and shall give notice of said petition, setting forth the objects thereof, and describing the road over, or along, which the right of way is petitioned for, by publication in some newspaper printed in said county, for the space of four weeks.

To file petition.

SEC. 4. Said Board of Supervisors, at any regular, or special, meeting, upon being satisfied that said petition has been filed, and such notice thereof has been given, as in this act prescribed, may make the grant of the right of way to such company, in the manner prescribed in this act, on such terms and for and in consideration of such sum, or sums, of money, as the said Board shall deem just and proper, to be paid by the said company to the County Treasurer of said county; and said money, when paid, shall belong to the Road Fund of said county, and shall be receipted for in the same manner as other funds.

Grant may be made.

SEC. 5. Such grant of the right of way may be made by said Board of Supervisors by an order entered in their records, stating the name of the company, the road, or roads, or the part thereof, over which the right of way is granted, the time for which the grant is made, the terms and consideration of, and for, the grant, and the acceptance of the grant by the company; such acceptance of the grant and the terms thereof, together with the agreement on behalf of the company, to perform and

Manner of making grant.

keep the conditions and terms mentioned in the grant of the right of way, shall be made in writing, and signed by the company, or corporation, and shall be recorded in the records of said Board of Supervisors.

To make report.

SEC. 6. The said company shall, at least once each year, report to the said Board of Supervisors, the amount of money expended since the last previous report, in the location and construction of its road, and when completed, the full cost thereof; also, the amount annually expended for repairs, the amounts expended for fees and salaries; also, the amount received for tolls, or other compensation, for the use of the road, and the rate of tolls as charged during such year; and said annual reports shall be severally verified by the oath of the Treasurer, or some other officer, of said company.

Toll-gates.

SEC. 7. The Board of Supervisors shall, from time to time, as may be necessary, designate the places for the toll-gates; but no toll-gate shall be erected within a half of a mile of any city, incorporated town, or village, nor within five miles of another toll-gate on the same road; and said Board shall each year establish the maximum rate of tolls to be paid at each toll-gate, and different rates may be established for different portions of the year; and if said Board shall neglect any year to establish the rate of tolls, the same shall remain as during the last previous year, the said company having at all times the right to establish lower rates of toll than those established by said Board; but said Board shall not, without the consent of the said company, establish the tolls at such rates that the same will not yield, in addition to the amount paid for repairs during the year last past, eighteen per cent. per annum on the cost of the construction of the said road, the fees and salaries of the officers of said company not being included in the cost of the repairs, or of the construction of the road. And for the purpose of establishing the rates of tolls, the net income of the road for the year last previous, without deducting the fees, or salaries, of officers of the company, shall be taken as the basis of the computation.

Duty of Supervisors.

SEC. 8. It shall be the duty of any member of said Board of Supervisors, upon a complaint in writing, under oath, being made to him that the turnpike road constructed by said company is out of repair, forthwith to view and examine that portion of the road complained of, and if he shall find said complaint just, he shall give notice, in writing, of the defect to the Gate-Keeper of the toll-gate nearest to the place out of repair; and if said portion of the road out of repair shall not be sufficiently repaired, if the state of the weather will permit it to be done, within five days after such notice has been served, then he shall order such toll-gate to be thrown open, and to remain open until he is satisfied, by a personal view, or otherwise, that the said road so out of repair has been sufficiently repaired, when he shall order said toll-gate to be closed.

Duty of Toll-Gate Keeper.

SEC. 9. Every Keeper of a toll-gate on such turnpike road, ordered to be thrown open, who shall not immediately obey such order, or who shall not keep open such toll-gate, until ordered to be closed, or who shall, during the time from the service of the order to throw open such toll-gate, until it shall be ordered to be closed, as in the last section provided, demand, or take, any toll,

at such toll-gate, from any person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than ten dollars, nor more than three hundred dollars.

SEC. 10. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCIX.—*An Act to authorize the Board of Supervisors of Yuba County to construct a Bridge across Yuba River.*

[Approved April 22, 1861.]

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

SECTION 1. The county of Yuba is hereby granted the right and privilege to construct and maintain a bridge across the Yuba River for public use, at a point where the road, leading from the city of Marysville to Grass Valley, crosses said river, at a place better known as Simpson's Ferry; *provided*, that the said county of Yuba shall first acquire, by purchase, all the right, title, and interest, in and to the ferry franchise known as Simpson's Ferry, at present owned by Margaret E. Simpson and her children, the heirs of the late James Simpson. Franchise granted.

SEC. 2. The said bridge shall have a double track, of sufficient width and capacity for the accommodation of the public, and shall be constructed, in a good and substantial manner, of durable and proper material. Capacity of bridge.

SEC. 3. The Board of Supervisors of said county shall have the power to receive subscriptions and donations for the erection and construction of said bridge, and shall, upon the payment of any such subscription, or the receipt of any such donation, make immediate deposit of the money arising therefrom with the County Treasurer of said county, to be placed to the credit of a fund which shall be called the Bridge Fund, taking the Treasurer's receipt therefor. Duties of Supervisors.

SEC. 4. The Treasurer of said county shall receive any and all funds paid over to him under the provisions of this act, and shall enter the same upon the books of his office to the credit of the Bridge Fund, and shall disburse the same upon the warrants of such Board of Supervisors, drawn on said fund. Duties of Treasurer.

SEC. 5. Within twenty days after there shall have been subscribed and paid into the treasury a sufficient amount to purchase the ferry right, together with all the appurtenances thereto belonging, and the same shall have been so purchased by the Board and paid for, the Board of Supervisors shall advertise, in one, or more, daily public newspapers, published in this State, for thirty days next thereafter, for plans and specifications for the construction of said bridge; and shall, within twenty days after the expiration of the time specified for such advertisement, adopt a plan of said bridge, and immediately thereafter make public advertisements, for thirty days, in one, or more, daily newspapers, pub- To advertise for plans.

lished in this State, stating a readiness on the part of said Board to receive proposals for the construction of said bridge, in accordance with the plans and specifications adopted, and they will award the contract to the lowest bidder who will give good and sufficient security for the completion of any contract which he may make respecting the same.

Terms of contract.

SEC. 6. Any contract entered into for the construction of said bridge, as hereinbefore provided, shall stipulate for the completion thereof within six months after the making of such contract, and shall provide for the payment thereunder, to be made in warrants ordered to be drawn, by the Board of Supervisors, upon the Treasurer of said county, payable out of any moneys in his hands belonging to the said Bridge Fund.

To draw warrant.

SEC. 7. Said Board of Supervisors are hereby authorized to draw their warrants upon the County Treasurer of said county, payable out of the Bridge Fund, in accordance with any contract they make under the provisions of this act; and such warrants, from the time of their presentation to the County Treasurer for payment until paid, shall bear interest at the rate of ten per cent per annum.

Registration.

SEC. 8. It shall be the duty of said County Treasurer to keep a register of said warrants in order of their presentation for payment, and if there be no moneys in his hands belonging to said Bridge Fund, to indorse upon the back of each warrant the date of said presentation, and thereafter to pay the same in their order of registry, as, from time to time, any moneys shall be paid over to him to the credit of said Bridge Fund.

Supervisors to fix rates of toll.

SEC. 9. The Board of Supervisors, upon the erection and completion of said bridge, are hereby authorized and empowered to charge and collect such rates of toll as they may, from time to time, by the action of said Board fix, until the sum arising therefrom, over and above the costs and charges of collecting the same, shall amount to a sum sufficient to pay for the cost and expense of constructing said bridge, over and above the amount donated for that purpose, from and after which time the said bridge shall be free for all crossing of persons, or property.

Duties of Toll-Keeper.

SEC. 10. Said Board of Supervisors shall appoint some suitable person to collect and receive the tolls charged for the crossing on said bridge, and shall require from the person so appointed, a bond for the faithful performance of his duties, in a sum not less than one thousand dollars, to be approved by said Board.

To make oath.

SEC. 11. It shall be the duty of the person so appointed for the collection of tolls, to pay over to the County Treasurer of said county each day, to the credit of the Bridge Fund, all moneys, or tolls, collected by him the preceding day, taking the Treasurer's receipt therefor, which receipt shall be filed, by such person, at the end of each week, with the County Auditor of said county; the charged amount of each day's payment to the Treasurer, with the date thereof, shall be entered by the person making such payment, in a book to be kept by him for that purpose; and, at each meeting of the Board of Supervisors, such person shall make oath that such entries contain a full, true, and accurate, account of all moneys collected by him for, or on, account of tolls, or crossing, of said bridge.

SEC. 12. Said\* Board of Supervisors may regulate and determine the speed of travel, riding, or driving, upon said bridge, and may require the speed not to be faster than a walk, and for each violation, may recover judgment, before any competent court, for any damage sustained by such travel, riding, or driving, exceeding the speed authorized. There shall be kept, in some conspicuous place at each end of the bridge, a bulletin board, which shall contain the scale of prices, or tolls, and notice of speed, allowed on said bridge.

To regulate speed.

SEC. 13. The Board of Supervisors of said county shall locate and open such road, or roads, to, or from, said bridge, as the public convenience may demand, and, for that purpose, may enter upon and take possession of any land and real estate, if the same be private property, and the right of way over and through it be not obtained by agreement within thirty days after the passage of this act, said Board of Supervisors shall immediately appoint three disinterested persons, as Commissioners, to appraise the damage done to such land and real estate by such road, or roads, and the compensation to be made therefor. Such Commissioners shall, after publication of notice of the time and place of meeting, for ten days, in some newspaper published in the city of Marysville, immediately proceed to hear, examine, and determine, such question of damage and compensation, and to award the amount of the same to the person, or persons, in their judgment entitled thereto, and the amount so awarded shall at once be paid over to the party, or parties, so entitled; *provided*, however, that any conflicting claims to the ownership of said land, or real estate, or to the amount so awarded as damages, or compensation, and if said Commissioners cannot determine who are such owners and entitled to such compensation, such conflict, or inability to determine, shall not, in any manner, operate to prevent the immediate opening of such road, or roads, but in such case the amount of the damages so assessed, and compensation awarded, shall be placed in the county treasury of Yuba County, subject to the order of the party, or parties, establishing the right thereto; and thereupon, the said Board of Supervisors shall proceed as though such compensation had been paid to parties entitled thereto.

May open roads.

Right of way.

Proviso.

SEC. 14. The Board of Supervisors shall have power to purchase said ferry right, together with boat and appurtenances thereto belonging, and may employ some suitable person to run said ferry and collect tolls, in accordance with sections ten and eleven of this act, until the completion of said bridge.

Rights and powers.

SEC. 15. And Margaret Simpson, the Administratrix and Guardian of the infant heirs of James Simpson, deceased, is hereby authorized to sell and convey all right, title, and interest, in said ferry, and all appurtenances thereunto belonging, to said Board of Supervisors, subject to the approval of the Probate Court of Yuba County.

May sell interest in ferry.

CHAP. CCX.—*An Act to repeal an Act entitled An Act concerning County Judges, passed April fourth, eighteen hundred and fifty-four.*

[Approved April 22, 1861.]

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

Act  
repealed.

SECTION 1. An Act concerning County Judges, passed April fourth, eighteen hundred and fifty-four, is hereby repealed.

SEC. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

CHAP. CCXI.—*An Act to provide for the better maintenance of the Indigent Sick of Siskiyou County.*

[Approved April 22, 1861.]

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

To levy tax.

SECTION 1. That the Board of Supervisors in and for the county of Siskiyou, are hereby empowered to levy annually, and cause to be collected in said county, such special *per capita* tax as they may deem necessary, not to exceed the sum of two dollars for each taxable inhabitant thereof, to be appropriated to the maintenance of the indigent sick of said county.

Property  
tax.

SEC. 2. The Board of Supervisors of said county are also empowered to levy and cause to be collected annually, in addition to the amount allowed to be collected by the provision of the eighth section of an act entitled An Act to provide for the Indigent Sick in the Counties of this State, approved April the eleventh, eighteen hundred and fifty-five, such taxes, not exceeding one-fourth of one per cent. on the value of all taxable property of said county, as may by them be deemed necessary and sufficient for the support of the resident indigent sick of said county.

Hospital  
Fund.

SEC. 3. The said taxes, when collected, shall constitute and be known as a part of the Special Hospital Fund of the county of Siskiyou, and shall be appropriated, under the direction of the Board of Supervisors to the care and protection of the indigent sick in the Supervisors' districts, respectively, in which said taxes were assessed and collected.

Manner of  
collecting  
taxes.

SEC. 4. The taxes specified by this act shall be collected in the same manner and at the same time as other taxes, and by the same officers who are, or may be, appointed to collect county revenue; and the said taxes, when collected, shall be paid into the county treasury, and the Treasurer shall receipt therefor.

Blank  
receipts.

SEC. 5. The Treasurer of the county shall cause to be provided blank receipts for the tax herein provided for, which receipt shall be signed by the Treasurer, and countersigned by the County Recorder, and by the Treasurer delivered to the County Assessor, taking his receipt for the same, and making a registry

of the same, with the number thereof, in a book to be kept by him for that purpose.

SEC. 6. No money set apart, under the provisions of this act, for the benefit of the indigent sick, shall be ~~drawn~~ <sup>Moneys, how drawn.</sup> from the hands of the officer, or officers, having charge of the same, according to law, except upon the presentation of the order of the Board of Supervisors, drawn on the Hospital Fund.

SEC. 7. All acts, or parts of acts, conflicting with the provisions of this act, are hereby rendered inapplicable to the county of Siskiyou. <sup>Repealing clause.</sup>

CHAP. CCXII.—*An Act to amend Section Twelve of An Act to define the Boundaries and provide for the Organization of Mendocino County, approved March eleventh, eighteen hundred and fifty-nine.*

[Approved April 22, 1861.]

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

SECTION 1. Section twelve of said act is amended so as to read as follows :

SEC. 12. The County Judge of Mendocino County shall receive, as a compensation for his services, one thousand five hundred dollars per annum, to be paid quarterly; the District Attorney shall receive one thousand two hundred dollars per annum, to be paid quarterly. <sup>Salaries.</sup>

SEC. 2. This act shall take effect from and after the first Monday in October, eighteen hundred and sixty-one. <sup>To take effect.</sup>

CHAP. CCXIII.—*An Act giving the consent of the Legislature to the Distribution of the Surplus Capital Stock of a Corporation.*

[Approved April 22, 1861.]

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

SECTION 1. The consent of the Legislature is hereby given to the California State Telegraph Company to divide and distribute among its shareholders any portion of the surplus unissued capital stock of said company; *provided*, that no such distribution shall be made unless the persons representing three-fourths of the issued capital stock of said company shall consent thereto in writing. <sup>Consent given.</sup>

SEC. 2. This act shall take effect immediately. <sup>To take effect.</sup>

CHAP. CCXIV.—*An Act to change the time for holding Municipal Elections in the City and County of San Francisco, and to define the official terms of certain Officers therein mentioned.*

[Approved April 22, 1861.]

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

Officers to  
be elected.

SECTION 1. There shall be elected hereafter, for the city and county of San Francisco, by the qualified electors thereof, at the time hereinafter mentioned, and in the manner prescribed by law for the election of State and county officers, one Mayor, who shall be *ex officio* President of the Board of Supervisors; a County Judge; County Clerk; Police Judge; Chief of Police; Sheriff; Coroner; Recorder; Treasurer; Auditor; Tax Collector; Assessor; Public Administrator; Surveyor; Superintendent of Common Schools; Superintendent of Public Streets and Highways; District Attorney, and Harbor-Master, who shall continue in office for two years next after their election and qualification, unless otherwise provided for in this act. There shall be elected in each of the twelve election districts of said city and county, by the qualified electors thereof, one Supervisor and one School Director; and in each of the six townships of said city and county, one Justice of the Peace and one Constable, who shall continue in office for two years; and in each of the twelve districts, one Inspector, and two Judges, of Elections, who shall continue in office for one year, and until their successors are elected and qualified.

Time of  
holding  
election.

SEC. 2. All elections for city and county officers, under this act, shall be held in said city and county on the third Tuesday of May in each year; the first of which elections shall be held on the third Tuesday of May, eighteen hundred and sixty-one, at which time, and every two years thereafter, there shall be elected a Mayor, who shall be *ex officio* President of the Board of Supervisors; County Clerk; Sheriff; Coroner; District Attorney; Recorder; Treasurer; Assessor; Surveyor; Superintendent of Common Schools, and Harbor-Master; also, in the second, fourth, sixth, eighth, tenth, and twelfth, districts, by the qualified electors thereof, one Supervisor and one School Director. There shall, also, be elected, at the first election under this act and every year thereafter, in each of the twelve districts, one Inspector, and two Judges, of Elections, who shall be elected in the manner prescribed in section two of An Act amendatory of, and supplementary to, An Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April eighteenth, eighteen hundred and fifty-seven.

Officers to  
be elected  
at second  
election.

SEC. 3. At the second election held under this act, on the third Tuesday of May in the year eighteen hundred and sixty-two, and every two years thereafter, there shall be elected a Police Judge; Chief of Police; Auditor; Tax Collector; Public Administrator, and Superintendent of Public Streets and Highways; and in the first, third, fifth, seventh, ninth, and eleventh,



districts, one Supervisor and one School Director; and at the election next preceding the expiration of the term of office of the present incumbent, a County Judge, who shall continue in office for four years, and until his successor is elected and qualified.

SEC. 4. The official terms of all officers elected under this act are hereby declared to commence on the first day of July next succeeding their election, excepting, however, that of the Assessor, whose official term shall commence on the first day of September; and any and all of the present city and county officers, whose official terms shall not have expired previous to the first two elections provided for in this act, shall continue in office during the entire term for which they were elected; *provided*, that their successors shall not continue in office after the first day of July, eighteen hundred and sixty-three, or until their successors are elected and qualified; and no officer elected, or appointed, to fill a vacancy which may, in any manner, occur, shall serve only except during the balance of the unexpired term of his predecessor.

Official terms.

SEC. 5. It is hereby made the duty of the Mayor to issue his proclamation, by publication in not less than three daily newspapers published in said city and county, at least ten days previous to the third Tuesday of May in each year, calling upon the qualified voters of said city and county to meet in their respective districts for the purpose of electing such officers as are provided for in this act, reciting, in such proclamation, the different officers to be elected at such election.

Duty of Mayor.

SEC. 6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Acts repealed.

SEC. 7. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCXV.—*An Act to authorize the Trustees of Petaluma School District, to levy a Tax for School purposes.*

[Approved April 22, 1861.]

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

SECTION 1. The Board of Trustees of Petaluma School District may, at any time after the passage of this act, call an election, and submit to the qualified voters of said district the question: "Shall a tax be levied to pay the debt heretofore contracted and now due, for building a school-house in said district?"

Electors to vote on tax levy.

SEC. 2. Before calling said election, the Trustees shall cause to be made a full and complete statement of the debts and liabilities then due and owing, on account of the building of said school-house, and shall, in their notice of said election, state amount of money required, the rate of tax to be levied, and shall also state where an account of said indebtedness can be seen by the voters of the district, which shall be at some convenient place in said district.

Duties of Trustees.

Election.

SEC. 3. The same notice shall be given, the election shall be held in the same manner, and all the powers conferred upon the Trustees, Assessor, and Tax Collector, shall extend to the election, levying, and collecting, of the tax herein provided, in the same manner as provided for calling an election to levy a tax for building a school-house, approved April twenty-sixth, eighteen hundred and fifty-eight.

Further duties.

SEC. 4. If a majority of the votes polled at such election shall be in favor of such a tax, the Board of Trustees shall, immediately after the collection of the same, discharge the indebtedness herein mentioned, and any surplus funds remaining in the hands of the Trustees, after paying said indebtedness, shall be by them transferred to the account of rate bills in said district.

CHAP. CCXVI.—*An Act to provide for the collection of Delinquent Taxes in the County of Amador.*

[Approved April 22, 1861.]

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

Assessments legalized.

SECTION 1. The assessment of taxes upon all property, both real and personal, in the county of Amador, whether for State, county, or other, purposes, for the fiscal year ending on the first day of March, eighteen hundred and fifty-nine, for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons and property assessed.

Duties of District Attorney.

SEC. 2. The District Attorney of the county of Amador, is hereby authorized and directed to commence civil actions in the name of the people of the State of California, in any of the Courts in said county, whether the defendant be a resident of the township in which the court is located, or not, to recover the unpaid taxes in said county for the fiscal years mentioned in the first section; and he shall designate in his complaint, the amount of taxes due and unpaid for State, county, and other, purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and if real, describe the same; and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense; such complaint being allowed only to plead—

*First*—That the taxes had been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint, at the time of the assessment, and has never been liable to pay said taxes.

And no answer shall be filed in any such case unless the same be verified by oath.

Delinquent lists.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officers, shall be delivered to the District

Attorney, and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy, of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence in any court to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law in relation to the levy and assessment of such taxes have been complied with; and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

SEC. 4. Judgments rendered in such cases in the District Court shall be docketed and become liens upon all property of the defendants liable to taxation, and may be enforced against the same; and the District Attorney may file transcripts of judgments rendered in Justices' Courts, under this act, with the County Clerk, who shall, thereupon, docket such judgments, and they shall become liens from and after such docket entry, in like manner as judgments rendered in the District Court under this act; and the County Clerk may issue execution on such docketed Justices' judgments as on judgments rendered in the District Court.

Judgments.

Judgments may become liens.

SEC. 5. An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not [in]consistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court, to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed, to redeem said property, by paying the whole bid, all subsequent taxes, and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the County Treasurer of the said county, to be distributed in the proper funds, and each collection and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

Act made applicable.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid, be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon, may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property under the provisions of this act, shall be equally conclusive against the true owner of such property as if the action had been prosecuted against said owner by his real name.

Unknown owners.

SEC. 7. For services under this act, the District Attorney shall be entitled to a compensation equivalent to ten per cent. on the amount recovered, to be added thereto if paid before judgment, and if not so paid, then twenty per cent. to be added to, and to constitute a part of, the judgment; and all officers shall perform such services as may be required of them under this act, without the payment of fees in advance; but they may

Compensation.

charge and receive to their own use, such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants, and in no case shall the county be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act against a person after being served with a duplicate receipt of the County Treasurer for the total amount of taxes and charges due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence.

To take effect.

SEC. 8. This act shall take effect and be in force, from and after its passage.

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CHAP. CCXVII.—*An Act for the relief of John Duane.*

[Approved April 22, 1861.]

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

Claim allowed.

SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby authorized and directed to allow to John Duane the sum of four thousand three hundred and one dollars and sixty cents, or so much thereof as they may find to be justly and equitably due him, being the balance unpaid on certain accounts allowed by the Board of Aldermen of the city of San Francisco on the eighteenth day of December, eighteen hundred and fifty-four, and seventeenth February, eighteen hundred and fifty-five, for work and labor done and materials furnished by order of the fire department in the years aforesaid; and the Auditor of said city and county is hereby authorized and directed to audit, and the Treasurer to pay, the same when so allowed, out of the General Fund, in like manner as other indebtedness of said city and county.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCXVIII.—*An Act amendatory of, and supplemental to, an Act entitled An Act to provide for the location and sale of the Five Hundred Thousand Acres of Land granted to this State for School Purposes, and the Seventy-Two Sections donated to this State for the use of a Seminary of Learning, approved April twenty-third, eighteen hundred and fifty-eight, and to the Act amendatory thereof, approved February eighteenth, eighteen hundred and fifty-nine.*

[Approved April 22, 1861.]

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

SECTION 1. As soon as practicable after the passage of this act, the Locating Agent of each land district shall obtain a list

from the United States Registers of their respective districts, of the sixteenth and thirty-sixth sections of full townships and the fractions of such sections in fractional townships donated to the State by Congress for school purposes, which have not been sold to pre-emptors under the provisions of the pre-emption acts, and also a list of those which have been thus sold, and also a list of such lands as have been reserved, or are covered by private claims, or grants, and for which the State is entitled to select other lands in lieu thereof. He shall also obtain a list of the lands sold under the act for the sale of the sixteenth and thirty-sixth sections, approved April twenty-sixth, eighteen hundred and fifty-eight.

Locating Agents to obtain lists of unsold school land.

SEC. 2. The sixteenth and thirty-sixth sections, and the fractions thereof, thus listed to the State, which have not been sold, shall be located and sold, in all respects, in the same manner, and on the same terms, and at the same price, as is provided in the acts to which this act is supplemental and amendatory, except as herein otherwise provided.

Shall be located and sold.

SEC. 3. In lieu of those sixteenth and thirty-sixth sections already sold by the General Government to the pre-emptors, or which may be reserved, or covered, by private claims, or grants, or which the State may acquire the right to relinquish and choose other lands in lieu thereof, other lands shall be located and sold in the same manner, and on the same terms, and at the same price, as is provided in the acts to which this act is supplemental and amendatory, except as is herein otherwise provided. The Locating Agent of each land district shall report to the Surveyor-General the section, or part of section, township, and range, of the lands relinquished, and the same of the land selected in lieu thereof, together with the cause of relinquishment of said land, and the county in which are situated the lands relinquished, and the county in which others in lieu thereof are selected; said agents shall furthermore do all acts necessary to respect the location of the lands selected in the land office of his district.

Lands already sold.

To make report.

SEC. 4. The application for the location and purchase of the lands described in section three of this act, shall set forth the particular sixteenth, or thirty-sixth, section, or part thereof, in lieu whereof the location is made, and the application of the Locating Agent to the United States Register, which shall be in conformity to the rules of the General Land Office, shall always be for an amount equal at least to one-quarter section of land, which shall be located, whenever practicable, in the same county as the section is situate in lieu whereof it is taken. For each certificate of location issued by the United States Register for the lands described in this, or the preceding, section, the said United States Register shall be entitled to a fee of two dollars, to be paid by the purchaser of the land; and any fees that may be received by the Register of the State Land Office may be expended in paying for services of Clerks necessary to carry out the provisions of this act.

Application, how made.

Fees.

SEC. 5. The sixteenth, or thirty-sixth, sections in unsurveyed whole, or fractional, townships likewise granted to this State by Congress, which shall not have been pre-empted, or reserved, and all other lands chosen in lieu of those which may have been

Map and field-notes to accompany application.

pre-empted, or reserved, shall be located and sold in the same manner as the other school lands heretofore described, except that the application to locate, when on unsurveyed lands, shall be accompanied by a map and field-notes of the land sought to be purchased, surveyed in accordance with the United States surveys by the County Surveyor of the county in which the land is situate. If, within thirty days after the Locating Agent shall have accepted any location made under section three, or five, of this act, the United States Register shall not have certified the same over to the State, the Locating Agent shall make his returns accordingly to the Surveyor-General who, upon finding the location to have been properly made, shall, after the expiration of sixty days, approve of said location, and return a certificate of such with his approval indorsed thereon, and also the order for the payment of the principal, or interest, as the case may be; and after said payment shall have been made according to law, the locator shall be entitled to receive his certificate of purchase.

Interest.

SEC. 6. On all lands sold under authority of this act, on which the purchasers desire a credit, the interest shall be computed, on the approval of the Surveyor-General, as commencing from the date of location in the Locating Agent's office.

Affidavits  
for location.

SEC. 7. All affidavits for the location of lands made before the Locating Agent, shall have the same effect as those made before a Notary Public, or Justice of the Peace, and said affidavit shall set forth, in addition to the requirements of section three of the act to which this act is supplemental and amendatory, that there is no improvement of any description on the land sought to be located, except that owned by the applicant, if there should be any improvement thereon.

Disposition  
of moneys.

SEC. 8. All moneys received, as principal, from the sale of the sixteenth, or thirty-sixth, sections, or lands chosen in lieu thereof, shall be paid into the State School Fund, and shall be applied, in every respect, in the same manner as is set forth in the acts to which this act is supplemental and amendatory, and the interest thereof only appropriated for the support and maintenance of common schools throughout the State. Said interest, together with the interest paid by the purchasers of land under this act, shall be semi-annually apportioned to the several counties in the State; and all the moneys heretofore derived, as principal, from the sale of the lands herein designated and sold under the act for the sale of the sixteenth and thirty-sixth sections, approved April twenty-sixth, eighteen hundred and fifty-eight, shall be paid by the counties in which such lands have been sold, into the State School Fund; and if not so paid, such counties shall have a sum deducted from the *pro rata* they would be entitled to under this act, equal to the amount retained by them.

Failure to  
pay interest  
or purchase  
money.

SEC. 9. In all cases where persons shall have purchased lands from the State under the provisions of this act, or of the acts to which this act is supplemental and amendatory, and who shall have failed to pay the interest, or the balance due the State on the purchase money, at the time such interest, or purchase money, shall have become due, such lands shall be subject to re-entry and sale after a decree of forfeiture shall have been ob-

tained, as is provided in the Act for annulling Certificates of Purchase, approved April ninth, eighteen hundred and sixty-one.

SEC. 10. The Locating Agent shall publish notices, in each county of their districts, for a period of three months, of such sixteenth and thirty-sixth sections as are open to be located and entered by settlers and others; and there shall be allowed, and it is hereby appropriated and set apart, out of the interest money in the School Land Fund, the sum of twelve hundred dollars, being two hundred dollars to each Locating Agent, for such publication and contingent expenses, and the Controller is hereby authorized and directed to draw his warrants for such amounts, after the approval of the Board of Examiners.

SEC. 11. An Act entitled An Act to provide for the Sale of the Sixteenth and Thirty-Sixth Sections of Land donated to this State, for School Purposes, by Act of Congress, passed March third, A. D. eighteen hundred and fifty-three, approved April twenty-eighth, eighteen hundred and fifty-eight, is hereby repealed; *provided*, that all selections of land lawfully and properly made under the provisions of said act, are hereby declared valid and binding.

SEC. 12. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed. This act shall take effect and be in force, from and after its passage.

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CHAP. CCXIX.—*An Act more clearly to define the Boundaries of Sacramento County, and to amend the Act entitled An Act to amend an Act entitled An Act dividing the State into Counties and establishing the Seats of Justice therein, passed April twenty-fifth, eighteen hundred and fifty-one.*

[Approved April 23, 1861.]

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

SECTION 1. Section eleven of said act is hereby amended so as to read as follows:

Sec. 11. County of Sacramento, beginning at a point ten miles due north of the mouth of the American River, and running thence in an easterly direction to the junction of the North and South Forks of said river; thence up the middle of the principal channel of the South Fork to a point one mile above the head of Mormon Island, so as to include said island in Sacramento County; thence in a southerly direction to a point on the Cosumnes River eight miles above the house of William Daylor; thence due south to Dry Creek; thence down the middle of said creek to its entrance into the Mokelumne River; thence down the middle of said Mokelumne River, to a point where said river divides into its east and west branches; thence down the middle of the east branch of said Mokelumne River to its junction with the west branch of said Mokelumne River; thence down the middle of said river to its junction with the San Joaquin River; thence

down the middle of said San Joaquin River to the mouth of the Sacramento River, at the head of Suisun Bay; thence up the middle of the Sacramento River to the mouth of Merritt's Slough; thence up the middle of said slough to its head; thence up the middle of the Sacramento River to a point due west of the place of beginning. The seat of justice shall be at Sacramento City.

Act  
repealed.

SEC. 2. An act entitled An Act to amend An Act dividing the State into Counties, and establishing the Seats of Justice therein, passed April twenty-fifth, eighteen hundred and fifty-one, approved March thirtieth, eighteen hundred and fifty-seven, is hereby repealed.

To take  
effect.

SEC. 3. This act shall take effect and be in force, from and after its passage.

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CHAP. CCXX.—*An Act to declare the Time when a certain Act shall take effect.*

[Approved April 23, 1831.]

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

To take  
effect.

SECTION 1. The act approved April the nineteenth, eighteen hundred and sixty-one, entitled An Act to amend an Act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirteenth, eighteen hundred and sixty, shall take effect and be in force, from the nineteenth day of April, eighteen hundred and sixty-one.

SEC. 2. This act shall be in force from and after its passage.

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CHAP. CCXXI.—*An Act to amend an Act entitled An Act to grant to certain parties the right of laying a Railroad Track along certain Streets within the City and County of San Francisco, which became a law on the sixth day of April, A. D. eighteen hundred and fifty-seven.*

[Approved April 23, 1831.]

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

SECTION 1. The fifth section of the first mentioned act, and which section is in these words: "Only horses and mules shall be used on the track of said railroad, and they shall not be driven at a speed exceeding eight miles per hour, under a penalty of one hundred dollars for each offense against this provision, upon conviction of the same, to be recovered in any court of competent jurisdiction in the city and county of San Francisco, for the benefit of said city and county," shall be, and is hereby, amended so as to read as follows:



SEC. 2. Only horses and mules shall be used as the motive power on the track of said railroad, and they shall not be driven at a speed exceeding eight miles per hour, under a penalty of one hundred dollars for each offense against this provision, upon conviction of the same, to be recovered in any court of competent jurisdiction in the city and county of San Francisco, for the benefit of the said city and county; *provided*, however, that for the term of five years from the first day of May, A. D. eighteen hundred and sixty-one, it shall be lawful to use steam as the motive power on all that portion of said railroad which lies west of Third Street; and, *provided*, further, that for and during the said term of five years, it shall be lawful to use steam as the motive power on all that portion of the said railroad which lies east of Third Street, unless the Board of Supervisors of the city and county of San Francisco, upon petition of a majority in value, according to the assessment roll of the property-holders owning land on Market Street, between Third Street and the eastern terminus of said railroad, shall forbid the use of steam upon that portion of said road for the purposes aforesaid.

May use steam.

SEC. 3. The San Francisco Market Street Railroad Company shall have permission to diverge with their track from Market Street, at the point where Hayes Street intersects with said Market Street, and continuing along one block, and again to re-enter said Market Street at its intersection with Thorn Street; *provided*, that private property shall not be encroached upon without the consent of the owner, or owners, thereof; and, *provided*, also, that the portion of Market Street laying between said Hayes and Thorn Street, shall be graded by the said company to the necessary width for a railway track, and to lay their said track therein within five years from the passage of this act.

May change route.

SEC. 4. It shall be lawful for the said Market Street Railroad Company to lay down a branch, single, or double, track, along and through the center of Hayes Street, from its intersection with Market Street to its intersection with Laguna Street; thence along and through the center of Laguna Street to its intersection with Turk Street; said track to be laid in conformity, in all respects, with section two of this act, entitled An Act to grant to certain parties the right of laying a Railroad Track along certain Streets within the City and County of San Francisco, approved April sixth, eighteen hundred and fifty-seven.

Additional tracks.

CHAP. CCXXII.—*An Act to appropriate Money to pay the Claim of E. J. Saunders and Others.*

[Approved April 23, 1861.]

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

SECTION 1. The sum of two thousand dollars is hereby appropriated out of any moneys not otherwise appropriated in the General Fund, for the payment of the claim of E. J. Saunders

Appropriation.

and others for services rendered in transportation of arms, ammunition, etc. to Utah Territory, by order of the Executive of the State, and the Controller of State is hereby authorized and required to draw his warrant in favor of E. J. Saunders for two hundred and fifty dollars; in favor of Charles S. Fairfax, for one hundred and twenty-five dollars; in favor of L. C. Bradley, for one hundred and twenty-five dollars; in favor of Robert O'Keefe, for one hundred and twenty-five dollars; in favor of Louis Grant, for one hundred and twenty-five dollars; in favor of Frank Rhodes, for one hundred and twenty-five dollars; in favor of Charles Conger, for one hundred and twenty-five dollars; in favor of Patrick Towle, for one hundred and twenty-five dollars; in favor of Dennis Morgan, for one hundred and twenty-five dollars; in favor of Thos. Rooney, for one hundred and twenty-five dollars; in favor of James Moore, for one hundred and twenty-five dollars; in favor of H. Toler Booram, for one hundred and twenty-five dollars; in favor of Edward Granger, for one hundred and twenty-five dollars; in favor of Wm. Martin, for one hundred and twenty-five dollars; in favor of John Butler, for one hundred and twenty-five dollars; and the Treasurer of State to pay the same.

CHAP. CCXXIII.—*An Act for the protection of Harbors.*

[Approved April 23, 1861.]

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

Penalty for mooring to buoys.

SECTION 1. Any person mooring any vessel to, or in any manner hanging on with a boat, or vessel, to any buoy, or beacon, placed by the United States Light-House Board, or other competent authority, in any port, harbor, or cove, within this State, into which vessels may enter for the purpose of receiving, or discharging, cargo, or any person who shall willfully remove any such beacon, or buoy, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than fifty, nor more than five hundred, dollars, upon conviction by any court of competent jurisdiction.

Throwing ballast in harbor.

SEC. 2. The owner, or Master, of any boat, or vessel, who shall, within the anchorage of any port, harbor, or cove, of this State, into which vessels may enter for the purpose of receiving, or discharging, cargo, throw overboard from said boat, or vessel, the ballast, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, by any court of competent jurisdiction, shall be subject to a fine not exceeding five hundred dollars.

Disposition of fines.

SEC. 3. All fines recovered under the provisions of this act, after deducting the costs of prosecution, shall be paid into the county treasury of the county where recovered.

CHAP. CCXXIV.—*An Act authorizing the Board of Trustees of the Oroville Cemetery to give to purchasers of lots therein proper certificates of purchase, and to manage the said Cemetery.*

[Approved April 23, 1861.]

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

SECTION 1. The Board of Trustees of the Oroville Cemetery, in Butte County, are hereby authorized and empowered to execute certificates of purchase to all parties who may hereafter, or have already, purchased lots therein; said certificates shall be signed by the President of said Board, and attested by the Sexton of said cemetery, and shall then be recorded in a book kept for that purpose by said Sexton, and, also, in a book kept for that purpose by the said Board. When so executed, attested, and recorded, it shall be legal evidence of title to the property therein described.

To issue certificates.

SEC. 2. The owners of lots in said cemetery shall be entitled to vote at elections of Trustees of said cemetery; and the annual election for the year eighteen hundred and sixty-one and each year thereafter, shall be on the first Monday in May, at the court-room, in Oroville, notice of which shall be given ten days beforehand by the Board of Trustees.

Lot owners may vote.

SEC. 3. The Board of Trustees of said cemetery shall have power to make, and they are hereby required to make, and enter on the record of their proceedings such rules, not inconsistent with the constitution and laws of this State, as may be needed for the government of said cemetery, and they shall cause a copy thereof to be posted conspicuously inside of said cemetery.

Powers Trustees.

3

CHAP. CCXXV.—*An Act to amend an Act entitled An Act to confer upon "The San Francisco and Marysville Railroad Company," incorporated under the Laws of this State, certain Rights and Privileges, approved April twenty-fourth, A. D. eighteen hundred and fifty-eight.*

[Approved April 23, 1861.]

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

SECTION 1. Section three of said act is hereby amended so as to read as follows :

Sec. 3. If the said incorporated company shall fail to construct and complete their said road from the city of Marysville to the Sacramento River, and to reclaim the swamp and overflowed lands lying between the mouth, or sink, of Butte Creek, and the junction of the Sacramento and Feather rivers within four years from the twenty-fourth day of April, A. D. eighteen hundred and fifty-eight, then and in that event all the grants, concessions, and privileges, hereby proposed to be granted, are declared to be

Penalty.

revoked, and null and void, and of no effect; and if the said company shall fail to construct and fully complete their said road, and to reclaim all the swamp and overflowed lands hereby proposed to be reclaimed, within five years from and after the twenty-fourth day of April, A. D. eighteen hundred and fifty-eight, then and in that event the whole of the grants, concessions, and privileges, hereby proposed to be granted are declared to be null and void and of no effect; *provided*, there is nothing in this act, or in the several acts to which this is amendatory, that shall be so construed as to annul, or vitiate, the title to any of said lands that have been purchased under an act entitled An Act to provide for the sale and reclamation of the Swamp and Overflowed Lands of this State, approved April eighteenth, A. D. eighteen hundred and fifty-nine, or in any manner to prevent persons from purchasing said lands under said acts of eighteen hundred and fifty eight and eighteen hundred and fifty-nine, at any time prior to the reclamation of said lands.

To take effect.

SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCXXVI.—*An Act to amend an Act approved April twenty-fourth, eighteen hundred and fifty-eight, entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento.*

[Approved April 24, 1861.]

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

SECTION 1. Section sixty-nine of the act, the title of which is recited in the title of this act, is hereby amended so as to read as follows:

Shall elect School Director.

Sec. 69. At a special election, to be held as hereinafter provided, on the first Monday of December, in the year eighteen hundred and sixty-one, and annually thereafter, the qualified electors of each Supervisor District within the city, shall elect one person to serve as School Director, who shall qualify on, or before, the first Monday in the January next succeeding his election, and shall hold office two years and until his successor is elected and qualified. Said Directors and their successors, when qualified, shall constitute the Board of Education of the city of Sacramento; *provided*, the present members of the Board of Education whose term of office is hereby extended until the first Monday in January, eighteen hundred and sixty-two, shall, on, or before, that day, choose by lot, or otherwise, one of their members from each district to serve as Director in the Board of Education for the year eighteen hundred and sixty-two. And the qualified electors aforesaid, on the first Monday in December, eighteen hundred and sixty-one, and biennially thereafter, shall, jointly, elect one person to serve as Superintendent of Common Schools within and for the city of Sacra-

Board of Education.

mento, whose term of office shall commence on the first Monday in January next succeeding his election, and shall continue for two years and until his successor shall be elected and qualified. It is hereby made the duty of the Board of Supervisors to appoint the Judges and Inspectors, and to name the time and places of holding the elections mentioned in this section, and to give ten days' notice thereof by publication in all the daily papers in the city, of the time and place where such elections will be held.

SEC. 2. Section seventy of the act above mentioned, is hereby so amended as to read as follows:

Sec. 70. The Board of Education shall organize by electing one of its members President and the Superintendent of Common Schools, who shall be *ex officio* Secretary. A majority of all the members of the Board shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absentees by such fines and penalties as the Board by its by-laws may prescribe. The Board of Education shall have power—

Board to organize.

*First*—To establish common schools and school districts within the limits of the city and to fix the boundaries of such districts.

Powers of Board.

*Second*—To make, establish, and enforce, rules and regulations not contrary to law, or ordinance, for the improvement and progress of the public schools, the government of the Teachers and scholars therein, and for the effectual carrying out of the provisions of the laws and ordinances relating to the subject of education.

Same.

*Third*—To fix the salaries, or compensation, and to employ and dismiss Teachers.

*Fourth*—To require that every Teacher, previous to being employed by the Board, shall have a lawful certificate of qualifications to teach. The President shall be the executive officer of the Board, and shall preside at its meetings and shall perform such other duties as the Board may direct. The Superintendent of Common Schools shall receive a salary of twelve hundred dollars per annum, payable, monthly, out of the City School Fund; he shall keep a correct record of all the proceedings of the Board; shall have the custody of all papers and documents belonging to it; he shall have the right to speak, but not to vote, on all measures brought before the Board; he shall attend to grading the Schools, and shall classify the pupils therein; he may suspend any pupil for misconduct, for a term not exceeding one month, and by permission of the Board may expel a pupil from the schools; he shall see that the course of studies is complied with, that none but authorized text-books are used, and that Teachers and pupils in all the schools are faithfully performing their duties; and shall perform such other duties as may be either by law, ordinance, or order of the Board, imposed on him.

Same.

The regular meetings of the Board of Education shall be held monthly, on the last Monday in each month, at the office of the Superintendent, which shall be furnished by the Board of Supervisors. The President of the Board shall hold his office for one year, but he may be removed by a majority of the votes of all the members elect, given at a regular meeting of the Board.

Time of meeting.

CHAP. CCXXVII.—*An Act to amend an Act entitled An Act to provide for the Incorporation of Water Companies, approved April twenty-second, eighteen hundred and fifty-eight.*

[Approved April 24, 1861.]

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

SECTION 1. Section two of said act is so amended as to read as follows :

Rights of  
companies.

Sec. 2. Any company, incorporated for the purposes specified in the preceding section, shall have the right to purchase, or appropriate, and take possession of, and use and hold all such lands and waters as may be required for the purposes of the company, upon making compensation therefor. The mode of proceeding to appropriate and take possession of such lands and waters, when the parties cannot agree upon a purchase thereof, shall be the same as prescribed in sections twenty-seven, twenty-eight, and twenty-nine, of An Act to provide for the Incorporating of Railroad Companies, passed April twenty-second, eighteen hundred and fifty-three, except that such proceedings shall be had before the County Judge of the county in which such lands, or waters, or both, may be situated. But when the County Judge shall be a party interested, then the same proceedings shall be had before the District Judge of the district where the lands, or waters, are situated ; *provided*, that all canals, reservoirs, ditches, pipes, aqueducts, and all conduits, heretofore built, or that hereafter may be constructed, by any corporation formed under this act, or claiming the privileges, rights, or immunities, herein granted, or any of them, shall be used exclusively for the purpose of supplying any city, or county, or any cities, or towns, in this State, or the inhabitants thereof, with pure fresh water.

CHAP. CCXXVIII.—*An Act to condemn certain Streets and Alleys for the use of the California State Agricultural Society.*

[Approved April 24, 1861.]

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

Supervisors  
to close  
certain  
streets.

SECTION 1. The Board of Supervisors of the city and county of Sacramento, is hereby authorized and required, upon the application of the President of the State Agricultural Society, to make an order authorizing and empowering the said State Agricultural Society to close up and use for the purposes of said society, all the streets and alleys within the following described limits, to-wit: Commencing at the northwest corner of Lot Number One, in the block, or square, between E and F, and Twentieth and Twenty-First streets, in the city of Sacramento, county of Sacramento, and State of California, as laid down and designated on the map, or plan, of said city, running thence east to

the west line of Twenty-Second Street; thence south to the north line of H Street; thence west to the east line of Twentieth Street; thence north along the said east line of Twentieth Street to the place of beginning.

SEC. 2. Said California State Agricultural Society shall have, and it is hereby granted, the right to use, occupy, and hold, the streets and alleys within the limits above specified, so long as the same may be required for the uses and purposes of said society, and whenever said society shall cease to use said streets and alleys, as aforesaid, for the space of two years, the same shall revert to the city of Sacramento. Streets may  
revert to  
city.

CHAP. CCXXIX.—*An Act to prohibit Lotteries, Raffles, Gift Enterprises, and other schemes of like character.*

[Approved April 24, 1861.]

*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 to dispose of, or attempt to dispose of, any money, goods, personal property, real estate demands, things in action, or other valuables, by lottery, or by raffle, gift entertainment, gift enterprise, gift concert, gambling game, device of chance, or game of chance, in the nature of a lottery, or by any drawing of numbers, figures, letters, or cards, or throwing, or counting, of dice, or by any other scheme, or means, by which an uncertain disposition of said money, goods, personal property, real estate, demands, things in action, or other valuables, is sought to be had. Lotteries  
unlawful.

SEC. 2. For the purposes of this act, the term "lottery" is hereby declared to mean any raffle, gift, gift entertainment, gift enterprise, gift concert, device of chance, game of chance, drawing of numbers, figures, or letters, represented by tickets, or cards, throwing and counting dice, and any other means in the nature of a lottery, by whatever name it may be called, by which an uncertain disposition of money, goods, personal property, real estate, demands, things in action, or other valuables, is sought to be had, and any other plan, or scheme, game, gift, device, contrivance, or thing, in the nature of a lottery, raffle, or game of chance, by whatever name it may be called. Lottery  
defined.

SEC. 3. For the purpose of this act, the term "lottery ticket" is hereby declared to mean any share, policy, certificate, bill, writing, token, or device, or anything purporting to be such, or anything representing, or purporting to represent, the whole, or a part, thereof, by which the vendor, or other person, promises, or guarantees, that any particular number, character, ticket, or certificate, shall, in any event, or on the happening of any contingency, in the nature of a lottery, entitle the purchaser, or holder, to receive, in any manner, by gift, donation, or otherwise, money, goods, personal property, real estate, demands, things in action, or other valuables. Lottery  
ticket  
defined.

**Construction of act.** SEC. 4. The courts in construing this act, shall adjudge as lottery tickets, all tickets, parts of tickets, certificates, or any other devices whatever, by which money, real estate, personal property, things in action, or any other thing, is to be paid, or delivered, on the happening of any event, or contingency, in the nature of a lottery, or raffle, and all schemes, devices, or contrivances, designed to evade the provisions of this act, shall be deemed as offenses against this act.

**Unlawful acts.** SEC. 5. It shall be unlawful for any person to aid, either by printing, writing, or otherwise, in the setting up, managing, or drawing, of any lottery, or in disposing, offering, or attempting, to dispose, of property by lottery, or to be in any way interested, or concerned, in any lottery.

**Houses, etc. not to be used.** SEC. 6. It shall be unlawful for any person to knowingly permit any house, shop, store, building, hulk, vessel, or any part thereof, owned by him, or under his control, to be used for setting up, managing, or drawing, any lottery, or for the purpose of selling, or disposing, of lottery tickets, or attempting to do the same.

**Lotteries out of the State.** SEC. 7. It shall be unlawful for any person to bring into this State any lottery ticket with the intent to dispose of the same, and it shall be unlawful for any person, for himself, or another, to barter, furnish, supply, procure, or cause to be furnished, supplied, or procured, to, or for, any person, any lottery ticket, or part, or share, of a lottery ticket, or any paper, or instrument, purporting to be a lottery ticket, or part of a lottery ticket, or purporting to be a share, or interest, in any lottery ticket, or in any certificate of any share, or interest, in any lottery ticket, or in any paper, or instrument, purporting to be a lottery ticket, and it shall be unlawful for any person to invite, entice, or attempt to entice, any other person to purchase, or receive, the same.

**Insuring chances.** SEC. 8. No person shall sell any chance, or chances, or any ticket, in any lottery, nor shall any person insure for, or against, the drawing of any such lottery.

**Same.** SEC. 9. No person shall insure, or receive, any consideration insuring for, or against, the drawing of any lottery ticket, or for tickets in any lottery whatever, whether drawn, or to be drawn, within this State, or not; nor shall any person receive money, goods, things in action, or other property, in consideration of any agreement to repay any sum, or sums, or deliver the same, or any other goods, things in action, or other property, if any lottery ticket, or tickets, in any lottery whatever, shall prove fortunate, or unfortunate, or shall be drawn, or not be drawn, at any particular time, or in any particular order, or otherwise, however; nor shall any person promise, or agree to pay, any sum of money, or to deliver any goods, things in action, or property, or to forbear to do anything for the benefit of any person, with, or without, consideration, upon any event, or contingency, dependent on the drawing of any ticket, or tickets, in any lottery whatever; nor shall any person publish any notice, or proposal, of any of the purposes aforesaid.

**Lottery offices.** SEC. 10. No person shall open, set up, use, or keep, by himself, or his agent, any office, or other place, for registering the number of any ticket in any lottery; nor shall any person by



printing, writing, or otherwise, publish the setting up, opening, or using, of any such office, or other place.

SEC. 11. Every grant, bargain, sale, conveyance, or transfer, of any real estate, or of any goods, chattels, things in action, or any personal property, which shall hereafter be made in pursuance of any lottery, or for the purpose of aiding and assisting in such lottery, is hereby declared void and of no effect. Transfers declared void

SEC. 12. It shall not be necessary in the trial of any suit, or prosecution, under the provisions of this act, to prove the existence of any lottery, in which any lottery ticket purports to have been issued, or to prove the actual signing of any such ticket, or share, or pretended ticket, or share, of any pretended lottery, nor that any lottery ticket, share, or interest, was signed, or issued, by the authority of any manager, or of any person, assuming to have authority as manager; but in all cases proof of the sale furnished, bartering, or procuring, of any ticket, share, or interest, therein, or of any instrument purporting to be a ticket, or part, or share, of any such ticket, shall be considered evidence that such share, or interest, was signed and issued according to the purport thereof. Ticket to be evidence.

SEC. 13. All contracts, agreements, and securities, given, made, or executed, for, or on account of, any lottery, shall be utterly void and of no effect. Contracts void.

SEC. 14. The provisions of this act shall apply to lotteries, whether authorized, or not authorized, by any other State, District, or Territory, or by any foreign country; and the prohibition, or sale, of any lottery ticket, or other device, of the nature thereof, shall apply to lotteries drawn out of this State, as well as to those drawn within this State. Application of act.

SEC. 15. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail, for a term not exceeding six months, or by a fine, in any sum not exceeding five hundred dollars. Misdemeanor.

SEC. 16. If any person shall a second time, or more than once, be convicted of violating any of the provisions of this act, he shall, on conviction, be punished by imprisonment in the county jail for a term not less than six months, nor more than twelve months, or by a fine, not less than five hundred dollars, nor more than one thousand dollars. Second offense.

SEC. 17. All moneys arising from the collection of fines under the provisions of this act, shall be appropriated to county purposes in the county where the offense was committed.

SEC. 18. 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 this act, shall be forfeited to the use of the State, deducting the fees of the District Attorney, who prosecuted the suit, 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 of the State. Upon the filing of the information, or complaint, the Clerk of the court, or if the suit be in Justice's Court, the Justice shall issue an attachment against the property mentioned in the complaint, or information, which attachment shall have the same force and effect against such property, and shall be Forfeiture.

executed in the same manner as attachments issued from the District Courts in civil cases, and may be discharged in the same manner.

**Purchaser may recover.**  
**Fees of District Attorney.**  
**Repealing clause.**  
**Duty of County Judges.**  
**To take effect.**

SEC. 19. In addition to the other penalties proscribed in this act, any person who may give money, or any other thing, for any lottery ticket, or any instrument, or writing, purporting to be a lottery ticket, may recover, as other debts are recoverable, from the person to whom he gave the same, or from his aiders and abettors, the sum of fifty dollars for every ticket so purchased, or obtained, by him; but the person purchasing and prosecuting, shall not in that case be, or thus render himself, liable to prosecution under this act.

SEC. 20. The District Attorneys of the several counties of this State, shall receive a fee of one hundred dollars for each conviction under this act, to be collected out of the fine, or fines, imposed upon the party convicted, and said fee shall be in addition to all other compensation now allowed by law to said District Attorneys in their respective counties.

SEC. 21. All acts and parts of acts in conflict with the provisions of this act, are hereby declared inoperative, so far as they conflict with this act.

SEC. 22. It shall be the duty of the presiding Judge of the Court of Sessions of every county of this State, specially to charge every grand jury to inquire into all violations of the provisions of this act.

SEC. 23. This act shall take effect and be in force, on and after the first day of July, eighteen hundred and sixty-one.

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CHAP. CCXXX.—*An Act amendatory of, and to extend the provisions of, an Act entitled An Act to amend An Act to exempt the Homestead and other Property from forced sale in certain cases, passed April twenty-first, eighteen hundred and fifty-one, approved April twenty-eighth, eighteen hundred and sixty.*

[Approved April 24, 1861.]

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

**Time extended.**  
**SECTION 1.** The time for recording homesteads, as provided in section five of the act, of which this act is amendatory, is hereby extended to, and including, the twenty-eighth day of April, A. D. eighteen hundred and sixty-two.

**SEC. 2.** This act shall be in force from and after its passage.

CHAP. CCXXXI.—*An Act supplementary to an Act passed April twenty-fourth, eighteen hundred and fifty-eight, entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento.*

[Approved April 24, 1861.]

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

SECTION 1. From and after the first day of March, eighteen hundred and sixty-one, the per diem of the Associate Justices of the Court of Sessions of the city and county of Sacramento shall be paid out of the County Salary Fund; and the salary of the Overseers of the chain gang of the city of Sacramento shall be paid out of the City Salary Fund. Per diem.

SEC. 2. This act shall take effect immediately, and all laws and parts of laws in conflict herewith, are hereby repealed. Repealing clause.

CHAP. CCXXXII.—*An Act to ratify and approve certain Orders made by the Board of Supervisor's of the County of Tulare during the years eighteen hundred and fifty-three and four, granting Land to certain parties, and to make certain conveyances.*

[Approved April 24, 1861.]

WHEREAS, On the twenty-first day of December, eighteen hundred and fifty-three, the Board of Supervisors of the county of Tulare passed certain orders granting parcels of land and town lots in the town of Visalia and county aforesaid, to certain parties, residents of said county of Tulare, of which the following are copies, to wit: "Ordered, To allow Thomas Baker all that parcel of land running from the southwest corner of the Town Quarter Section forty rods east; thence north to the creek; thence down the creek to the west line of the Town Quarter Section; thence south to the place of beginning; also, to allow Tom Baker one choice lot. Ordered, To allow the Messrs. Mathews a mill-site and three choice lots; the mill-site to be selected by the Supervisors. Ordered, To allow Mr. Wagya a mill-site, to be selected by the Supervisors, if he put the mill in operation on the first of August next, if not, that the site revert to the county. (Signed,) Burrough, Chairman. And, *Whereas*, certain orders were subsequently made in the year eighteen hundred and fifty-four, describing the lands and town lots as recited in the orders of the twenty-first day of December, eighteen hundred and fifty-three, of which the following are copies, to wit: *Ordered*, That the north half of block thirty-six, together with the south half of block thirty, together with the fraction of the north half of Preamble.

block thirty, lying on the south side of the river; also, the alley through the center of block thirty, together with the street intervening between block thirty and thirty-six, be donated to Mr. Wagy on the conditions of the order of December twenty-first, eighteen hundred and fifty-three, donating a mill-site to Mr. Wagy. *Ordered*, That lots number one and eight in block number thirty-six, and lot number one in block thirty-seven, and all the land between the creek and a line due east from the southeast corner of lot number one in block number thirty-seven, belonging to the county, be set apart to R. Mathews and brothers, and the streets and alley, running through the said parcel of land, be vacated. The four choice lots donated by the county were selected as follows: By Tom Baker, lot one in block thirty-three; by R. Mathews, lot eight in block twenty-two; by O. Mathews, lot four in block thirty-five; by W. Mathews, lot five in block twenty-two. (Signed,) A. J. Lorraine, Chairman. And, *Whereas*, The parcel of land occupied by Philip Wagy and his assigns, by virtue of the foregoing orders, and for the purpose therein set forth, is known on the map of the survey of said town of Visalia, as the north half of block thirty-one, together with the south half of block thirty, together with the fraction of the north half of block thirty, lying on the south side of the creek called Mill Creek; and the parcel of land so occupied by the said Philip Magy and his assigns, was the one intended to be granted to him by the said Board of Supervisors, but was erroneously described in said order, through a mistake of the Clerk of the Board of Supervisors, and should have been described in said order in the manner last above mentioned and set forth; and, *whereas*, all the parties mentioned in the foregoing orders as grantees, have, in person, or by their assigns, been in undisturbed and peaceable possession of the town lots and parcels of land granted, or intended to be granted, for the period of seven years; and, *whereas*, no conveyances have yet been executed to the parties in said orders named, or their assigns, in pursuance of such orders." Therefore—

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

Orders confirmed.

SECTION 1. That the said orders, above named and recited, be and the same are hereby ratified and confirmed, and declared legal and valid, according to the true intent and meaning thereof.

To execute deeds.

SEC. 2. The Clerk of the Board of Supervisors of the county of Tulare is hereby directed to execute to the parties named in the orders aforesaid, or their heirs, assigns, or grantees, deeds for said property therein named, conveying all the right, title, and interest, of the county of Tulare, which said deeds shall be received as evidence of title in all the courts of this State, and shall be conclusive evidence of title as against all parties claiming title from said county of Tulare; *provided*, however, that the deed, or deeds, so to be made and executed to the said Philip Wagy, his heirs, or assigns, shall embrace the following property only, viz: The north half of block thirty-one, together with the south half of block thirty, together with the fraction of the north half of block thirty, lying on the south side of the

creek called Mill Creek, in said town of Visalia, county of Tulare, together with the alley running through the center of block thirty, and the street intervening between blocks thirty and thirty-one; and, *provided*, further, that before the execution of any deed to said Philip Wagye, or his assigns, said Philip Wagye shall execute to the Clerk of said Board of Supervisors, for the use and benefit of said county of Tulare, a quitclaim deed to the property mentioned in said order as having been donated to him by said county.

CHAP. CCXXXIII.—*An Act to create the County of Mono, to define its Boundaries, and provide for its Organization.*

[Approved April 24, 1861.]

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

SECTION 1. There shall be formed, out of those portions of Calaveras, Mariposa, and Fresno, counties, lying east of the summit of the Sierra Nevada Mountains, and north of the southern boundary line of Fresno County, a new county, to be called "Mono." County formed.

SEC. 2. The boundaries of Mono County shall be as follows: Commencing at the point where the southern boundary line of Amador County is intersected by the main summit of the Sierra Nevada Mountains; thence running due east to the eastern boundary of the State; thence, in a southeasterly direction, along the said boundary line to the southern boundary line of Fresno County; thence along said line, in a westerly direction, to the summit of the Sierra Nevada Mountains; thence, in a north-westerly direction, along the said summit to the place of beginning. Boundaries.

SEC. 3. The seat of Justice of Mono County shall be at Aurora. County seat.

SEC. 4. There shall be held an election in said county, on the first day of June, A. D. eighteen hundred and sixty-one, at which election there shall be chosen, a County Clerk, who shall be *ex officio* County Recorder and Auditor; a Sheriff, who shall be *ex officio* Collector of all property tax, poll tax, and license tax, of every description; a District Attorney; an Assessor; a Treasurer; a Surveyor; a Coroner, who shall be *ex officio* Public Administrator; a Board of Supervisors, which Board shall be chosen as hereinafter provided. Election of officers.

SEC. 5. P. J. Hickey, W. M. Boring, E. W. Casey, C. N. Noteware, L. A. Brown, G. W. Bailey, and T. A. Lane, are hereby appointed and constituted a Board of Commissioners, to designate the election precincts in the said county of Mono, for the said election, to appoint the Inspectors and Judges of the several precincts as designated, to receive and canvass the returns of election, and to issue certificates of election to the persons entitled to the same. The said Board shall meet, on the Saturday two weeks previous to the election, at Aurora, and shall appoint Commissioners.

one of their number President, and one 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 said precincts.

Election  
returns.

SEC. 6. Sealed returns from the officers of election may be delivered to any member of said Board. The said Board shall meet, on the tenth day subsequent to the election, at Aurora, 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. The statement made out by such Board shall be signed by its President and Clerk. The person having the highest number of legal votes for the several offices to be filled, shall be declared to be elected, and the President shall immediately make out and send, or deliver, to each person chosen, a certificate of election, signed by him as President of the Board of Commissioners, and attested by the Clerk.

Governor to  
appoint.

SEC. 7. Immediately after the passage of this act, the Governor shall appoint and commission some suitable person as County Judge, for said county, who shall hold his office until the next general election, and until his successor is elected and qualified; at which election, a County Judge shall be elected by the qualified voters of the county.

Officers to  
qualify.

SEC. 8. The persons elected as county officers, as provided in this act, shall qualify before the County Judge, within ten days after receiving their certificates of election, and enter upon the discharge of their duties; they shall hold their respective offices for the term fixed by law, commencing from the next annual election for members of the Assembly. Before entering upon the discharge of their duties, they shall each give a bond, to be approved by the County Judge, for the following amounts: The Sheriff, in the sum of ten thousand dollars; the Clerk, in the sum of five thousand dollars; the Treasurer, in the sum of ten thousand dollars; the District Attorney, in the sum of two thousand dollars; the Surveyor, in the sum of two thousand dollars; the Assessor, in the sum of five thousand dollars; the Coroner, in the sum of two thousand dollars; the Supervisors, each in the sum of two thousand dollars.

To forward  
statement.

SEC. 9. The President of the Board of Commissioners shall transmit without delay, a copy of the tabular statement prepared as provided for in this act, 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, until the person elected as Clerk of said county has qualified and entered upon the discharge of his duties, after which they shall be filed in his office.

Salary.

SEC. 10. The County Judge shall receive for his services, the sum of two thousand dollars per annum, to be paid quarterly; the District Attorney shall receive for his services, the sum of one thousand dollars per annum, to be paid in the same manner. The other county officers, whose salaries are not fixed by law,

shall receive for their services, such fees as are prescribed in an act entitled An Act to regulate Fees in Office, approved April tenth, eighteen hundred and fifty-five, from section four to section twenty-two, inclusive, and all provisions contained in such parts of said act shall apply to said officers of Mono County.

SEC. 11. The county of Mono, for representative purposes, shall be attached to the county of Tuolumne, and shall be attached to, and form a part of, the Seventh Senatorial District, and for judicial purposes shall be attached to, and form a part of, the Sixteenth Judicial District, until otherwise provided by law. Attached to Tuolumne.

SEC. 12. The Board of Supervisors of Mono 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. Special tax.

SEC. 13. The Clerk and Recorder of Calaveras County, upon application by any person, and upon 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 paper, are situated in Mono County, and such certified copies may be filed, or recorded, in the proper books of record in Mono County, and shall be received in all the courts and places as presumptive evidence of the facts therein stated. Duties of Clerk, etc.

SEC. 14. All actions, or proceedings in the nature of actions, whether original, or on appeal, civil, or criminal, which shall be pending in the courts of Calaveras County at the organization of Mono County, in which the defendants are residents of Mono County, and all probate matter, in which the deceased shall have been, at the time of their death, residents of the territory now constituting said county, shall be removed for trial and final determination, to the proper courts of Mono County, on motion of any party in interest. Transfer of actions.

SEC. 15. The Board of Supervisors of Mono County shall consist of three members, who shall hold their offices for the term of three years, except as hereinafter provided. Board of Supervisors.

SEC. 16. At the special election, as provided in section four of this act, there shall be elected in the county of Mono, by the qualified electors thereof, three Supervisors, one to hold his office for the term of one year, one to hold his office for the term of two years, and one to hold his office for the term of three years; and at the first meeting of the Board of Supervisors of said county, after their election, they shall draw lots for the terms, one, two, and three, years, respectively, and the Supervisor who draws one year, shall hold office for one year from the succeeding annual election, and the Supervisor who draws two years, and the Supervisor who draws three years, shall hold office for the term of two and three years, respectively, or until their successors are elected and qualified; so that, after the next general election, there shall annually be elected one Supervisor, to hold office for the term of three years. Term of office.

SEC. 17. Whenever a vacancy occurs in the Board, by death, resignation, or any other cause, the Board shall appoint some suitable person to fill the vacancy until the next general elec- Vacancy.

tion, when a person shall be elected, who shall hold his office for the remainder of the unexpired term for which his predecessor was elected.

Salary.

SEC. 18. The Supervisors of the County of Mono shall receive for their services, the sum of three hundred dollars per annum each; they shall do all the duties required of them by law to be done, and shall receive no other compensation for their services than is hereinafter provided, which compensation shall be drawn quarterly, as the services are performed. The Supervisor filling the term nearest expiration shall be Chairman of said Board; *provided*, that in no instance shall this provision apply to a member of the Board elected to fill a vacancy, unless each member comprising said Board shall have been elected to serve out an unexpired term.

Duties of Supervisors.

SEC. 19. The Board of Supervisors shall, immediately upon entering upon the discharge of their duties, divide the county into a convenient number of townships, and cause such division to be published in some newspaper of general circulation. They shall also, at the same time, provide for an election of two Justices of the Peace and two Constables, for each township.

Acts repealed.

SEC. 20. All acts, or parts of acts, inconsistent with the provisions of this act, so far as applicable to the county of Mono, are hereby repealed.

To take effect.

SEC. 21. This act shall take effect from and after its passage.

CHAP. CCXXXIV.—*An Act to authorize Giles Bewel to remove the remains of Deceased Persons in the Town of Michigan Bluff, Placer County.*

[Approved April 24, 1861.]

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

To remove remains.

SECTION 1. Giles Bewel, of Placer County, is hereby authorized and empowered to remove, or cause to be removed, all of the remains of deceased persons interred in the "Old Grave Yard," in the town of Michigan Bluff, in said county, and to inter, or cause them to be interred, in the New Cemetery, near the Masonic Hall, in said town. Said Bewel shall, within sixty days after the passage of this act, remove, or cause to be removed, all of said remains of deceased persons, and reinter, or cause them to be reinterred, in said New Cemetery, decently, and in good order; and he shall cause any and all tombstones, ornaments, and inscriptions, now on the graves of said remains, to be removed and be re-erected in good order, on the new graves.

Compensation.

SEC. 2. Whenever said Bewel shall present to the Board of Supervisors of the county of Placer a certificate signed by a Justice of the Peace of Township Number Six, of said county, stating that he has well and faithfully performed the duties required of him by section one of this act, they shall allow his claim against the county for the sum of two hundred and fifty dollars, for the removal of said remains, and the County Auditor



shall draw a warrant on the Treasurer of said county in favor of said Bewel, for the said sum of two hundred and fifty dollars, which shall be paid out of the General Fund of said county, in the same manner as other claims against the county.

SEC. 3. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCXXXV.—*An Act fixing the times of holding the Court of Sessions, County Court, and Probate Court, in the County of Mono.*

[Approved April 24, 1861.]

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

SECTION 1. The Court of Sessions, County Court, and Probate Court, in and for the county of Mono, shall hold a term on the first Monday of January, May, and September, of each year, and may continue in session until the commencement of the next term, unless all the business of the courts be sooner disposed of. Terms of courts.

SEC. 2. At the said terms the business pertaining to the Court of Sessions shall be first disposed of, and after that, the business of the County Court, in the order in which said courts are named; this order shall be observed as a rule of precedence only, and after the business of one court is disposed of the business of the other may be taken up on the same days, in such order as the Judge may determine. Order of business.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. CCXXXVI.—*An Act to amend An Act to create a Sinking Fund to pay the Outstanding Indebtedness of Contra Costa County, approved April third, eighteen hundred and fifty-eight.*

[Approved April 24, 1861.]

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

SECTION 1. Section three of said act is amended so as to read as follows :

Sec. 3. Said Board of Commissioners shall cause notice to be published for one month, in a newspaper published in the county of Contra Costa, prior to the first day of December, annually, if there be a weekly, or daily, newspaper published in said county, and if there be none, then they shall cause notice to be published in a weekly newspaper published in the city and county of San Francisco, for one month prior to the first day of December, annually, notifying all persons holding bonds, or warrants, of said county, issued prior to the first day of July, eighteen hundred Publication of notice.

and fifty-seven, that sealed proposals will be received at the office of the County Treasurer of said county, from the first Monday of December, until the first Monday of January, annually, for the redemption of such outstanding bonds and warrants, until all such bonds and warrants outstanding shall be redeemed; such sealed proposals shall specify the number, date, and amount, of the bond, or warrant, including the interest, and shall specify the sum in cash that will be received in lieu thereof.

SEC. 2. Section four of said act is hereby repealed.

SEC. 3. Section five of said act is amended so as to read as follows:

Proposals.

Sec. 5. Sealed proposals shall be received by the County Treasurer, and numbered in the order in which they are received, in a book to be kept for that purpose, and indorsed on each proposal, and filed; and on the first Monday in January, annually, the said Commissioners, or a majority of them, shall proceed in a public manner to open all proposals that shall have been received, in the order numbered, and shall record each proposal at length, in a book to be kept by them as a journal, in which shall be entered minutes of all their proceedings. When the bids are opened the Commissioners shall accept and award the money applicable on such bids as will secure the cancellation of the greatest amount in value of bonds, warrants, or coupons, and shall pay cash for, and redeem, all bonds, warrants, and coupons, which shall be surrendered, having due regard to the lowest amount proposed to be received for any one bond, warrant, or coupon, and shall redeem in that order, until the money applicable to the redemption of the bonds, warrants, and coupons, is exhausted, or all the bonds, or warrants, presented have been canceled; *provided*, that bids equal in rate shall be paid in the order in which they are numbered by the Treasurer; and, *provided*, also, that no bid shall be accepted, or bond, warrant, or coupon, paid by the Commissioners, at more than their par value; and, *provided*, further, that if the holder of any bond, warrant, or coupon, who shall have submitted to the Commissioners a proposal for their redemption, shall neglect, or refuse, for ten days after being notified by the Commissioners, that his, or her, bid has been accepted, and the money in payment thereof awarded, to surrender such bonds, warrants, or coupons, to be canceled, shall forfeit his, or her, bid, and the money applicable to the payment thereof, shall be by the Commissioners applied to the payment of the lowest bid not previously accepted. When a bond, warrant, or coupon, is redeemed, they shall indorse the word "Canceled," on the back, or across the face, of the bond, warrant, or coupon, and sign the same, and enter a minute of such redemption in the journal of their proceedings. If a surplus of money shall remain in the treasury any one year after paying cash for all the bonds, or warrants, for which proposals shall have been received, then the balance of the bonds and warrants outstanding shall cease to bear interest; and if on the next succeeding year a surplus shall remain in the treasury, the Board of Supervisors may diminish the amount of tax to be levied in a corresponding year.

Redemption.

Cancellation.

SEC. 4. Section nine of said act is amended so as to read as follows:

Sec. 9. The Fund Commissioners shall each receive annually, <sup>Salary.</sup> the sum of sixty dollars, payable out of the Sinking Fund, on the first Monday of January, in full compensation for all services under this act.

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CHAP. CCXXXVII.—*An Act to fix the Terms of the District Court in the County of Mono.*

[Approved April 24, 1861.]

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

SECTION 1. The terms of the District Court shall be held in the county of Mono on the first Monday in April, July, and October, of each year.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCXXXVIII.—*An Act authorizing the Treasurer of State to issue Bonds.*

[Approved April 24, 1861.]

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

SECTION 1. The Treasurer of State is hereby authorized and required to receive three several bonds, numbered respectively <sup>To issue bonds.</sup> one hundred and fifty-seven, one hundred and fifty-eight, and one hundred and fifty-nine, each bearing date the fifteenth day of January, eighteen hundred and fifty-seven, and each signed by J. Neely Johnson, Governor, and countersigned by G. W. Whitman, Controller, and indorsed by Henry Bates, Treasurer, and for the sum of five hundred dollars each; and in lieu thereof to issue new bonds in accordance with an act entitled An Act to provide for paying certain Equitable Claims against the State of California, and to contract a Funded Debt for that purpose, passed April thirtieth, eighteen hundred and sixty.

CHAP. CCXXXIX.—*An Act to confer further powers upon the Board of Education of the City and County of San Francisco, and for other purposes therein mentioned.*

[Approved April 25, 1861.]

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

**SECTION 1.** The Board of Education and the Superintendent of Common Schools of the city and county of San Francisco, are hereby authorized and empowered to issue school bonds, in a sum not exceeding twenty-five thousand dollars, payable ten years from the first day of March, eighteen hundred and sixty, or sooner, at the option of the Board, which bonds shall be signed by the President of the Board of Education and Superintendent of Common Schools of said city and county, and the coupons thereto attached shall be signed by the said Superintendent; and such bonds shall draw interest at the rate of ten per cent. per annum, which interest shall be payable semi-annually, on the first days of January and July, either in the city of New York, or San Francisco.

Board may  
issue bonds.

**SEC. 2.** So soon as said bonds are issued, the Board of Education and Superintendent of Common Schools of said city and county are authorized to sell the same, or any part thereof, to the highest bidder therefor, and pay the proceeds thereof into the treasury of said city and county, to the credit of the School Fund, and they shall constitute a part of the same, and shall be paid out in the manner now provided by law for the payment of demands upon the said fund, for the sole purpose of erecting school buildings, purchasing lots, and for fencing and improving the same, for the use of the public schools of said city and county.

Proceeds for  
School Fund

**SEC. 3.** To secure the payment of the principal and interest of said bonds, it shall be the duty of the Treasurer of said city and county to set apart, annually, out of the first moneys coming into the treasury to the credit of the School Fund, the sum sufficient to pay the semi-annual interest on said bonds, and, also, the sum of twenty-five hundred dollars, as a Sinking Fund for the redemption of said bonds.

Principal  
and interest.

**SEC. 4.** It shall be the duty of the Superintendent of Common Schools and Treasurer of said city and county, to advertise, from time to time, for thirty days, in two daily papers in the city of San Francisco, for proposals to surrender such bonds upon the best terms, not exceeding their par value, and to report the same to the said Board, who shall immediately thereafter order paid the amount necessary to redeem the bonds so offered, and shall issue audited demands therefor in the usual form. The Auditor of said city and county is authorized and required to audit, and the Treasurer to pay, the same, out of the Sinking Fund in his hands set apart therefor; and if such proposals to surrender bonds do not equal the amount of such Sinking Fund, then the Superintendent of Common Schools and Treasurer shall have power to loan any balance remaining thereof, upon the security of any bonds of the city, or of the city and county, of San Francisco, or

Surrender  
of bonds.

of the State of California, at the best rates of interest obtainable therefor; such interest when paid, to be entered by the Treasurer to the credit of the School Fund of said city and county, and to form a part thereof.

SEC. 5. The faith and credit of the city and county of San Francisco are hereby pledged for the redemption of said bonds and the payment of the Interest and Sinking Fund, as provided in this act. Credit pledged.

SEC. 6. The Superintendent of Common Schools of the city and county of San Francisco is hereby declared and constituted *ex officio* a member of the Board of Education, without the right to vote, authorized to appoint a Clerk, subject to the approval of the Board of Education, who shall also act as Secretary of the Board, to be paid a salary, not exceeding the sum of one hundred and fifty dollars per month, which, within this limit, shall be determined by the Board of Education of the said city and county; and the Auditor and Treasurer are authorized and required, respectively, to audit and pay out of the School Fund, the salary of said Clerk, as fixed by said Board, which Clerk shall be subject to removal at the pleasure of the Superintendent. May appoint Clerk.

SEC. 7. The Board of Education of the said city and county are hereby authorized to lease, at the highest rates obtainable, for a term not exceeding ten years, any unoccupied property belonging to the school department, not required for the use of the public schools. The proceeds arising from said leases, shall be paid to the Treasurer of the said city and county, and by him be placed to the credit of the School Fund, and form a part thereof. May lease certain property.

SEC. 8. Section thirty-three of An Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, to consolidate the Government thereof, passed April nineteenth, eighteen hundred and fifty-six, is hereby amended, to read as follows:

The Board of Education shall have power—

*First*—To establish common schools and school districts in said city and county, conformably with the laws, and to fix the boundaries of such school districts, and to select and employ Teachers of common schools. Powers of Board.

*Second*—To establish rules, which shall not be contrary to law, for the government, improvement, and progress, of the public schools, within the said city and county of San Francisco, and for carrying into effect the provisions of law relating and applicable thereto, and for the government of all school officers and Teachers in the discharge of their duties. Rules.

*Third*—To determine, annually, the amount, not exceeding the rate of thirty-five cents on each hundred dollars' valuation upon the assessment roll, to be raised by tax upon the real and personal property within the city and county, not exempt from taxation, for the support of free common schools therein, and for providing suitable school-houses, furniture, libraries, and apparatus. Tax.

*Fourth*—To establish regulations not inconsistent with law, as aforesaid, for the safe custody, and just and equal disbursement, Safe keeping of funds.

of all moneys belonging to the Common School Fund of said city and county, from whatsoever source arising.

To examine  
Teachers.

*Fifth*—To require that all Teachers, previous to their being employed in any of the said common schools, shall be rigidly examined before the said Board, or a committee of its members appointed for that purpose, or by the Superintendent, and being approved, shall receive a certificate, signed by such committee and Superintendent, of qualification, in respect to moral character, ability, and fitness, to teach in the said schools, and to revoke such certificates for good cause, of which the said Board shall be the sole judge, giving to the parties interested, reasonable notice and an opportunity to be heard; and any School Director, with the advice and consent of the Superintendent, may provisionally withdraw the certificate of any Teacher employed in the schools of his district, till the next meeting of the Board of Education, and in the mean time such Teacher shall not be employed in any of the common schools.

School books

*Sixth*—To designate and authorize the books and apparatus to be used in the common schools of said city and county.

SEC. 9. Section three of An Act granting certain powers to the Board of Education of the City and County of San Francisco, approved April twenty-sixth, eighteen hundred and fifty-eight, is hereby amended, to read as follows:

May sell  
certain  
property.

SEC. 3. The said Trustees (whenever it may be necessary to secure a lot, or lots, for the actual use of the said schools established, or to be established), shall have power, with the consent of the Board of Supervisors of said city and county, to sell, or exchange, for other lots, the following lots, or any part thereof, now being the property of the said school department, to-wit: Fifty vara lot, number three hundred and one, corner of Bush and Stockton streets; fifty vara lot, number three hundred and forty-five, on California Street, between Powell and Mason streets; fifty vara lot, number four hundred and sixty-two, on the corner of Filbert and Kearny streets; fifty vara lot, number seven hundred and thirty-two, on the corner of Harrison and Fremont streets; one-half of one hundred vara lot, number one hundred and twenty-eight, corner of Market and Fifth streets; one hundred vara lot, number one hundred and seventy-four, corner of Harrison and Fourth streets—in said city and county, and good and valid deeds therefor, to make and execute; and the proceeds of all such sales shall be applied, exclusively, to the purchase of other lots, or the erection of buildings for the use of said school department.

Duties of  
Board.

SEC. 10. The Board of Education, Auditor, and Treasurer, of said city and county, are hereby authorized and required, respectively, to order paid, audit, and pay, out of the School Fund, in the usual manner, the salary of the Secretary of the Board of Education and the compensation of School Marshals, as now fixed by law; and, also, to order paid, audit, and pay, a sum not exceeding three hundred dollars, for printing the bonds authorized by this act; also, to order paid, audit, and pay, out of the School Fund of the fiscal year ending June thirtieth, eighteen hundred and sixty-two, any demands against the School Fund which may remain due and unpaid on the thirtieth day of June, A. D. eighteen hundred and sixty-one, and any moneys pertain-

ing to that, or prior, fiscal years, may be placed to the credit of said fund for the fiscal year ending June thirtieth, eighteen hundred and sixty-two, and shall form a part thereof; *provided*, that nothing in this act shall be construed to authorize any assessment of taxes for school purposes in said city and county, exceeding, or additional to, the rate now fixed by law, to-wit, the rate of thirty-five cents on each one hundred dollars' valuation on the assessment roll, as contained in section thirty-three, subdivision three, and section seventy-one of an act entitled An Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, passed April nineteenth, eighteen hundred and fifty-six, and in the several Acts supplementary thereto and amendatory thereof.

SEC. 11. The Board of Supervisors of the city and county of San Francisco are hereby authorized and required, within twenty days after the passage of this act, to assess upon the real estate and personal property within the said city and county, an amount of ten cents on each one hundred dollars of valuation, for the support of common schools therein, in addition to any former assessment of the present fiscal year, which sum shall be incorporated with such former assessment, and shall be, in all respects, as valid as though it had been included within said assessment, and had been made at the time hitherto provided by law; and, *provided*, that such former assessment shall be valid to all intents, anything in this act to the contrary notwithstanding.

SEC. 12. All acts and parts of acts inconsistent with, or contrary to, the provisions of this act, are hereby declared inapplicable to the city and county of San Francisco.

Tax.

Repealing clause.

CHAP. CCXL.—*An Act to provide for the construction of a Gravel Road in the County of San Joaquin.*

[Approved, April 27, 1861.]

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

SECTION 1. John A. Cardinell and his associates and assigns, are hereby granted the right to construct and maintain a gravel turnpike road in the county of San Joaquin, commencing at the intersection of the charter line of the city of Stockton and the Mariposa and Sonora Road, and thence along the same to the Twelve-Mile House, on the Mariposa Road.

Franchise granted.

SEC. 2. Said grantees shall grade, entirely at their own expense and keep in repair, the entire line of said road, provided for in this act; and the same shall be at least thirty feet wide, and, as near as may be, of a uniform width and grade, and shall be overlaid with gravel at least twenty feet in width, and of sufficient depth to make a firm, hard road throughout the entire year.

Terms of franchise.

SEC. 3. Said grantees shall have the right to erect and main-

**Toll-gates.** tain three toll-gates at such point, or points, on the line of said road as they may determine, and to levy and collect tolls thereat, not exceeding the following rates, to wit: For a horse and buggy, seventy-five cents; for two horses and buggy, or wagon, one dollar; for each four horse, mule, or ox, team, two dollars; for each extra pair of horses, mules, or oxen, over and above the number above mentioned, twenty-five cents; for each wagon, or tender, one dollar; for a single horse and rider, twenty-five cents; for all loose horses, mules, or cattle, twelve and one-half cents per head; *provided*, that at the expiration of five years from and after the completion of said road, the Board of Supervisors of San Joaquin County shall have the right to alter, or change, the rates of toll to be charged and collected on said road, from year to year; *provided*, further, as the work on said road progresses and is completed, the said grantees shall, after the first mile, charge toll in proportion to the charges herein regulated for the whole distance.

**Limit of franchise.** SEC. 4. The rights and privileges hereby granted shall continue for the period of twenty-five years; *provided*, that said road shall be completed and in traveling order within three years from and after the passage of this act; and, *provided*, further, that the said county of San Joaquin may have the right of purchasing said road at the expiration of fifteen years from the date of the passage of this act, and of being substituted in all the rights and privileges herein granted to the said John A. Cardinell and his associates, and his, or their, assigns, by paying the sum actually expended in the construction of said road, together with ten per cent. per annum interest thereon; and, *provided*, furthermore, that the said county shall not have the right to purchase the said road for the use, or benefit, of private parties.

**Supervisors to confirm.** SEC. 5. The Board of Supervisors of San Joaquin County are hereby authorized and empowered to ratify and confirm this act.

CHAP. CCXLI.—*An Act granting to certain parties the right to construct a Macadamized Road within the City and County of San Francisco.*

[Approved April 29, 1861.]

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

**Franchise granted.**

SECTION 1. It shall be lawful for James Phelan, William F. Herrick, John P. Buckley, and Galen Bardell, or the majority of said parties, and others whom they may associate with themselves, to be known as the San Francisco and Point Lobos Road Company, to construct a plank, or macadamized, or plank and macadamized, roadway, in the city and county of San Francisco, commencing at the intersection of Bush and Larkin streets, and running thence westerly, and along the line of Bush Street to the western line of Cemetery Avenue; from thence running southerly to Geary Street, and from thence westerly to the



beach of the Pacific Ocean, at Point Lobos. And said parties shall have the right of levying and collecting tolls upon all animals and vehicles passing along said road.

SEC. 2. Said company shall grade, entirely at their own expense and keep in good repair, during the time specified in section six of this act, the entire line of road constructed by them in accordance with this act. Said road shall be laid in the center of Bush Street, as far as the western line of Cemetery Avenue; and the width thereof shall not be less than twenty-four feet. Conditions.

SEC. 3. Said parties shall complete, within the period of six months next following the passage of this act, a section of said road equal to one-fourth thereof; and within a period of six months next following, a second section of the same extent as aforesaid; and within six months next following, a third section of the same extent; and within six months next following, the remainder of said road. When to complete.

SEC. 4. To insure the completion of said road, it is *provided*, that if the parties designated in section first shall fail to fulfill any of the conditions contained in section three of this act, in respect to the completion of any of said sections of said road within any of the several periods therein named, then this privilege may be declared forfeited, ceased, and determined, by the Board of Supervisors of said city and county, within thirty days after the expiration of such period; and thereupon the section, or sections, of said road, or parts of the same, that shall then be completed, or in process of completion, shall revert, with all their appurtenances, and in their then condition, to the city and county of San Francisco, unless the Board of Supervisors of said city and county, for satisfactory reasons, extend the said period, or periods. Failure to complete.

SEC. 5. The Board of Supervisors of said city and county, may, after said road is opened for use, from time to time, alter, or reduce, the rate of tolls, upon such road; but the tolls charged thereon shall never be higher than the rates following, viz: For vehicles drawn by four animals, fifty cents; for vehicles drawn by two animals, forty cents; for vehicles drawn by one animal, twenty-five cents; for all animals rode, led, or driven, over said road, except milk cows, ten cents. Rates of toll.

SEC. 6. The privilege herein granted shall continue during a period of fifteen years, subject, nevertheless, to the conditions that the parties designated in section first are required to sell, transfer, and convey, the said road to the city and county of San Francisco, at any time within five years after the completion of the same, upon a demand being made to that effect by the said city and county, and upon the payment to the said parties by said city and county the value thereof, exclusive of the franchise, to be ascertained by the award of five Commissioners, two to be appointed by the grantees herein mentioned, two by said Board of Supervisors, and the fifth to be selected by the four first above mentioned. Limit of franchise.

SEC. 7. Said company may erect one, or more, toll-gates, at such point, or points, as they may determine, one only of which shall be erected, or maintained, between Devisadero Street and the western line of Van Ness Avenue and all others west of said Cemetery Avenue; one-half of the prescribed rates of toll only, Toll-gates.

shall be charged on that portion of said road east of said Cemetery Avenue; *provided*, that after the expiration of five years from and after the completion of said road, no toll-gate shall be maintained on said road east of the Lone Mountain Cemetery, under forfeiture of all the rights and privileges granted in this act; and, also, *provided*, that all funeral corteges passing to and from any cemetery on the line of said road, shall be charged only one-half of the regular rates of toll; and, also, *provided*, that no toll shall be collected on said road until the same shall be finished as far as Cemetery Avenue.

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CHAP. CCXLII.—*An Act for the relief of John Bell for services rendered in the Humboldt and Klamath Indian War.*

[Approved April 29, 1861.]

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

Appropriat'n. SECTION 1. The Controller of State is hereby authorized and required to issue his warrant, drawn upon the Treasurer of State, in favor of John Bell, for the sum of one hundred and ninety-four dollars and seventy cents, in full pay for his services in the Humboldt and Klamath Indian War, of eighteen hundred and fifty-eight and eighteen hundred and fifty-nine.

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CHAP. CCXLIII.—*An Act authorizing the removal of certain Bodies interred in New Helvetia Cemetery.*

[Approved April 29, 1861.]

Preamble. WHEREAS, John W. Reeves, of the city of Sacramento, is the sole owner of the New Helvetia Cemetery; and, *whereas*, in order to properly lay out and arrange the same, it appears to be necessary to disinter the bodies of some persons buried in said cemetery at an early day, and previous to the same being laid out and arranged in a proper manner. Therefore—

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

May remove bodies. SECTION 1. John W. Reeves, his agents, or assigns, are hereby authorized and empowered to disinter and remove the bodies of any deceased person that may have been buried in the New Helvetia Cemetery at an early day; *provided*, he, or they, shall reinter the same in a proper manner in some other part of said cemetery, and shall make up in the books of said cemetery a full and complete record of the same, showing the name and number, and from where said body was removed.

SEC. 2. This act shall take effect immediately after its passage. To take effect.

CHAP. CCXLIV.—*An Act to authorize certain parties therein named to construct a Wharf on Petaluma Creek, in the County of Sonoma.*

[Approved April 29, 1861.]

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

SECTION 1. It shall be lawful for Hugh S. May, and those whom he may associate with him, and their assigns, to construct and maintain a wharf, at a point on the southwesterly side of Petaluma Creek, called the "Italian Garden," in the county of Sonoma, and charge and collect such rates of wharfage as may be prescribed by the Board of Supervisors of Sonoma County, from time to time, for the term of fifteen years from and after the passage of this act; *provided*, the total length of said wharf shall not exceed three hundred yards, and shall not at any time obstruct the navigation of said creek. Franchise granted.

SEC. 2. The said Hugh S. May, and his associates, and their assigns, shall within one year from the passage of this act, build and construct said wharf in a good and substantial manner, and keep the same in good repair; and a failure to comply with the provisions of this section shall be a forfeiture of franchise granted by this act. When to complete.

CHAP. CCXLV.—*An Act for the relief of Thos. R. Eldridge.*

[Approved April 29, 1861.]

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

SECTION 1. The sum of three hundred and twenty-two dollars and ninety-five cents is hereby appropriated out of any moneys in the General Fund of the treasury, not otherwise appropriated, to pay the claim of Thomas R. Eldridge for translating into Spanish the laws of eighteen hundred and fifty-seven. Appropriat'n.

SEC. 2. The amount hereby appropriated shall be in full satisfaction of said claim of the said Eldridge, and shall not be payable before the first day of May next. When to be paid.

CHAP. CCXLVI.—*An Act concerning certain Street Assessments in the City of Sacramento.*

[Approved April 29, 1861.]

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

Authorized  
to refund.

SECTION 1. The Board of Supervisors and Auditor of the city and county of Sacramento are hereby authorized to refund certain over-payments made in eighteen hundred and fifty-eight and eighteen hundred and fifty-nine, on street improvement taxes; *provided*, they are satisfied that the claimants have paid the amount claimed over and above the amount that would have been collected from them if they had delayed their payments until after the thirtieth day of April, eighteen hundred and fifty-nine; and for that purpose they are hereby authorized to audit and allow to the parties making the payments, or to their Agents, or Attorneys, a sum equal to ten per cent. of the money by them respectively paid into either the J, or K, Street Improvement Fund, after the assessment and levy in eighteen hundred and fifty-eight, and prior to the thirteenth of April, eighteen hundred and fifty-nine; and the President of the Board of Supervisors and the Auditor are hereby authorized to draw their warrants on the Treasurer (payable out of the fund into which the money was originally paid,) for the sums so audited and allowed; and the claims and warrants herein provided for, being for money wrongfully collected and paid in, are hereby given, and they shall have precedence over any other claims on the same fund, any other act, or part of any act, to the contrary notwithstanding.

To take  
effect.

SEC. 2. This act shall take effect and be in full force, from and after its passage.

CHAP. CCXLVII.—*An Act supplementary to An Act to authorize the Board of Supervisors of the County of Mendocino to levy an additional Tax for County purposes, approved April thirteenth, eighteen hundred and fifty-nine.*

[Approved April 29, 1861.]

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

Tax.

SECTION 1. The tax authorized to be levied and collected by the act to which this act is supplementary, shall be used to pay off the indebtedness of said county, contracted for building purposes, until such indebtedness shall be canceled, when it shall be transferred, by the Board of Supervisors of said county, to the General Fund of said county, for the purpose of paying off the warrants drawn on the General Fund of said county, and for no other purpose whatever.

To take  
effect.

SEC. 2. This act shall take effect immediately.

CHAP. CCXLVIII.—*An Act to amend An Act concerning the Government of the City of Marysville, approved March tenth, A. D. eighteen hundred and sixty.*

[Approved April 29, 1861.]

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

SECTION 1. Section four of An Act concerning the Government of the City of Marysville, approved March tenth, A. D. eighteen hundred and sixty, is hereby amended so as to read as follows :

Sec. 4. The Common Council, in the exercise of its power to establish and regulate a City Police, shall limit the rates of pay not to exceed one hundred dollars per month to each Policeman, and the number of Policemen shall not exceed four; *provided*, the Council shall have power and authority to appoint, temporarily, Special Policemen when, in its judgment, it is absolutely necessary. The office of Captain of Police is hereby abolished, and the duties of that office shall be performed by the Marshal. Pay of Policemen.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCXLIX.—*An Act to change the name of Sullivan Milton Farrer to Sullivan Milton Farren.*

[Approved April 29, 1861.]

*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 Sullivan Milton Farrer, to change his name and be known as Sullivan Milton Farren. Name changed.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCL.—*An Act in relation to the entry of Lands in certain cases and to provide for the issuance of Patents therefor.*

[Approved April 29, 1861.]

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

SECTION 1. Whenever, under the several acts of this State which provide for the sale of the public lands, an affidavit for entry and survey has been filed with the County Surveyor by an applicant seeking to enter land, which land may be situate near an unsurveyed and undetermined county boundary line, To approve survey.

and it shall afterwards be ascertained that the land thus sought to be entered is not within the boundaries of the county where the application was made, it shall be the duty of the Register of the State Land Office to approve the survey made upon such affidavit and application, other provisions of the act being complied with, in accordance with the priority of the date of application. And all applications and purchases made under circumstances similar to the provisions of this section, previous to the passage of this act, are hereby legalized and confirmed to such purchasers, their heirs and assigns. Copies of affidavits and of plats of survey on applications, as herein provided for, at the request of the party interested, or his Agent, or Attorney, shall be made out and certified by the Surveyor who received the application and made the survey, or his successor in office, and the same may be filed in the county in which the lands shall have been determined to be situated, and when so filed shall authorize and empower the Surveyor of the county where filed to proceed and complete such applications and purchases agreeably to law; *provided*, that when lands have been purchased under the provisions of any act of this State, providing for the sale of swamp and overflowed lands, the parties purchasing shall be entitled to receive patents therefor. Such patents may be issued to the original holder of the certificate of purchase, or his legal representatives, heirs, or assigns, as the case may be, and such patent may be for any amount of land the party applying may be the owner of, whether it be for a greater, or less, amount than the original certificate of purchase calls for.

Duties of  
Surveyor.

Repealing  
clause.

To take  
effect.

SEC. 2. All acts, or parts of acts, conflicting with the provisions of this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CCLI.—*An Act for the permanent location of the County Seat of Stanislaus County.*

[Approved April 29, 1861.]

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

Election.

SECTION 1. At the next general election to be held in this State, the qualified electors of Stanislaus County are hereby authorized to vote for the permanent location of the county seat of said county, to be located at La Grange, or at Knight's Ferry, in said county; the electors are authorized to vote such ballots as shall express their preference.

Duties of  
Board of  
Supervisors.

SEC. 2. At the first regular meeting after the election, as heretofore provided, the Board of Supervisors shall canvass the returns from the several precincts, and if it shall appear from such returns that Knight's Ferry has received more votes than La Grange, then from and after the first day of October, A. D. eighteen hundred and sixty-one, Knight's Ferry shall be the county seat of Stanislaus County, and all the records and archives of said county shall be removed to Knight's Ferry, and the Sheriff

of said county is hereby directed to remove the same, and all subsequent terms of the County Court, Probate Court, Court of Sessions, and District Court, of said county, shall be holden at Knight's Ferry. No ballot, on account of informality, shall be rejected by the Board of Supervisors, or the Judges and Inspectors of Election, if the intention of the elector can be ascertained. Duties of Sheriff.

SEC. 3. The general election law, in so far as it does not contravene the provisions of this act, shall be made applicable to, and govern, this election. Act made applicable.

CHAP. CCLII.—*An Act to audit and allow the Claim of Peyton, Duer, Lake, and Rose, or their Assigns.*

[Approved April 29, 1861.]

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

SECTION 1. The claim of Peyton, Duer, Lake, and Rose, or their assigns, for the sum of five hundred and ninety-four dollars and twenty-five cents, for prosecuting suits on behalf of the State of California, under the direction of Governor J. Neely Johnson, G. W. Whitman, Controller of State, and Alexander G. Abell, Commissioner of Immigrants, under the act approved April twenty-eighth, eighteen hundred and fifty-five, entitled An Act to discourage the Immigration to this State of persons who cannot become Citizens thereof, is hereby audited and allowed. Claim allowed.

CHAP. CCLIII.—*An Act to amend an Act entitled An Act concerning Roads and Highways in the County of Placer, approved April thirtieth, eighteen hundred and sixty.*

[Approved April 29, 1861.]

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

SECTION 1. Section third of said act is hereby amended so as to read as follows :

Sec. 3. All moneys collected under the provisions of this act shall be a separate Road Fund for each collection district in which such moneys have been collected, and shall be applied for the purpose of constructing and keeping in repair all public roads, trails, and bridges, in said district; *provided*, that such moneys as may not be expended for the construction and necessary repairs of public highways and bridges in said districts, shall be reserved as a fund for the purchase of toll-roads, toll-trails, and toll-bridges, in said districts, or two, or more, of said districts, which may be joined together for the purpose of purchasing such roads, trails, or bridges. Road Fund.

SEC. 2. Section four of said act is hereby amended so as to read as follows :

Road Com-  
missioners.

Sec. 4. All moneys paid into the county treasury under the provisions of this act, shall be subject to the order, and under the control, of a Board of Road Commissioners, to be elected and qualified as hereinafter provided for. Said Board, or Boards, shall consist of three members in each road, or collection, district, as provided for in the provisions of this act, and they shall be elected at the same time and in the same manner, as the Collectors referred to in section one of this act, and shall hold their office for the term of two years, and shall be elected biennially thereafter ; said Commissioners shall within ten days after being duly notified of their election by the County Clerk of said county, whose duty it shall be to notify them, qualify in the same manner as Justices of the Peace and other township officers, and shall file a bond in the Clerk's office of said county in such sum, not to exceed two thousand dollars, with two good and sufficient sureties, as may be required of them by the County Judge of said county, such bond to be approved by him ; *provided*, always, that each road district shall consist of one township and no more ; said Commissioners shall within ten days after their election and qualification, meet and organize, by electing one member of the Board as Chairman, and one member as Clerk of the Board ; the Clerk shall keep a full and complete record of the proceedings of the Board, and the vote of each member when there is any division, shall be entered on the record. The record of the proceedings shall be signed by the Chairman and Clerk of the Board ; and the Board shall turn over and deliver to their successors in office, all books, records, and papers, pertaining to their official action during their term of office ; the records of the Board shall be kept at the office of the Clerk thereof, and shall at all times be subject to public inspection. The Board may allow the Clerk a salary of not more than fifty dollars per annum, which shall be paid out of the Road Fund of the district, in like manner as the salary of the Commissioners.

To give bond

SEC. 3. Section five of said act is hereby amended so as to read as follows :

Time of  
meeting.

Sec. 5. Said Commissioners shall meet annually, on, or before, the first Monday in March, in each year, for the purpose of receiving bids for constructing and keeping in repair all public roads, trails, and bridges, in the district for which they are elected, and they shall advertise in some newspaper published in the county, and in, or nearest to, their respective districts, for bids, or proposals, for constructing and keeping in repair such roads, trails, and bridges, for three weeks prior to their annual meeting, and shall for the same length of time post like notices in three of the most public places in their districts. Contracts for constructing and keeping in repair all public roads, trails, and bridges, shall in all cases be awarded by the Commissioners to the lowest responsible bidder who will contract to keep such roads, trails, and bridges, in repair for the period of one year from the date of his contract. Bids may be received and considered for constructing and keeping in repair all, or any portion, of the public highways and bridges in said districts, or said Commissioners may put up such portion of said highways as they

To advertise  
for proposals



may deem proper; but in no case shall the Board contract to pay a greater sum of money for constructing, or keeping in repair, the roads, trails, and bridges, in their respective districts, than shall be collected in said district in one year, unless a surplus fund shall remain on hand from the year previous thereto. It shall be competent for the Commissioners to pay the amounts stipulated in the said contract, or contracts, in such installments as they may deem the public interests require; and said Commissioners shall require such sureties as they may deem just and sufficient for the faithful performance of contracts made under the provisions of this act, but in no case shall the amount required exceed the amount to be paid for the fulfillment of said contracts; and when the Board of Commissioners, or a majority of them, shall be satisfied that the terms and conditions of the contract, or contracts, have been complied with, they shall issue a certificate to the Contractor, or Contractors, signed by the Chairman and Clerk of the Board, stating in plain terms that the conditions of the contract have been complied with, and the amount of money to which the party is entitled, whereupon the Auditor of said county shall draw his order upon the County Treasurer, in favor of such party, or parties, and the Treasurer shall pay said warrant in cash, out of the Road Fund belonging to the district in which such roads, trails, or bridges, are located.

May require sureties.

SEC. 4. Section six of said act is hereby amended so as to read as follows:

Sec. 6. All public roads and highways in the county of Placer, which have been declared such by the Court of Sessions, or the Board of Supervisors, and all roads and trails which may hereafter be laid out under the provisions of this act, are hereby declared public highways.

Public roads declared.

SEC. 5. Section seven of said act is hereby amended so as to read as follows:

Sec. 7. The Board of Commissioners elected under the provisions of this act, shall have the general care of all of the public highways and bridges in their respective districts in said county, and it shall be their duty to cause to be kept open and in good repair, all public highways and bridges in their respective districts in said county, and to contract conjointly with the Board, or Boards, of Commissioners of other road districts that may join with them for the purpose of purchasing toll-roads, toll-trails, or toll-bridges, in said county, and to regulate the highways already laid out; to alter such of them as shall be deemed inconvenient, and to lay out new roads and trails, as hereinafter provided in this act.

Duties of Commissioners.

SEC. 6. Section nine of said act is hereby amended so as to read as follows:

Sec. 9. Every person liable to be assessed for a road tax, in said county, may petition the Board of Commissioners of the district of which he is a resident, to alter, discontinue, or lay out, any new road, or trail, in said district. Every such application shall be made in writing, addressed to the Board of Commissioners, and signed by at least five persons, who are residents and tax payers of said district, and shall state the point of beginning, the course, and terminus, of the proposed road, or trail, with particularity, also the character and condition of the land, with the names of

Application to lay-out roads, etc.

owners, when known to them, over which the road, or trail, will pass, and whether the land be improved, or not.

SEC. 7. Section ten of said act is hereby amended so as to read as follows :

To appoint  
Viewers.

SEC. 10. On receiving such application the Board may appoint three Viewers, who shall be tax payers of the county, and disinterested in the proposed road, or trail, and who shall upon a day to be named by the Board of Commissioners, at least ten days after their appointment, assemble to view out and mark the line of the proposed road, or trail, and to hear all reasons that may be offered for, or against, the laying out of the same ; they shall within ten days thereafter, report to the Board of Commissioners, in writing, signed by at least two of them—

*First*—The feasibility of the proposed road, or trail.

*Second*—The necessity for such road, or trail.

*Third*—The probable cost of construction.

Damages.

*Fourth*—The amount of damages that will be sustained by any person, or persons, severally, by reason of laying out and opening of the same, with a recommendation that the same be, or be not, laid out and opened ; *provided*, that if the Viewers shall fail to comply with the law, in any essential particular, the Board of Commissioners may set aside the report and order another view to be had ; *provided*, further, that when a road, or trail, is proposed to be laid out through two, or more, road districts, the Board of Commissioners in the districts shall act conjointly in appointing said Viewers and in laying out said road, or trail.

SEC. 8. Section eleven of said act is hereby amended so as to read as follows :

Notices.

SEC. 11. The Board of Commissioners shall cause three, or more, notices to be posted in the most public places in the vicinity of the proposed road, or trail, at least ten days prior to the time appointed for the meeting of the Viewers, stating the point of beginning, course, and terminus, of the proposed road, or trail ; also, the names of the owners, when known, over whose land the same will pass, and the day on which the Viewers will assemble to view and mark out the line of the same.

SEC. 9. Section twelve of said act is hereby amended so as to read as follows :

To notify  
owners of  
land.

SEC. 12. The Board shall notify the owners of the land, when known, over which it is proposed to construct the proposed road, or trail, of the time and place of meeting of such Viewers, either personally, or by having such notice served on them, or left at their usual place of abode, or by letter placed in some post-office in the county, directed to such person, or persons, respectively, at the nearest post-office to his, or their, residence, or residences.

SEC. 10. Section thirteen of said act is hereby amended so as to read as follows :

Viewers'  
report.

SEC. 13. In case the Viewers report against laying out the proposed road, or trail, the Board of Commissioners may refuse to lay out the same ; but if they shall report in favor of the road, or trail, and the same does not pass through any inclosed, improved, or occupied, lands, they may, by an order to be filed with the County Clerk of said county, lay out the same, if they shall deem proper so to do.

SEC. 11. Section fourteen of said act is hereby amended so as to read as follows :

Sec. 14. In case the Viewers report in favor of paying damages to any person, or persons, in consequence of laying out of any road, or trail, and the Board of Commissioners, on the part of the district, or districts, in which such road, or trail, is laid out, are satisfied that such damages are just and reasonable, and the party, or parties, claiming damages, are willing to accept the same in full satisfaction of such damages, the Board shall order the amount to be paid out of the Road Fund belonging to the said district, or districts, in proportion to the amount of damages assessed in each district, respectively, taking of the party, or parties, a receipt in full for such damages, and proceed to declare the said road, or trail, a public highway, as provided in section thirteen of this act.

Payment of damages.

SEC. 12. Section fifteen of said act is hereby amended so as to read as follows :

Sec. 15. In case the Board of Commissioners, on the part of the county, or the person, or persons, claiming damages, shall be dissatisfied with the amount of damages allowed by the Viewers, the Board shall appoint an arbitration, to consist of three persons, tax payers of the county and disinterested in the proposed road, or trail, who shall, on a day to be named by the Board, go upon the ground and personally examine the line of the proposed road, or trail, and hear any witnesses that may be offered respecting the value of the land through which the road, or trail, will pass, and the damages that will be sustained by any party, or parties, in consequence of laying out the same; and shall, within ten days thereafter, report to the Board, in writing, the amount of damages that will be sustained from any party, or parties, severally, which report shall be signed by at least two of said Arbitrators, and the damages so allowed shall be ordered paid by the Board of Commissioners; *provided*, that in case any person, or persons, claiming damages, shall be dissatisfied with the amount allowed him, or them, by the Arbitrators, he may, within ten days after the award is made by the Arbitrators, give notice to the Commissioners that he is dissatisfied therewith; and the Commissioners, if dissatisfied, may, within the same time, give such notice to the claimant. Upon such notice, the Board of Commissioners shall certify their proceedings and the award to any court of competent jurisdiction, and the filing of the papers shall give the court jurisdiction of the cause as fully as the commencement of suit by original process, and shall authorize the court to impanel a jury, who shall assess the damages to be paid the claimants. The cause shall be entered on the records of the court, the party giving notice being plaintiff, the other party, defendant, and the proceedings thereon shall thereafter be the same as in other civil actions prosecuted in said court. If notice of dissatisfaction be not given within the time above required, then it shall be deemed that the parties have agreed and consented to the award, and the Commissioners, upon payment of the same, or upon payment of damages assessed by the court, are authorized and empowered to enter upon the premises and declare the same a public highway.

Arbitration.

Proviso.

Jury trial.

SEC. 13. Section nineteen of said act is hereby amended so as to read as follows :

Per diem. Sec. 19. Viewers and Arbitrators shall be paid out of the Road Fund belonging to the district, or districts, in which such roads, or trails, are laid out, not exceeding three dollars per day each for each day's service actually rendered.

SEC. 14. Section twenty-two of said act is hereby amended so as to read as follows :

Width of highways. Sec. 22. All public highways in the county of Placer hereafter laid out, shall be, at least, sixty-five feet in width ; *provided*, that the Commissioners may, in their discretion, establish a less width for all public trails in their respective districts.

SEC. 15. Section twenty-nine of said act is hereby amended so as to read as follows :

Penalty for obstructing. Sec. 29. If any person shall obstruct any public highway, in the county of Placer, by felling any tree across the same, or by placing any other obstruction thereon, or damaging, deepening, or digging, a creek, or river, or its banks, so as to destroy a ford, or crossing, or shall willfully destroy 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, such person, or persons, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than twenty dollars, and not exceeding five hundred dollars, in the discretion of the court.

To take effect. Sec. 16. This act shall take effect and be in force, from and after its passage.

CHAP. CCLIV.—*An Act for the relief of Truman Wilcox.*

[Approved April 29, 1861.]

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

Claim allowed. SECTION 1. The Board of Supervisors of El Dorado County are hereby authorized to audit and allow, and order paid out of the General Fund of said county, a sum not exceeding five hundred dollars, to Truman Wilcox, for money paid by him into said county on forfeiture of recognizance of one John Myers.

SEC. 2. This act shall be in force from and after its passage.

CHAP. CCLV.—*An Act declaring the consent of the Legislature of the State of California to the purchase by the United States of certain Lands that have, or may hereafter be purchased by the United States, in the State of California, and to vest the jurisdiction over the same in the United States, for the purpose herein specified.*

[Approved April 29, 1861.]

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

SECTION 1. The consent of the State of California is hereby given to the purchase by the United States of certain tracts, or parcels, of land, situated in the counties of Marin, Mendocino, Humboldt, and Klamath, for the purpose of erecting and maintaining thereon such light-houses, beacons, fog-guns, ear-signals, and all other structures that may be deemed necessary for the use of the government of the United States. Consent given.

SEC. 2. The title and interest of the State of California to, and in, such portions of the counties named in the preceding section as are, or may be, purchased by the United States, for the purposes named in the preceding section, and the jurisdiction of such lands and the overflowed portion thereof, is hereby ceded by the State of California to the United States, for the purposes aforesaid; *provided*, that the consent to the purchase and the grant and relinquishment of title by this State to the United States, in this act contained, shall not be construed in aid, or support, directly, or impliedly, of any conveyance, or bond, for title to the United States of the same lands heretofore made, or which may hereafter be made, by any person, or persons, company, or corporations, or as a recognition on the part of the State of California, of any claim, title, or grant, heretofore asserted, or set up, or which may hereafter be asserted, or set up, by any person, or persons, company, or corporation. \*

SEC. 3. The jurisdiction ceded to the United States in the last preceding section is upon the express condition that the State of California shall retain a concurrent jurisdiction with the United States in, and over, the said tract of land so far as that civil process in all cases, and such criminal process as may issue under the authority of the State of California, against any person, or persons, charged with crime committed within, or without, said tracts of land, may be executed therein in the same way and manner as if this jurisdiction had not been ceded, and all the lands and tenements within the limits aforesaid shall be, and continue forever hereafter, exonerated and discharged from all taxes, assessments, and other charges, which may be imposed by authority of this State. Concurrent jurisdiction.

SEC. 4. The relinquishment made, the jurisdiction ceded, and the exemption from taxation, granted by this act, shall continue so long as the premises herein specified shall remain in the occupancy of the above United States of America, for the purposes mentioned in the first section of this act, and no longer. Relinquishment.

SEC. 5. The road leading from Bearding's Store, in Humboldt County, south by Cape Mendocino, is herein declared a public highway, as far south as Singley's Creek. Nothing contained in Certain road declared a public highway.

this act shall prevent the United States from altering said road wherever it runs through any land that may be purchased by the United States.

CHAP. CCLVI.—*An Act to organize a Board of Supervisors in and for the County of Tehama, and to district said County.*

[Approved April 29, 1861.]

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

Supervisor  
districts.

SECTION 1. The county of Tehama is hereby divided into three Supervisor Districts, to be called District Number One, District Number Two, and District Number Three, as follows: District Number One shall be composed of all of said county on the west side of Sacramento River, lying south of the northern boundary line of the township of Red Bluff, and north of Red Bank Creek; District Number Two shall be composed of all of said county on the west side of Sacramento River, lying south of Red Bank Creek, and all of said county on the east side of said river, lying south of Mill Creek; District Number Three shall be composed of all of said county on the east side of the Sacramento River, lying north of Mill Creek, and all on the west side of said river, lying north of the township of Red Bluff.

Number of  
Board.

SECTION 2. The Board of Supervisors of said county shall, from and after the first Monday in October. A. D. eighteen hundred and sixty-one, be composed of five Supervisors, who shall have the same powers and duties as are now prescribed by law, of whom two shall be elected in, and be residents of, District Number One, two in District Number Two, and one in District Number Three. Their term of office shall be two years, from and after the first Monday in the month succeeding their election, and until their successors shall be elected and qualified, except as otherwise provided in this section. At the general election in eighteen hundred and sixty-one, two Supervisors shall be elected in District Number One, one of whom shall be for a term of one year, and one for a term of two years; and one Supervisor shall be elected in said district at the general election in each year after eighteen hundred and sixty-one. At the general election in eighteen hundred and sixty-one, one Supervisor shall be elected in District Number Two, for a term of two years, and one Supervisor shall be elected in said district at the general election in each year after eighteen hundred and sixty-one; and A. G. Toomes, present Supervisor of said county, shall be a member of the Board created by this act, and his term of office shall extend until the qualification of his successor to be elected in eighteen hundred and sixty-two; for District Number Three, J. M. Shakelford, present Supervisor, shall be a member of said Board, and his term of office shall extend until the qualification of his successor, to be elected in eighteen hundred and sixty-three; and a Supervisor shall be elected in said district at the general election every two years thereafter.

Election  
and term  
of office.

SEC. 3. Should any vacancy occur in the office of Supervisor, <sup>Vacancy.</sup> a majority of the Board of Supervisors may fill such vacancy until the next general election, by appointing some person eligible to said office; and at the next general election, an election shall take place to fill the remainder of the unexpired term.

SEC. 4. The compensation of each member of the Board of Supervisors hereby created, shall be one hundred dollars per annum, and traveling fees at the rate of fifty cents per mile, computed one way only, from their respective places of residence to the county seat of said county, payable out of the County General Fund, in the same manner as other indebtedness is paid. <sup>Pay and fees</sup>

SEC. 5. All acts and parts of acts inconsistent with this act, <sup>Acts repealed.</sup> are hereby repealed, so far as they conflict with this act.

CHAP. CCLVII.—*An Act making an Appropriation for Deficiencies for the Twelfth Fiscal Year, ending the thirtieth day of June, A. D. eighteen hundred and sixty-one.*

[Approved April 20, 1861.]

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

SECTION 1. The sum of five thousand dollars is hereby appropriated out of any money in the General Fund, not otherwise appropriated, for contingent expenses of the Senate. <sup>Appropriat'n.</sup>

SEC. 2. The sum herein appropriated shall be disbursed under the direction of the Senate, and shall not be subject to any of the provisions of an act entitled An Act to create a Board of Examiners, to define their Powers and Duties, and to impose certain Duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-one. <sup>Disbursement.</sup>

SEC. 3. This act shall take effect from and after its passage. <sup>To take effect.</sup>

CHAP. CCLVIII.—*An Act granting to certain parties the right to construct a Macadamized and Turnpike Road within the City and County of San Francisco,*

[Approved April 29, 1861.]

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

SECTION 1. It shall be lawful for Jeremiah Callahan, James McDonald, William Hammill, Dennis Mahoney, and Palmer G. Wood, and their associates and assigns, to construct and maintain a macadamized and turnpike road within the limits of the city and county of San Francisco, commencing at the intersection of Larkin and Pacific streets; thence westerly along Pacific <sup>Franchise granted.</sup>

Street to Lone Mountain Cemetery; thence northerly to, and across, the Government Reserve to Fort Point, by such route as may be agreed upon between the officers of the United States Government and the grantees herein named; and also a branch thereto from the intersection of Pacific and Gough streets; thence north along Gough Street to Vallejo Street; thence west along Vallejo Street to Octavia Street; thence north down to, and intersecting, the present Presidio Road; and thence west along said road to the Government Reserve.

**Conditions.** Sec. 2. The grantees herein named shall grade, entirely at their own expense and keep in repair, the entire line of road provided for in this act, which road shall be at least twenty-four feet wide, and as near as may be of an uniform grade.

**Toll-gates.** Sec. 3. Said parties shall have the right to erect and maintain not to exceed two toll-gates, at such point, or points, on the line of said roads as they may determine, not east of Van Ness Avenue, and not upon the Presidio Road, and to levy and collect thereat not exceeding the following rates of tolls:

**Rates of toll.** For vehicles drawn by four animals, fifty cents.

For vehicles drawn by two animals, forty cents.

For each animal driven, or led, over said road, ten cents.

*Provided*, that all funeral processions on their way to any cemetery on, or near, the line of said road, and all persons residing east of the charter line of eighteen hundred and fifty-one shall be charged one-half of the above rates only; *provided*, further, that no tolls shall be collected east of said charter line for a longer period than five years from the completion of said road.

**Limit of franchise.**

Sec. 4. The rights and privileges hereby granted shall continue during a period of ten years; *provided*, that said road shall be completed and in traveling order, within two years after the passage of this act; and, *provided*, further, that the government of the city and county of San Francisco may at any time, after the completion of said roads, have the right to terminate this grant upon payment to the grantees of the true value of said roads, but they shall not have the right to substitute other parties in its stead.

CHAP. CCLIX.—*An Act to amend an Act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento.*

[Approved April 29, 1861.]

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

**Election of Warden.**

SECTION 1. There shall be elected at the general election in the year eighteen hundred and sixty-one, and every two years thereafter, in the manner provided for the election of other officers, a Warden of the county jail, for the city and county of



Sacramento, who shall perform such duties as now are, or may hereafter be, imposed on him by law, or ordinance; he shall receive a salary of two thousand dollars per annum.

SEC. 2. There shall be elected in the city of Sacramento, at the general election in the year eighteen hundred and sixty-one, and each and every year thereafter, in the manner provided for the election of other officers, a Police Judge, a Chief of Police, and a Clerk of the Water Works, whose term of office shall continue for one year and until their successors shall be elected and qualified. Election of  
city officers.

SEC. 3. The Police Judge shall have the same powers and jurisdiction in all cases as are, or hereafter may be, conferred by law upon Recorders' Courts, and in all criminal cases, in addition thereto, the powers and jurisdiction of a Justice of the Peace; he shall perform all the duties that now are, or hereafter may be, required of him by law, or ordinance; he shall keep a record of his proceedings, receive and pay, weekly, into the treasury of the city and county, all moneys collected by him, and render to the County Auditor, weekly, an exact and detailed account, under oath, of all fines imposed and moneys collected since his last account rendered; he shall receive a salary of two thousand dollars per annum. Powers and  
jurisdiction.

SEC. 4. Proceedings in the Police Court shall be conducted in conformity with the laws regulating proceedings in the Recorders' Courts. The said court shall be open daily, Sundays excepted, and may be held by any Justice of the Peace of the city of Sacramento, in case of the temporary absence of the Police Judge, or his temporary inability to act, from any cause; said Justice of the Peace to be designated by the President of the Board of Supervisors. In case of a vacancy in the office of the Police Judge, the Board of Supervisors shall have power to appoint any Justice of the Peace of the said city to fill the vacancy until the next election, when the office shall be filled by election for a full term. Proceedings.

SEC. 5. The Chief of Police shall perform all the duties that now are, or may hereafter be, imposed upon him by law, or ordinance; he shall supervise and direct the Police force, and shall designate one, or more, out of the number of Police officers to attend, constantly, upon the Police Court to execute the orders and process of said court; he shall receive a salary of two thousand dollars per annum. Duties of  
Chief of  
Police.

SEC. 6. The Clerk of the Water Works shall perform all the duties that now are, or may be hereafter, imposed on him by law, or ordinance; he shall receive a salary of fifteen hundred dollars per annum. of Clerk of  
Water  
Works.

SEC. 7. The President of the Board of Supervisors, Police Judge, and Chief of Police, the concurrence of two of them being necessary to a choice, shall appoint a Lieutenant of Police, who shall act as Harbor-Master, and not exceeding nine Policemen; and the officers so elected, or appointed, shall give bonds as required by law; they shall each take the oath of office and perform such duties as are imposed by the act of which this act is amendatory, or which may be required by the Supervisors by ordinance; and they shall hold office for three months and until Policemen.

their successors are elected and qualified, unless sooner suspended, tried, and removed, as now provided by law.

Repealing  
clause.

SEC. 8. All acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

CHAP. CCLX.—*An Act granting to William Fitzpatrick and his Associates the right to construct a Railroad in Contra Costa County.*

[Approved April 29, 1861.]

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

Franchise  
granted.

SECTION 1. William Fitzpatrick, William D. Lawrence, C. T. Cutler, Josiah Sturgis, John Fitzpatrick, Nicholas Hunsaker, and James McGovern, their associates, or assigns, who shall be organized under the railroad corporation laws of the State of California, are hereby granted the right of way over the lands of the State, and authority to construct and maintain a railroad with double, or single, track, of such gauge as they may determine, and with the necessary branches from the coal mines in Contra Costa County, through what is known as Kirker's Pass, to such point on, or in, the San Joaquin River, or the Suisun Bay, as, without obstructing the navigation of the same, will admit of the delivery of the road-freight directly into vessels employed in its water transportation, and to construct a wharf at such termination.

Tolls, etc.

SEC. 2. The said Fitzpatrick and associates, or assigns, shall have the right to collect such tolls, or wharfage, as may be allowed and authorized by the Board of Supervisors of Contra Costa County; and the width of water frontage occupied by any wharf, bulkhead, or other work, herein authorized, shall not exceed six hundred feet.

To file plat  
and notes.

SEC. 3. A proper plat and notes of the survey of the line upon which the work herein authorized is to be constructed, shall be filed in the office of the Recorder of Contra Costa County, within six months after the passage of this act; and the main trunk of the road shall be completed within two years thereafter.

Forfeiture.

SEC. 4. Any failure to comply with the conditions herein named shall subject the parties to forfeiture of all rights herein granted.

CHAP. CCLXI.—*An Act to change the Name of Henrich Welhelm Christian Steghagen to Henry Hagen.*

[Approved May 2, 1861.]

*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 christened and known as Henrich Welhelm Christian Steghagen, of Alameda County, to adopt the name of Henry Hagen, and all instruments of writing heretofore made to, or by, him in the said name of Henry Hagen, or hereafter to be made in said name, shall have the same force and effect in law, as if made in the hereinbefore first mentioned name. Name changed.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCLXII.—*An Act to change the Name of Juan A. Suñiga to Alfred J. Hermosilla.*

[Approved May 2, 1861.]

*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 hitherto named and called Juan A. Suñiga, to change his name to that of Alfred J. Hermosilla. Name changed.

CHAP. CCLXIII.—*An Act to amend an Act entitled An Act concerning the Indigent Sick in the County of Placer, approved April twenty-seventh, eighteen hundred and fifty-seven.*

[Approved May 2, 1861.]

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

SECTION 1. Section four of an act entitled An Act concerning the Indigent Sick in the County of Placer, approved April twenty-seventh, eighteen hundred and fifty-seven, is hereby amended so as to read as follows :

Sec. 4. The Board of Supervisors shall appoint a Physician, who shall be a regular graduate in medicine, and shall have practiced in his profession for at least five years after the date of his diploma. It shall be the duty of said Physician to take charge and direction of the indigent sick of the county, and he shall, without delay, bestow upon all persons who are entitled to the benefit of this act, all necessary medical and surgical treatment and care; and he shall furnish, at his own cost and expense, all To appoint Physician.

Duties of Physician. drugs, medicines, and remedies, necessary for the same. Said Physician shall receive for his professional services, medicines, and remedies, any sum that may be agreed upon between him and the Board of Supervisors, not to exceed one hundred and fifty dollars per month, to be paid out of the Hospital Fund of the county, upon the warrant of the County Auditor, to be by him drawn on the first Monday of each month, in favor of said Physician. Said Physician shall not be interested, either directly, or indirectly, in any contract for keeping and maintaining the indigent sick of said county. Any Physician employed by the Board of Supervisors of said county, failing, or willfully neglecting, to perform the duties required of him by said Board, shall, upon competent testimony, be forthwith discharged by them. The Board of Supervisors shall have power to contract for the keeping, maintenance, and care, of such sick persons. Such contract shall particularly state that the diet, care, nursing, and attention, required for said indigent sick, shall be under the direction of, and such as may be ordered by, the Physician provided for above, and that any person, or persons, treated by him under the provisions of this act, shall be discharged by the party, or parties, contracting to keep and maintain said indigent sick, upon his order. The party, or parties, contracting to keep and maintain said indigent sick, shall specially agree to accept, in full satisfaction therefor, the money to be received into the Hospital Fund of the county, during the continuance of said contract, after paying the salary of the Physician, as provided above; and said contract shall further specify the price per week at which each indigent sick patient shall be kept and maintained, which price shall not exceed the sum of eight dollars per week.

Penalty.

To take effect.

SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCLXIV.—*An Act to authorize the Trustees of Petaluma School District to levy a tax to refund certain Moneys paid by the late Trustees of said District.*

[Approved May 2, 1861.]

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

Election.

SECTION 1. The Trustees of Petaluma School District, in the county of Sonoma, may, at any time after the passage of this act, order an election to be held in said district, which election shall be ordered and conducted in the same manner as elections called to levy a tax to build a school-house in said district, are required by law to be ordered and held. It shall be lawful for the qualified electors, voting at such election, to vote for, or against, the payment of the sum of four hundred and sixty-eight dollars and thirty cents, being the amount of a judgment recovered by Theodore Bradley in the District Court of the Seventh Judicial District in and for the county of Sonoma, against S. W. Brown,

George B. Williams, and William L. Van Doren, late Trustees of said district, for services as Teacher therein.

SEC. 2. Each person voting at such election, desiring to pay said judgment, shall indorse on his ticket the words, "pay the judgment—yes;" and each person voting as aforesaid, and who does not desire to pay said judgment, shall indorse on his ticket, "pay the judgment—no." Said election shall be held and conducted, and the vote counted and determined, in the same manner as other elections for school district purposes in said district are required by law to be held and conducted, and the vote determined.

Manner of voting.

SEC. 3. If a majority of the votes cast at the election provided for in the first section of this act, shall be in favor of the payment of said judgment, (but not otherwise,) it shall be lawful for, and the Trustees of said district are hereby required to cause, a tax to be assessed, levied, and collected, in said district, in the same manner and subject to the same rules and regulations provided by law for levying a tax to build a school-house in said district, sufficient to pay and satisfy the said sum of four hundred and sixty-eight dollars and thirty cents, and when collected, the same shall be applied, by the said Trustees, to the payment of said sum of money to the said S. W. Brown, George B. Williams, and William L. Van Doren, and for no other purpose; and if any balance shall remain after paying and satisfying said sum of money, such balance shall be paid into the Common School Fund in said district, for the support of schools therein.

To levy tax.

SEC. 4. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCLXV.—*An Act in relation to Sutter Creek in the Town of Ione City and vicinity, and to define the Boundaries and width thereof.*

[Approved May 2, 1861.]

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

SECTION 1. The south bank of Sutter Creek, in the town of Ione City and vicinity, in the county of Amador, according to the meanderings thereof, as the same was laid down on the town plat of said town, surveyed by S. H. Marlette, Civil Engineer and Surveyor, when said town was laid out, and westwardly of said survey, along the present location of the south bank of said creek to the top of the bank, or bluff, below said town as far as the west line of land now owned by William Smith, is hereby declared to be the south bank of said creek, and the channel of said creek shall not be less than one hundred feet in width.

South bank defined.

SEC. 2. Any person obstructing, or interfering, with said creek, by building bulkheads, or filling in the same, so as to interfere with the meandering line thereof, as laid down by said Marlette and defined in this act, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by imprison-

Penalty for obstructing.

ment, not exceeding ninety days, or by a fine, not exceeding five hundred dollars.

To take effect.

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

CHAP. CCLXVI.—*An Act to fix the time of holding certain Courts in Yolo County.*

[Approved May 2, 1861.]

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

County Court.

SECTION 1. A term of the County Court of Yolo County shall be holden on the first Monday of January, third Monday in May, and first Monday in September, in each and every year.

Court of Sessions.

SEC. 2. A term of the Court of Sessions of Yolo County shall be holden on the first Mondays in April, July, and December, of each and every year.

Probate Court.

SEC. 3. A term of the Probate Court of Yolo County shall be holden on the second Mondays in January and March, on the fourth Monday in May, on the second Mondays in July and September, and on the fourth Monday in November, of each and every year.

Repealing clause.

SEC. 4. All acts and parts of acts, in conflict with the provisions of this act, are hereby repealed.

To take effect.

SEC. 5. This act shall take effect and be in force, from and after its passage.

CHAP. CCLXVII.—*An Act to grant the right to construct a Bridge across the Colorado River, at, or near, Fort Yuma, to certain parties therein named.*

[Approved May 2, 1861.]

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

Franchise granted.

SECTION 1. George A. Johnson, George F. Hooper, L. J. F. Jaeger, together with such associates as they may admit, shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, hereinafter mentioned, upon condition that they and their associates shall incorporate themselves under the general laws of the State regulating corporations and providing for the incorporation of bridge companies, and shall adopt the name of the Colorado Bridge Company, and shall abide by and fulfill the further conditions hereinafter mentioned.

Powers of company.

SEC. 2. Said company, when incorporated as aforesaid, shall have full power to build, erect, construct, and maintain, a public toll-bridge across the river Colorado, at, or near, Fort Yuma, near the junction of the Colorado and the Gila rivers, in the county

of San Diego, and have and enjoy all the rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for that purpose, which is hereby granted and ceded to said company for the term of twenty years; *provided*, within three years from the date of the passage of this act the said company shall commence the construction of said bridge, and within five years shall build and fully complete the same; otherwise the right to construct the same shall be forfeited, and this act become null and void; said company shall at all times after its completion, keep said bridge in passable order and condition, and shall be responsible for any damage arising to persons, or property, crossing said bridge, caused by neglect to keep said bridge in proper repair and condition. After the expiration of ten years from the completion of said bridge, the county of San Diego shall have the right to purchase the same, at an appraised value, to be determined by five Appraisers, two to be selected by the bridge company, and two by the county aforesaid, and one to be selected by the four Appraisers hereinbefore provided for; and such value shall be estimated to be the value of the bridge, not including the franchise, or right of way, but the franchise and right of way shall pass to the purchaser, with the bridge; and, *provided*, further, that if the said bridge be purchased by the county aforesaid, then the right to levy and collect tolls shall not continue longer than necessary to reimburse the county for the amount expended in the purchase and repairs of said bridge.

County may purchase.

SEC. 3. The said bridge shall be constructed on the best and most approved plan, in a substantial manner, and of the most durable materials; and said bridge shall be constructed at a sufficient elevation above the surface of the water, so as at all times to permit steamboats and all other vessels to pass and repass under the same, without let, or hinderance, and so as not to prevent, or interrupt, the use of said river for rafts and for running timber.

SEC. 4. The said company, upon the erection and completion of said bridge, shall be authorized and empowered to charge and collect such rates of toll as the Board of Supervisors of San Diego County may fix annually; *provided*, that the Legislature may at all times modify, or change, the rates so fixed by said Board of Supervisors, and may authorize the erection of other bridges across said river at any point where public convenience may require.

Tolls.

SEC. 5. Said company may regulate and determine the speed of travel, riding, or driving, upon said bridge, and may require the speed not to be faster than a walk; and for each violation may recover judgment before any competent court for damages by said company sustained by such travel, riding, or driving, exceeding the speed authorized by said company.

To regulate rate of speed

SEC. 6. Said company shall keep in some conspicuous place at each end of the bridge, a bulletin board, which shall contain the scale of prices and notice of speed allowed on said bridge; *provided*, that nothing in this act shall be so construed as to in any way prevent the Board of Supervisors of San Diego County from granting license to the present ferry company, or establish-

Scale of tolls

ing and licensing any other ferry that the said Board may deem necessary for the convenience of the public.

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CHAP. CCLXVIII.—*An Act concerning the San Diego and Gila Southern Pacific and Atlantic Railroad Company, and to extend the time of performing certain acts.*

[Approved May 2, 1861.]

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

Time  
extended.

SECTION 1. The time fixed, in section one of 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, for the completion of the Road proposed to be built by said Company, is hereby extended to fifteen years from the date of the present charter, and the failure to complete said road before the termination of said period, shall work no forfeiture of any title to any lands specified, or referred to, in said section one of said act, or any other right conferred by said charter.

Act not  
applicable.

SEC. 2. So much of section forty-one of the general act to provide for the incorporation of railroad companies, as relates to the forfeiture of this act of incorporation, shall not so apply to the company specified in this act as to work such forfeiture, until the expiration of fifteen years from the date of their present charter.

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CHAP. CCLXIX.—*An Act to amend an Act entitled An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty.*

[Approved May 2, 1861.]

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

SECTION 1. Section three of said act is hereby amended so as to read as follows:

Revenue  
districts.

Sec. 3. For the purpose of revenue, each county in this State is hereby divided into revenue districts, and each township now organized, or that hereafter may be organized, in the several counties, shall constitute a revenue district, to be designated in the same manner as said township, or as the Board of Supervisors may direct; *provided*, that the Board of Supervisors of each county, except the county of Placer, shall have the power, in their discretion, to consolidate two, or more, townships, in the same revenue district; and, *provided*, further, that no county



need be districted until immediately preceding such time as the terms of office of the present incumbents, or any of those now elected to the offices of Assessors, or Collectors, shall have expired; and, *provided*, further, that the county of Shasta shall constitute but one collection district. This act to take effect from and after its passage.

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CHAP. CCLXX.—*An Act to legalize the Ordinances and all official Acts of the Board of Trustees of the City of Sonora.*

[Approved May 2, 1861.]

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

SECTION 1. All ordinances, with all official acts, of the Board of Trustees of the city of Sonora, not inconsistent with the laws of this State, done and performed from the ninth day of March, A. D. eighteen hundred and fifty-five, to the sixteenth day of April, A. D. eighteen hundred and sixty-one, are hereby legalized and made valid within the limits of the city of Sonora, as defined by an act entitled An Act to define and establish the Boundary Line of the City of Sonora, approved April sixteenth, A. D. eighteen hundred and sixty-one. Ordinances legalized.

SEC. 2. All acts, or parts of acts, contrary to the provisions of this act, are hereby repealed. Repealing clause.

SEC. 3. This act shall take effect from and after its passage. To take effect.

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CHAP. CCLXXI.—*An Act concerning Hogs running at large in the Counties of Contra Costa and Monterey, between the first day of June and the first day of October in each year.*

[Approved May 2, 1861.]

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

SECTION 1. Any hog, or hogs, found trespassing upon the premises of any person, or persons, in the counties of Contra Costa and Monterey, between the first day of June and the first day of October in each year, may be taken up by the owner, or owners, of such premises, and safely kept, at the expense of the owner, or owners, of such hog, or hogs, so found trespassing, and be subject to all the provisions of the second, third, fourth, fifth, sixth, seventh, eighth, and ninth, sections of An Act of March twenty-sixth, eighteen hundred and fifty-seven, concerning Hogs running at large in the Counties of Colusa, Tehama, Butte, Sonoma, and Napa. Swine may be taken up.

SEC. 2. All acts, or parts of acts, in conflict with this act, so far as relates to the counties of Contra Costa and Monterey, are hereby repealed. Repealing clause.

CHAP. CCLXXII.—*An Act to authorize County Judges, other than the County Judge of Yuba County, to hold Terms of the County Court, Court of Sessions, and Probate Court, in Yuba County.*

[Approved May 2, 1861.]

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

County  
of Yuba.

SECTION 1. Any County Judge of this State may hold terms of the County Court, Court of Sessions, and Probate Court, in Yuba County, upon the request of the County Judge of that county; and when, by reason of sickness, absence from the State, or from any cause, a term of the County Court, Court of Sessions, and Probate Court, cannot be held in said county by the County Judge thereof, and he shall have failed to provide another County Judge to hold such term, a certificate of that fact shall be transmitted by the County Clerk of said county to the Governor, who shall thereupon direct some County Judge of a neighboring county to hold such term. It shall be the duty of the County Judge thus directed, to hold such term.

To take  
effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCLXXIII.—*An Act to change the name of Henry Nathan to Henry Chester.*

[Approved May 2, 1861.]

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

Name  
changed.

SECTION 1. The name of Henry Nathan is hereby changed to Henry Chester.

CHAP. CCLXXIV.—*An Act providing for the permanent improvement of the Stock Grounds belonging to the State Agricultural Society.*

[Approved May 2, 1861.]

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

Managers to  
erect wall.

SECTION 1. The Board of Managers of the California State Agricultural Society are hereby authorized and empowered to provide for the erection, and cause to be erected, a substantial and permanent wall around the stock grounds belonging to the State Agricultural Society, in the city of Sacramento, together with stalls, sheds, and such other substantial and permanent improvements thereon as may be necessary for the use of said society; the same to be constructed upon such plan, and according

to such specifications, as may be adopted by the said Board of Managers.

SEC. 2. The Controller of State is hereby authorized and directed to draw his warrants on the Treasurer of State, in favor of the Treasurer of the State Agricultural Society, for the sum of fifteen thousand dollars, in such sums as may be required by them and on their requisition, the same to be payable as follows, namely: Ten thousand dollars (\$10,000), on the first Monday of November, A. D. eighteen hundred and sixty-one, and five thousand dollars (\$5,000), on the first Monday of November, A. D. eighteen hundred and sixty-two. Appropriat'n.

SEC. 3. The Board of Managers of the State Agricultural Society shall report to the Governor of State, the plans adopted by said Board, the cost of the same, the amount of money drawn by them from the State treasury, and a detailed account of the manner in which the same has been expended, which statement shall be transmitted by the Governor to the Legislature at its next session. To make report.

SEC. 4. The sum of ten thousand dollars is hereby appropriated, out of any moneys in the General Fund not otherwise appropriated on the first Monday of November, A. D. eighteen hundred and sixty-one, and five thousand dollars, out of any moneys in the General Fund not otherwise appropriated, on the first Monday of November, A. D. eighteen hundred and sixty-two, to pay the warrants drawn in accordance with this act. Appropriat'n.

CHAP. CCLXXV.—*An Act prescribing a certain duty of the Auditor of the City and County of Sacramento.*

[Approved May 2, 1861.]

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

SECTION 1. The Auditor of the city and county of Sacramento is hereby required to report, annually, in the month of March, under oath, a statement of the receipts and disbursements of the fiscal year ending on the first day of March, stating the sources from whence such receipts were derived, and the amount paid from each fund, and stating, separately, the account of the city, and the account of the county, with the balance in each fund on the said first day of March. Reports of Auditor.

SEC. 2. He shall also state the amount of unaudited and allowed accounts on file unpaid, giving the amount as drawn upon each fund, and with it the amount of accounts on file unacted upon. Same.

SEC. 3. He shall also state the funded indebtedness of the city and of the county, respectively; also, the floating indebtedness of each subject to funding. Same.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. CCLXXVI.—*An Act to amend an Act entitled An Act to amend an Act entitled An Act declaring certain Rivers and Creeks Navigable, passed February eighteenth, eighteen hundred and fifty-one; and to amend an Act amendatory thereto, passed May seventeenth, eighteen hundred and fifty-three, passed May fifteenth, eighteen hundred and fifty-four, approved April tenth, eighteen hundred and sixty.*

[Approved May 2, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows :

Rivers, etc.  
declared  
navigable.

Section 1. So much of a slough as lies between Simon's Canal, in the town of Alviso and the bay of San Francisco; and so much of the Petaluma River as lies between its mouth and the northern boundary of the town of Petaluma, situate on the western bank of Petaluma Creek; and so much of the Sonoma River as lies between its mouth and a point opposite Fowler's Hotel, in the town of San Luis; and so much of the Napa River as lies between its mouth and the toll-bridge; and so much of the Suisun River as lies between its mouth and the town of Suisun Embarcadero; and so much of the Sacramento River as lies between its mouth and the mouth of Middle Creek; and so much of Feather River as lies between its mouth and the mouth of the Yuba River; and so much of the Yuba River as lies between its mouth, and a point at the mouth of the slough at the foot of A Street, in the city of Marysville; and so much of the San Joaquin River as lies between its mouth and the Tulare Lake; and so much of the Stockton Slough as lies between its mouth and the west line of El Dórado Street, in Stockton; and so much of the Mokelumne River as lies between its mouth and the first falls; and so much of the Tuolumne River as lies between its mouth and Dickinson's Ferry; and so much of Deer Creek as lies between the house of Peter Lassen and its mouth; and Big River, three miles from its mouth; and Noyo River, three miles from its mouth; and Albion River, three miles from its mouth— are hereby declared navigable.

To take  
effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCLXXVII.—*An Act to provide for reindexing the County Records of Siskiyou County.*

[Approved May 2, 1861.]

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

Authorized  
to contract.

SECTION 1. The Board of Supervisors of Siskiyou County are hereby authorized to contract with the Recorder of said county, for such compensation as may be agreed upon, to re-

index, in suitable and well-bound books, the records of said county, consisting of deeds, mortgages, mechanic liens, land claims, and such other county records, or such portions of the same, as in their opinion public necessity may demand.

SEC. 2. When the rate of compensation shall have been agreed upon and the services shall have been rendered under the provisions of this act, the Board of Supervisors shall order a warrant drawn on the General Fund of said county, in favor of said Recorder, for the amount of compensation as agreed upon, and the Treasurer of said county is authorized and directed to pay the same out of any money in the General Fund, not otherwise appropriated. Payment.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. CCLXXVIII.—*An Act conferring further powers on the Board of Supervisors of the City and County of Sacramento.*

[Approved May 2, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of Sacramento is hereby authorized to allow and order paid out of the County Salary Fund, the Auditor required to audit; and the Treasurer to pay, to the Under-Sheriff of said city and county and the following named Deputies of the County Clerk of said city and county, to wit: To the Chief Clerk, employed in the District Court of the Sixth Judicial District; to the Chief Clerk employed in the Court of Sessions; to the Chief Clerk employed in the County Recorder's office; to the Chief Clerk employed in the County Clerk's general office, a sum not exceeding fifty dollars per month to each of the above named officers, for services rendered said city and county of Sacramento, from the first day of May, eighteen hundred and sixty. May allow salaries.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCLXXIX.—*An Act to restore Eliza Martin, late Eliza Hall, to her former authority as Executrix of the last Will and Testament of Edward H. Hall, deceased, and to authorize her as Executrix, to sell and convey Real and Personal Property.*

[Approved May 3, 1861.]

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

SECTION 1. Eliza Martin, wife of Enos J. Martin, late Eliza Hall, and late Executrix of the last will and testament of Edward H. Hall, late of Mendocino County, deceased, is hereby re- Authority restored.

stored to all the powers and authority of Executrix of the last will and testament of Edward H. Hall, deceased, in the same manner, to all intents and for all purposes, as though she had not intermarried with the said Enos J. Martin, and was a *feme sole*.

Probate  
Judge.

SEC. 2. The Judge of the Probate Court of Mendocino County is hereby authorized and required to make all orders necessary to carry this act into effect.

Powers of  
Executrix.

SEC. 3. The said Eliza Martin, as such Executrix, shall have power to sell any real and personal property belonging to said estate at public, or private, sale, without having first obtained an order from the Probate Court therefor; and on making any such sale the said Executrix may convey the property so sold to the purchaser, or purchasers, thereof, and receive the purchase money therefor, and the titles conveyed shall be as valid as if made under an order of the Probate Court in due course of law.

Former  
acts valid.

SEC. 4. Nothing in this act shall be so construed as to invalidate any acts of the present Administrator, or any past Administrator, performed in due course of administration.

When to  
take effect.

SEC. 5. This act shall take effect whenever the said Eliza Martin shall file with the Clerk of the Probate Court of the county of Mendocino a bond in double the amount of the ascertained indebtedness of said estate, with good and sufficient security, to be approved by the Probate Judge, conditioned as other bonds of Executors are required by law; which bond shall be the only bond that shall be required of said Executrix during the settlement of the affairs of said estate.

Construction  
of act.

SEC. 6. Nothing in this act shall be so construed as to contravene any of the provisions of the last will and testament of Edward H. Hall, deceased.

To approve  
sales.

SEC. 7. No sale made under the provisions of this act, shall be valid, or have any effect, until such sale shall be first approved by the Probate Court.

CHAP. CCLXXX.—*An Act to grant the right of way to the City and County of Sacramento, for the purposes of Drainage from the City of Sacramento.*

[Approved May 3, 1861.]

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

Right of way  
granted.

SECTION 1. The right of way is hereby granted to the city and county of Sacramento, over all lands, streets, alleys, roads, and highways, in the city and county of Sacramento, for the purposes of drainage from the city of Sacramento; said right to be used and exercised only under the authority of the Board of Supervisors of the city and county of Sacramento, who shall have the power to fix the routes and courses of drains and sewers, and regulate the grade, or fall, of same.

SEC. 2. Every person who in any manner shall injure, or de-

stroy, or in any manner impede, the flow of water along any drain, or drains, sewer, or sewers, within, or leading from, the city of Sacramento, which shall have been made, or constructed, by the authority of the Board of Supervisors of the city and county of Sacramento, or who in any manner shall injure, or destroy, any part, or portion, of the city levee, shall, on conviction thereof, be fined in any sum not less than ten, nor more than five hundred, dollars, or be imprisoned in the county jail not exceeding six months, or both such fine and imprisonment.

Penalty for obstructing.

CHAP. CCLXXXI.—*An Act supplemental to An Act concerning Lawful Fences in the County of Contra Costa, approved March fifth, eighteen hundred and fifty-eight.*

[Approved May 3, 1861.]

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

SECTION 1. When a fence has been erected by any person on the line of his land, and the person owning the land adjoining thereto shall make an inclosure on the opposite side of such fence, so that such fence may serve to inclose his ground also, he shall pay the owner of the fence erected one-half the value of so much as serves as a partition fence. When two, or more, persons own land adjoining, which is inclosed by one fence, and either desires that a partition fence shall be made between them, he shall notify the party, or parties, in interest, and each shall build his proportion of the fence; on failure to do so within three months, the party giving notice may build the fence and collect from the party, or parties, in default, by law, a just proportion of the cost of the fence, together with costs of suit. Partition fences dividing lands inclosed on both sides, shall be kept in repair by all the parties in interest. If either party fails to repair, after five days' notice, the party giving the notice may repair and collect by law, a due proportion of the expense of repairs, with costs of suit. A party having built, or paid for, a portion of a partition fence, shall have the right to remove, or exact pay for the same, when such fence shall cease to be a partition fence, by the removal of the outside inclosure.

Partition fences.

SEC. 2 In all cases of claims for the value of partition fences, or for repairs thereon, a lien shall attach on the land, and notice of such lien shall be filed in the County Recorder's office, as provided by law for mechanics' liens, such claim from the time of filing, shall draw interest at the rate of fifteen per cent. per year.

Lien to attach.

SEC. 3. This act shall be in force from its passage.

To take effect.

CHAP. CCLXXXII.—*An Act to grant Guillermo Carrillo and his Assigns the right to supply the Inhabitants of the Town of Santa Barbara with Fresh Water.*

[Approved May 3, 1861.]

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

Franchise  
granted

SECTION 1. The right is hereby granted to Guillermo Carrillo and his assigns, to lay down suitable water-pipes in the public streets and highways of the county and town of Santa Barbara, for the purpose of supplying the inhabitants of said town of Santa Barbara with pure and wholesome water, and for that purpose to make all such excavations on all lands, highways, and streets, as may be necessary; and whenever such excavations shall have been made, and the pipes laid in the places so excavated, the said grantee, or his assigns, shall forthwith fill up the same so as to restore such street, highway, or passage, to as good condition as they were in when said excavations were commenced.

Limit of  
franchise.

SEC. 2. The right to lay and maintain such water-pipes in said streets, highways, and lands, shall continue in said grantee and his assigns for the term of fifty years

Penalty.

SEC. 3. Any person who, without authority of law, shall dig up, or excavate, in either street of said town, for the purpose of laying down water-pipes therein, shall be deemed guilty of misdemeanor, and shall be punished accordingly.

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CHAP. CCLXXXIII — *An Act supplemental to an Act entitled An Act granting to William Fitzpatrick and his Associates the right to construct a Railroad in Contra Costa County, approved April twenty-ninth, eighteen hundred and sixty-one.*

[Approved May 3, 1861.]

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

To take  
effect.

SECTION 1. The act to which this act is supplemental entitled An Act granting to William Fitzpatrick and his Associates the right to construct a Railroad in Contra Costa County, shall take effect and be in force, from and after the passage of this act.

SEC. 2. This act shall take effect and be in force, from and after its passage.



CHAP. CCLXXXIV.—*An Act to appropriate Money to pay the claim of L. B. Richardson.*

[Approved May 3, 1861.]

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

SECTION 1. The sum of two hundred and nine dollars and sixty-two cents, (\$209 62,) is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, for the payment of the claim of L. B. Richardson, for supplies furnished guard in charge of State arms, taken to Western Utah, from this State, in May, eighteen hundred and sixty, by order of the Governor; and the Controller of State is hereby authorized and required to draw his warrant in favor of said L. B. Richardson, for two hundred and nine dollars and sixty-two cents, (\$209 62,) and the Treasurer of State to pay the same. Appropriation.

CHAP. CCLXXXV.—*An Act to amend an Act entitled An Act to create the Office of State Printer and define the Duties and Compensation thereof, and to provide for the time and manner of Election, approved May first, eighteen hundred and fifty-four, and the several Acts amendatory thereof and supplementary thereto.*

[Approved May 3, 1861.]

*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 as follows:

Sec 6. Whenever any message, report, or other document, in book form, is ordered printed by either House, four hundred and eighty copies in addition to the number ordered, shall be struck off and retained by the Printer, in sheets, to be bound with the journals of the two Houses as an appendix. Whenever any bill is ordered printed, two hundred and forty copies shall be deemed the number ordered, unless the House ordering the same shall specially name a larger number. Duties of State Printer

SEC. 2. Section nine of said act is hereby amended so as to read as follows:

Sec. 9. There shall be printed of the laws, resolutions, and memorials, of each session of the Legislature, one thousand four hundred and forty copies in English, and of such laws, resolutions, and memorials, as may be designated by the Legislature for publication, two hundred and forty copies in Spanish. Of the journals of the Senate and Assembly, there shall be printed four hundred and eighty copies, in one volume, or two, as may be required by the size thereof; *provided*, that the appendixes to the journals of both Houses shall be printed in one volume; and that the same matter shall not be twice printed therein; *provi-* Laws, resolutions, etc.

*ded*, further, that all printing ordered under the provisions of this act, shall be executed within the State of California.

SEC. 3. Section twelve of said act is hereby amended so as to read as follows :

Specification  
of work and  
price.

Sec. 12. For all work executed and material furnished under this act, by the State Printer, he shall be allowed as follows, which allowance shall include all the charge he shall make for the work, well executed and delivered, in good order, at the Seat of Government, excepting only the cost of the paper, as herein provided :

For composition, in English, per one thousand ems, one dollar.

For composition, in Spanish, per one thousand ems, one dollar and fifty cents.

For figure work, per one thousand ems, one dollar and fifty cents.

For rule work, per one thousand ems, one dollar and fifty cents.

For rule and figure work, per one thousand ems, two dollars.

Press work, per token of two hundred and forty sheets, one dollar.

For all proclamations, advertisements, orders, and notices, authorized by section five of this act, to be published in the State paper, he shall be allowed one dollar per square of three hundred ems for composition and the first insertion, and fifty cents for each subsequent insertion, not exceeding ten, and twenty-five cents for each insertion exceeding ten.

For binding the laws of each session, in full binding, and lettering the same, one dollar and twenty-five cents per volume.

For binding the journals of the Senate and Assembly, in half bindings, leather backs and corners, in junk board, marbled, and lettering the same, one dollar per volume; *provided*, that no charges shall be made, or allowed, for composition for blank pages under the provisions of this act.

For all forms and blanks, properly printed and delivered, the following rates shall be charged and received :

For all commissions, not exceeding fourteen dollars per thousand.

For all receipts, Controller's orders on the Treasurer, franks for books and documents, and foreign miners' licenses, not to exceed three dollars and twenty-five cents per thousand.

For all other licenses, letter-headings, and all other forms and blanks, not otherwise provided for in this section, not to exceed seven dollars per thousand. Whenever, during any session of the Legislature, either House shall, by resolution, or otherwise, order copies of its journals printed, daily, for the use of said House, no charge shall be made, or allowed, for composition upon, or for printing, the copies of such journals required to be printed by section nine of the act to which this is amendatory and supplementary.

To take  
effect.

SEC. 4. This act shall take effect and be in force, on and after the first day of January, A. D. eighteen hundred and sixty-two.

CHAP. CCLXXXVI.—*An Act appropriating Money for the completion of the Building for the State Reform School, and for the regulation of the same.*

[Approved May 3, 1861.]

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

SECTION 1. The sum of twenty-five thousand dollars is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, to be expended in the completion of building for the State Reform School, the erection of walls inclosing the same, the purchase of furniture, and all other expenses incidental to the same; and the sum herein appropriated shall be expended in accordance with the provisions of an act entitled An Act for the erection of a Building for a State Reform School, and for the regulation of the same, approved April eighteenth, eighteen hundred and sixty.

Appropriat'n.

CHAP. CCLXXXVII.—*An Act to amend an Act entitled An Act to Incorporate the City of Marysville, approved March third, eighteen hundred and fifty-seven, and other Acts amendatory thereto.*

[Approved May 3, 1861.]

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

SECTION 1. Section eight of article four of said act is amended so as to read as follows:

Sec. 8. The Recorder and every Justice of the Peace, holding his office in the city, shall have concurrent jurisdiction over all violations of city ordinances; of all proceedings for the recovery of any penalty, fine, or forfeiture, imposed by ordinance, provided the amount thereof shall not exceed five hundred dollars; of all cases of misdemeanor, or willful injury to property, committed within the city limits; and generally of all offenses of a criminal nature, committed within the city limits, of which Justices of the Peace, under the general laws of this State, now have jurisdiction, and may fine, or sentence to imprisonment in the county jail, or in the chain-gang of the city, or in the State Reform School, any offender under said ordinances, or general laws of this State, or punish by both fine and imprisonment, in the discretion of the court hearing the cause; *provided*, that no person, for any one offense, shall be fined in a sum exceeding five hundred dollars, or be imprisoned for a longer period than six months; in all cases, except in proceedings to keep the peace, and in committing examinations, the defendant shall have the right of trial by jury. The Recorder and Justices of the Peace within the city may issue all writs and processes, and administer all oaths necessary to the exercise of the jurisdiction hereby conferred, and may punish, for contempt, by fine, not exceeding

Jurisdiction  
of Recorder,  
etc.

To enforce  
sentence.

one hundred dollars, to be enforced by imprisonment till paid in the manner above stated, at the rate of two dollars per day; the place of holding said Recorder's Court shall be designated by ordinance. The Recorder shall receive for his services a salary, not exceeding one thousand dollars per annum, to be determined by the Common Council, payable quarterly. All moneys collected by the Recorder and Justices of the Peace, under the jurisdiction herein conferred for fines, or otherwise, shall be paid by them into the city treasury at the end of each week; *provided*, that in all cases not arising from a violation of a city ordinance, the Justices of the Peace may retain such fees as are now allowed them by law. The Marshal, or other peace officer, for making an arrest, under a warrant, may receive two dollars, together with twenty cents for every mile necessarily traveled by him in rendering such service and in taking the prisoner before a court, or magistrate, or carrying him to prison; for serving a subpoena, fifty cents, with twenty cents for every mile necessarily traveled by him in making such service. Whenever the Marshal, or other peace officer mentioned in this act, receives a salary from the city, he shall account for and pay over, to the Treasurer of said city, all fees collected by him under this act for services as such peace officer. In case of the absence of the Recorder, or his inability, for any cause, to act, it shall be lawful for the Mayor of the city to perform all the duties of the Recorder, and he shall have for such purpose, in every respect, the same power and authority.

Fees of  
Marshal.

SEC. 2. Section five of article five of said act is amended so as to read as follows:

Majority to  
appropriate  
money.

Sec. 5. A majority of the members elected shall be necessary to pass a resolution, or ordinance, appropriating two hundred and fifty dollars, or upwards, or an ordinance, in anywise increasing, or diminishing, the city revenue.

SEC. 3. Section ten of article five of said act is amended so as to read as follows:

Printing.

Sec. 10. The Common Council shall have power to contract, by the year, with some suitable person who shall publish (excepting at his option on Sundays,) a daily newspaper in said city, to perform all the printing and publishing required to be done by said city; such person, when employed, shall be known as the City Printer. It shall be the duty of the City Printer to publish all ordinances, resolutions, contracts, notices, and advertisements, or other matter required by law, or by any ordinance, or resolution, of said council to be printed, or published. It shall further be the duty of the City Printer to publish all advertisements and notices for the sale of all property for all taxes and assessments, and no charges shall be made therefor against the property so advertised, or the owner thereof, by any officer, or person, whatsoever. The City Printer shall receive for such services of printing and publication, and for labor and materials furnished by him, such sum, to be paid quarterly, as the Common Council may contract for; *provided*, the Common Council shall have no power to contract for a greater sum than one thousand dollars per year.

Compensation.

Acts  
repealed.  
To take  
effect.

SEC. 4. All acts and parts of acts inconsistent with this act, are hereby repealed.

SEC. 5. This act shall take effect from and after its passage.

CHAP. CCLXXXVIII.—*An Act to audit and allow the Claim of William S. Botts.*

[Approved May 3, 1861.]

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

SECTION 1. The claim of William S. Botts, for the sum of six hundred and forty-four dollars and twenty nine cents, (\$644 29,) rendered in the Superior Court of the city of San Francisco, in two certain actions, wherein John Crowell and others, and Abel Guy and others, were the plaintiffs, and Levi Hermance and others, as the Board of California Land Commissioners, were the defendants, is hereby audited and allowed; *provided*, that no payment shall be made, and no evidence of indebtedness shall be issued, upon said claim until a certified copy from the records of said court of the satisfaction of said judgments for the costs, shall be filed in the office of the Controller of State.

CHAP. CCLXXXIX.—*An Act to amend an Act entitled An Act to grant the right to construct and maintain a Dam and Lock across and in Napa Creek, approved April eighteenth, eighteen hundred and fifty-nine.*

[Approved May 3, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows:

Section 1. James H. Goodman, and such other persons as he may associate with him, are hereby authorized and empowered to construct and maintain said dam and lock across and in said creek, at, or near, Suscol in Napa County, and the right to construct and maintain said dam and lock across and in said creek, at, or near, Suscol, is hereby granted to the said James H. Goodman and his associates, for the period of twenty years from the passage of this act; and the said James H. Goodman and his associates, shall incorporate themselves under the general laws of this State regulating corporations, within nine months from the passage of this act.

SEC. 2. The said James H. Goodman and his associates, shall commence the construction of said dam and lock within one year from the passage of this act, and shall complete the same within two years, otherwise the right to construct the same shall be forfeited, and this act shall be absolutely void.

SEC. 3. The said dam and lock shall be constructed upon the most approved plan, and of durable materials, and in the most substantial manner, and shall be of sufficient height to hold and keep the water above said dam and lock, up to two-thirds the

Claim  
allowed.

Franchise  
granted.

Conditions.

Construction  
of dam  
and lock.

ordinary high tide, and shall be at least fifty feet wide, and of sufficient length to allow all boats navigating said creek to pass without unnecessary delay, and said dam and lock shall always be kept in good order and condition; and the said James H. Goodman and his associates, shall employ a sufficient force to be in constant attendance at said lock for the purpose of allowing the uninterrupted navigation of said creek, without unnecessary delay, and they shall be required to keep the water above said dam at least as high as two-thirds high tide; any damage that may accrue by reason of negligence, or inattention to the duties, as prescribed in this act, shall be at the cost of the owners of said dam and lock, to be recovered by an action in any court of competent jurisdiction.

Tolls.

SEC. 4. Said James H. Goodman and his associates, shall have power to demand and collect of, and from, all vessels, or the owners of vessels, passing through said lock, the following rates of toll, to-wit: Ten cents per tun for all vessels for the first ten years, and the Board of Supervisors of Napa County shall thereafter fix the rates of toll every two years; *provided*, they shall not reduce said tolls below six cents per tun. And at the expiration of twenty years from and after the passage of this act, the said franchise, together with said lock and dam, shall revert to the said county of Napa for its sole use and benefit.

Acts repealed.

SEC. 5. All acts and parts of acts heretofore passed and in conflict with this act, are hereby repealed.

CHAP. CCXC.—*An Act to enable and require the Board of Supervisors of the County of Contra Costa, to complete the levy of Taxes for Road Purposes in said County, for the year eighteen hundred and sixty-one.*

[Approved May 3, 1861.]

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

To complete tax levy.

SECTION 1. The Board of Supervisors of the county of Contra Costa are hereby enabled and required, on, or before, the first Monday of June, eighteen hundred and sixty-one, to complete the levy of taxes for road purposes, in accordance with the provisions of an act of the Legislature of the State of California, approved April twenty-eighth, eighteen hundred and sixty, entitled An Act to amend An Act concerning Roads and Highways in certain Counties therein named, approved April twenty-second, eighteen hundred and fifty-eight.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCXCI.—*An Act to provide for the collection of Delinquent Taxes in the City of Oakland.*

[Approved May 3, 1861.]

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

SECTION 1. The assessments of taxes upon all property, both real and personal, in the city of Oakland for city taxes, for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, eighteen hundred and sixty-one, are hereby legalized and confirmed, and rendered valid and binding, both in law and equity, against the persons and property assessed.

Assessments  
legalized.

SEC. 2. The City Attorney of the city of Oakland is hereby authorized and directed to commence civil actions in the name of the people of the State of California, in any Justice's Court in said city, or in the District Court of Alameda County, where the amount claimed is over two hundred dollars, whether the defendant be a resident of said city, or county, or not, to recover the unpaid taxes in said city for the fiscal years mentioned in the last section; and he shall designate in his complaint the amount of taxes due and unpaid, and shall state the kind and quantity of property assessed, both real and personal, and if real, describe the same; and the defendants shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense; such defendant being allowed only to plead—

Duties of  
City  
Attorney.

*First*—That the taxes had been paid before suit; or,

*Second*—That he had not the property mentioned in the complaint at the time of the assessment, and has never been liable to pay said taxes; and no answer shall be filed in any such case, unless the same be verified by oath.

Pleadings.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officers, shall be delivered to the Attorney for the city; and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence, in any court, to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law in relation to the levy and assessment of such taxes, have been complied with; and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

Delinquent  
list to be  
evidence.

SEC. 4. Judgments rendered in such cases in the District Court shall be docketed, and become liens upon all property of the defendants liable to taxation, and may be enforced against the same; and the City Attorney may file transcripts of judgments, rendered in Justices' Courts, under this act, with the County Clerk, who shall thereupon docket such judgments, and they shall become liens from and after such docket entry, in like manner as judgments rendered in the District Court, under this act; and the County Clerk may issue execution on such docketed Justice's judgments, as on judgments rendered in the District Court.

Judgments  
to be liens.

SEC. 5. An Act to regulate proceedings in Civil Cases in the

Act made  
applicable.

Courts of Justice of this State, so far as the same is not [in]consistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale under this act shall be conclusive evidence of title, except as against actual frauds, or pre payment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court to obtain possession of such property; *provided*, that the Sheriff in selling such property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and that, when property sold belongs to minors, under legal disability, they shall have until six months after said disability is removed to redeem said property, by paying the whole bid, all subsequent taxes, and interest. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Marshal of said city; and such collection and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax lists, which shall be open to public inspection.

Disposition  
of moneys.

Unknown  
owners.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid, be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon, may be sued by a fictitious name, and the summons be served in such manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name.

Fees.

SEC. 7. For services under this act, the City Attorney shall be entitled to a compensation equivalent to fifteen per cent. on the amount recovered, to be added thereto if paid before judgment; and if not so paid, then twenty-five per cent. to be added to, and to constitute a part of, the judgment; and all officers shall perform such services as shall be required of them under this act, without the payment of fees in advance; but they may charge and receive to their own use, such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants, and in no case shall the city be liable for services rendered under this act; but the City Attorney shall not commence the suit authorized by this act against a person, after being served with a duplicate receipt of the City Marshal for the total amount of taxes and charges due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt he shall pay all costs that may result from his negligence.

To take  
effect.

SEC. 8. This act shall take effect and be in force, from and after its passage.



CHAP. CCXCII.—*An Act to prescribe the duties and to provide for the compensation of the several Officers of the County of Butte.*

[Approved May 3, 1861.]

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

SECTION 1. The salary of the County Judge of Butte County shall be three thousand dollars per annum, which shall be in full for all services rendered by him as said County Judge, Judge of the Court of Probate, and Judge of the Court of Sessions, and he shall be ineligible to practice law during his term of office within his county. County Judge.

SEC. 2. The Clerk of said county shall receive a salary of three thousand five hundred dollars per annum, which shall be in full for all services rendered by him and required of him by law. County Clerk.

SEC. 3. The Sheriff of said county shall be allowed a salary of one thousand dollars per annum, which shall be in full for all services rendered by him, chargeable to said county, except the services required by him in connection with the county jail, and keeping and boarding the prisoners confined in said jail. The Sheriff shall be the Collector of all license taxes in and for said county, for the collection of which he shall receive the compensation allowed for similar services under the general revenue laws of this State; he shall be subject to all the duties and liabilities imposed by law on Tax Collectors, so far as the same relates to the collection of license taxes, and before entering upon the duties herein provided for, he shall enter into bond to the State, with two, or more, sureties, to be approved by the Board of Supervisors, in the sum of ten thousand dollars, conditioned for the faithful performance of the duties required of him by this act, which bond shall be filed in the office of the Clerk of the county. Sheriff. Liabilities.

SEC. 4. The District Attorney of said county shall be allowed a salary of two thousand dollars per annum, which shall be in full for all services rendered by him as said District Attorney; *provided*, on conviction of any criminal, he may collect to his own use, from the defendant only, the fees now allowed by law; but in no case shall he collect any fees from the county, except per centage of ten per cent. on forfeited recognizances, and his fees on collection of delinquent taxes.

SEC. 5. The County Treasurer of Butte County shall be allowed a salary of three thousand dollars per annum, which shall be in full for all services required of him as County Treasurer, and as *ex officio* Tax Collector, as hereinafter provided; and in no case shall he receive any fees, or per centage, to his own use. The County Treasurer shall be *ex officio* Tax Collector of the county of Butte; he shall receive all taxes tendered to him and receipt for the same; he shall make out and turn over to the District Attorney, on the first Monday of December in each year, a list of all taxes remaining unpaid on the first day of December in each year, which shall be considered delinquent taxes; and the District Attorney, upon the receipt of the delinquent tax list, as provided in this section, shall proceed to collect the same, in the Salary of Treasurer. Duties of

same manner as prescribed in An Act to provide for the collection of Delinquent Taxes in the County of Butte, approved April fifth, eighteen hundred and sixty-one. The County Treasurer shall, before entering upon the discharge of his duties, enter into bond to the State, with two, or more, sureties, to be approved by the Board of Supervisors, in the sum of fifty thousand dollars, for the faithful performance of the duties required of him as Treasurer and *ex officio* Tax Collector, which bond shall be filed in the office of the Clerk of the county of Butte.

County  
Recorder.

SEC. 6. The County Recorder and *ex officio* County Auditor, shall be allowed a salary of two thousand five hundred dollars per annum, which shall be in full for all services rendered by him as required by law, and in no case shall he be allowed to receive any fees, or per centage, to his own use.

County  
Assessor.

SEC. 7. The County Assessor of Butte County shall be allowed a salary of two thousand dollars per annum, and such other compensation as hereinafter provided. He shall, before entering upon the discharge of his duties, enter into bond to the State, with two, or more, sureties, to be approved by the Board of Supervisors, in the sum of ten thousand dollars, for the faithful discharge of the duties required of him by law, which bond shall be filed in the office of the Clerk of Butte County.

Duties of  
Assessor.

SEC. 8. The County Assessor is hereby authorized and required to collect the poll tax of Butte County, for which he shall receive the per centage allowed by law, and he is authorized and required, upon the entry of any assessment of personal property to any person, firm, corporation, association, or company, who does not own real estate within the county of Butte, to demand the payment of the taxes on the same; and if any such person, firm, corporation, association, or company, shall neglect, or refuse, to pay such taxes, the Assessor shall seize sufficient of the personal property of the party so neglecting, or refusing, to pay, to satisfy the taxes and costs, and shall post a notice of such seizure, with a description of the property seized, and the time and place when and where it will be sold, in three public places in the county, and shall at the expiration of five days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for cash, a sufficient quantity of said property to pay the taxes and expenses incurred; and for this service the Assessor shall be allowed from the delinquent party, a fee of three dollars, and the same mileage that the Sheriff would be allowed for traveling to a place to make a levy; and upon the payment of the purchase money he shall deliver to the purchaser the property sold, together with a certificate of the sale, and of the amount of taxes, or assessments, and expenses thereon, for which the property was sold, whereupon the title of the property so sold shall vest absolutely in the purchaser. The Assessor shall keep an accurate list of all taxes collected under the provisions of this section, together with the names of the parties from whom the same was collected, and on the first Monday of each month shall report the same to the Auditor, with the following affidavit attached thereto: "I, A B, County Assessor of the county of Butte, do solemnly swear, that the foregoing is a true and correct statement of all moneys and taxes collected by me on personal property during the preceding

Form of  
affidavit.

month, and that I have diligently and faithfully collected all taxes on personal property of all parties not owning real estate in the county, so far as the same has been assessed, to the best of my ability, so help me God." And the Auditor shall thereupon file the same in his office, and charge the Assessor therewith. The Auditor shall then calculate the per centage due the Assessor on the amount so collected, and also the amount which the Assessor must pay into the treasury, and give the Assessor a written abstract, or statement, of the same, and of the fund to which the same belongs, and the portion belonging to the State, and the portion belonging to the county. The Assessor shall thereupon present such abstract to the Treasurer, and pay to him the amount required by the same. The Treasurer shall file such abstract as voucher, in his office, and shall receipt to the Assessor for the amount of money received from him, and credit the State, county, and different funds, with the same. The Assessor shall then return the Treasurer's receipt to the Auditor, who shall credit him with the amount of such receipt, and his per centage for collecting, which shall balance his account. The per centage for the collection of the personal property tax above specified, shall form no part of the compensation of the Assessor, but shall be paid by him into the Salary Fund.

Duty of Auditor.

SEC. 9. The members of the Board of Supervisors of said county shall each be allowed a salary of eight hundred dollars per annum, and twenty-five cents per mile in coming to, and going from, the county seat, which salary shall be in full for all services required of them, whether in session, or otherwise.

Board of Supervisors.

SEC. 10. The Clerk of the county of Butte shall be allowed one Deputy Clerk, at a salary of one hundred and fifty dollars per month; also, one Deputy Clerk, at a salary of one hundred dollars per month. The said second Clerk to be employed only when the Board of Supervisors of said county shall order it done.

Deputy Clerk.

SEC. 11. The County Recorder and *ex officio* County Auditor of the county of Butte shall be allowed one Clerk, at a salary of one hundred and fifty dollars per month; *provided*, the Board of Supervisors shall deem it necessary and so order.

Same.

SEC. 12. The County Treasurer and *ex officio* Tax Collector shall be allowed one Clerk, at a salary of one hundred and fifty dollars per month, at such times as the Board of Supervisors shall deem it necessary and so order.

Same.

SEC. 13. There shall be a fund in the county treasury of said county, called the "Salary Fund."

Salary Fund.

SEC. 14. All fees and per centage now allowed to the County Recorder, *ex officio* County Auditor, County Clerk, Clerk of the Court of Probate, Clerk of the Court of Sessions, (together with all other fees allowed by law to the County Clerk for performing services required of him as such County Clerk,) and the County Treasurer, and *ex officio* Tax Collector, shall be charged and collected by them without delay, at, or before, the rendition of any official services; and all fees, or per centage, so collected by them, shall, on the first Monday of each month, be paid into the County Treasury Salary Fund, with a statement under oath of the several items for which said fees were charged and of whom collected, and that the total amount which had been collected by

To pay fees into Salary Fund.

either one of them has been so paid over, which statement the Treasurer shall file and keep of record for public inspection.

Duties of  
Treasurer.

SEC. 15. The County Treasurer shall issue duplicate receipts for all moneys paid into the Salary Fund, one to be held by the officer paying the same, on which the County Auditor shall indorse the words "I have filed a duplicate of this receipt," and sign his name thereto; the other to be filed with the County Auditor, who shall charge the Treasurer with said amount.

Court Tax.

SEC. 16. The County Clerk of said county shall collect from the plaintiff, or appellant, as the case may be, a fee of three dollars, to be known as the "Court Tax," when any original civil suit is commenced, or appeal papers filed in the County Court of said county; he shall also collect, for each contested order, three dollars, which shall be paid by him as all other fees, in the same manner as prescribed in section fourteen of this act.

Payment of  
salaries.

SEC. 17. The County Auditor of said county shall, on the first Tuesday of each month, or as soon thereafter as application is made by the proper officer, or Clerk, entitled to salary under this act, draw his warrant on the County Treasurer for one-twelfth part of his yearly salary, which shall be paid out of the Salary Fund; *provided*, he shall not issue his warrant for any salary in advance.

Duties of  
Treasurer  
and Auditor.

SEC. 18. The County Treasurer shall, on the first Monday of each month, certify to the County Auditor the amount of money in the Salary Fund of the county; and should there not be sufficient in said fund to pay the entire amount due to the several officers, he shall specify the amounts which can be paid, when it shall be the duty of the County Auditor to draw his warrant for so much as can be paid out of the Salary Fund and the remainder out of the General Fund.

Transfer  
of funds.

SEC. 19. The Board of Supervisors of said county may order, from time to time, the transfer of funds from the Contingent Fund, or General Fund, of said county to the Salary Fund of said county; and, quarterly, any surplus remaining in the Salary Fund to the General Fund, or Contingent Fund.

SEC. 20. The present Tax Collector of Butte County shall, when he vacates the office of Tax Collector, turn over all books, papers, [etc.] belonging to his office, to the County Treasurer.

To take  
effect.

SEC. 21. This act shall be in force from and after the first day of January, eighteen hundred and sixty-two; *provided*, that nothing herein contained shall conflict with the office of the present Tax Collector, until after the expiration of his term of office.

Repealing  
clause.

SEC. 22. All acts, or parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

CHAP. CCXCIII.—*An Act amendatory of, and supplementary to, an Act entitled An Act to change the time for holding Municipal Elections in the City and County of San Francisco, and to define the Official Terms of certain Officers therein mentioned, approved April twenty-second, eighteen hundred and sixty-one.*

[Approved May 3, 1861.]

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

SECTION 1. Section three of said act is hereby amended so as to read as follows:

Sec. 3. At the second election held under this act, on the third Tuesday of May, eighteen hundred and sixty-two, and every two years thereafter, there shall be elected a Police Judge, Chief of Police, Auditor, Tax Collector, Public Administrator, and Superintendent of Public Streets and Highways; and in each of the six townships, one Justice of the Peace and one Constable; and in the First, Third Fifth, Seventh, Ninth, and Eleventh, districts, one Supervisor and one School Director; and at the election next preceding the expiration of the term of office of the present incumbent, a County Judge, who shall continue in office for four years, and until his successor is elected and qualified.

Time of holding election.

CHAP. CCXCIV.—*An Act supplementary to an Act entitled An Act to Incorporate the City of Placerville, approved March the seventh, eighteen hundred and fifty-nine.*

[Approved May 6, 1861.]

*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 Placerville shall, at such time as they levy a tax on the assessed value of the property, real and personal, in the city of Placerville, for municipal purposes, also levy a tax on the said assessed value of said property, real and personal, not exceeding one-quarter of one per cent. for the exclusive use and benefit of the fire department of the city of Placerville. The said tax so levied shall be collected by the Collector and by him paid over to the City Treasurer, who shall keep the same as a separate fund, to be designated as the "Fire Department Fund." Said fund shall be paid out upon the order of the Common Council for the use and benefit of the fire department of the city of Placerville upon the application of the different fire companies.

To levy tax.

SEC. 2. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCXCV.—*An Act to fix the location of Brady Street, in the City and County of San Francisco.*

[Approved May 6, 186L]

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

SECTION 1. That ordinance number three hundred and forty-one, of the Board of Supervisors of the city and county of San Francisco, which ordinance is in the following words, to wit :

“ ORDINANCE No. 341.—An Ordinance to fix the location of Brady Street, and to establish its width.

*The People of the City and County of San Francisco do ordain as follows :*

Location  
of Brady  
Street.

Section 1. That the location of Brady Street be, and the same is hereby, declared to be so that the westerly line thereof shall intersect the northerly line of Mission Street at a point in the said northerly line of Mission Street distant two hundred and sixty-three feet easterly from the point at which the northeasterly line of Herman Street intersects the said northerly line of Mission Street.

Width of  
street.

Sec. 2. That Brady Street as established by this ordinance, shall be of the uniform width of forty feet, and shall run at right angles from Mission Street to Market Street.

Claim  
relinquished.

Sec. 3. The city and county of San Francisco hereby relinquish any right, or claim, in any land called Brady Street, other than is herein described as Brady Street.

Ordinance  
passed.

In Board of Supervisors, San Francisco, February fourth, eighteen hundred and sixty-one, after having been published five successive days, according to law, taken up and finally passed by the following vote : Ayes—Supervisors Britton, De la Montanya, Brooks, Gaven, Dodge, Hinckley, Davies, Crowell, and Lynch. Absent—Biden, Otis, and McCoppin.

WM. A. WELLS, Clerk.

Approved, San Francisco, February sixth, eighteen hundred and sixty-one.

H. F. TESCHEMACHER,  
President Board of Supervisors.”

Be, and the same is hereby, in all things ratified and confirmed, and the location of Brady Street, in the said city and county, shall hereafter be as designated in said ordinance.

CHAP. CCXCVI.—*An Act to authorize the Guardian of Francis William Paty to sell and convey certain Real Estate.*

[Approved May 6, 1861.]

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

SECTION 1. Martha Ann Paty Dayley, the mother and Guardian of Francis William Paty, a minor, is hereby authorized and empowered to sell at public, or private, sale, in her discretion, any, or all, of the real estate, or interests therein, of the said Francis William Paty, as shall in her opinion most promote his interests. To sell real estate.

SEC. 2. On making any such sale, or sales, the said Martha Ann Paty Dayley may convey the property so sold to the purchaser, or purchasers, thereof, and receive the purchase money therefor, and the title so conveyed shall be valid, and convey all the interest of the said minor in the property so sold. To convey property.

SEC. 3. The said Martha Ann Paty Dayley shall account for the proceeds of such sales as for any other assets in her hands pertaining to said minor. To account for proceeds.

SEC. 4. No deed, or conveyance, of the said real estate, or any part thereof, made under the provisions of this act, shall be valid, or convey any title, unless the sale shall have been confirmed by the Probate Court, previous to the execution of such deed of conveyance. To confirm conveyance.

SEC. 5. This act shall take effect from and after its passage. To take effect.

CHAP. CCXCVII.—*An Act to authorize and require the Board of Education of the City and County of San Francisco to pay John H. Shepard four hundred and fifty dollars, for collecting Delinquent School Tax in eighteen hundred and fifty-seven.*

[Approved May 6, 1861.]

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

SECTION 1. The Board of Education of the city and county of San Francisco, are hereby authorized and required to audit and pay John H. Shepard, four hundred and fifty dollars, out of the School Fund, for three months' services in collecting delinquent school tax in the year eighteen hundred and fifty-seven, upon evidence being furnished that the services herein named were faithfully performed for the time specified. To allow claims.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCXCVIII.—*An Act to grant the right to construct a Bridge across the American River to certain parties.*

[Approved May 6, 1861.]

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

**Franchise granted.** SECTION 1. R. A. Pearis and L. B. Harris, as Trustee, for the use and benefit of Amanda C. Harris, together with such as they may admit, shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, heretofore mentioned, upon condition that they and their associates shall incorporate themselves under the general laws of the State regulating corporations and providing for the incorporation of Bridge Companies, and shall adopt the name of American River Bridge Company, and shall abide by and fulfill the further conditions hereinafter mentioned.

**Limit of franchise.** SEC. 2. Said company, when incorporated as aforesaid, shall have full power to rebuild, reconstruct, and maintain, a public toll-bridge, so soon as the condition of the present bridge shall require such reconstruction, across the American River, at, or near, the same place where they now have a licensed toll-bridge across said river, and have and enjoy all rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for that purpose, which is hereby granted and ceded to said company for the term of twenty-five (25) years. Said company shall at all times, after its incorporation, keep said bridge in passable order and condition, and shall be responsible for any damages arising to persons, or property, crossing said bridge, caused by neglect to keep said bridge in proper repair and condition.

**Manner of construction.** SEC. 3. The said bridge, when it shall be rebuilt and reconstructed, shall be built and constructed in a good and substantial manner, and of the most durable materials.

**Tolls.** SEC. 4. The said company, from the time of its incorporation, shall be authorized and empowered, as well upon the bridge already in use as upon the one that may hereafter be constructed, to charge and collect such rates of toll as the Board of Supervisors of Sacramento County may fix annually; *provided*, the Legislature may, at all times, modify, or change, the rates so fixed by said Board of Supervisors.

**Speed of travel.** SEC. 5. Said company may regulate and determine the speed of travel, riding, or driving, upon said bridge, and may require the speed not to be faster than a walk; and for each violation thereof, the party so violating may be fined, in any competent court, in any sum not less than ten dollars, nor more than fifty dollars; *provided*, further, that said parties, thus violating such regulations, shall always be answerable, in any court of competent jurisdiction, for the actual damage sustained.

**Scale of tolls** SEC. 6. Said company shall keep, in some conspicuous place at each end of the bridge, a bulletin board, which shall contain the scale of prices and notice of speed allowed on said bridge.

SEC. 7. It is further *provided*, that nothing in this act shall be



construed as in any manner whatever, to interfere with, or in anywise, lessen, or curtail, the rights and privileges which said parties now possess and enjoy under the general law concerning ferries and toll-bridges. Proviso.

SEC. 8. No ferry, or toll-bridge, shall be established within one mile, immediately above, or below, said bridge now existing, or the one hereafter to be built, or reconstructed, unless it be required by public convenience. Extent of franchise.

CHAP. CCXCXIX.—*An Act to authorize the Board of Supervisors of Santa Clara County to pay certain School Warrants out of the General Fund.*

[Approved May 6, 1861.]

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

SECTION 1. The Board of Supervisors of Santa Clara County is hereby authorized, in lieu of any unpaid school warrants drawn upon the proper fund by the Superintendent of Public Schools of said county, during the year eighteen hundred and fifty-four, in payment of services rendered by School Teachers during said year, to issue other warrants, payable out of the General Fund of the county. May issue warrants.

SEC. 2. Before ordering the drawing of any warrant, in lieu of school warrants as specified in the preceding section, said Board of Supervisors shall inquire carefully into the circumstances connected with the issuing and non-payment of such school warrants, and if fully satisfied, upon such inquiry, that said school warrants were issued for services legally rendered, and after a full compliance with all the requisitions of the law in relation thereto, that the non-payment of said warrants was not in consequence of any neglect, or forfeiture, of the holders thereof, that there is no other source from which payment can be lawfully obtained, and that the holders of said school warrants have an equitable right to the relief herein contemplated, they may order warrants to be drawn in favor of the legal owner of said school warrant, or warrants, for the amount shown by such school warrants to be due, payable out of the General Fund of the county, and they shall cause said school warrants to be canceled and filed in the office of their Clerk. Warrants payable out of General Fund.

SEC. 3. This act shall be in force from and after its passage. To take effect.

CHAP. CCC.—*An Act making Warrants drawn on the General Fund of Mendocino and Tulare Counties receivable for County Taxes in said Counties.*

[Approved May 6th, 1861.]

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

To receive warrants for taxes.

SECTION 1. It shall be lawful for any person to pay all taxes, or any portion thereof, charged to him on the tax duplicate of Mendocino and Tulare counties, for county purposes, in any warrant, or warrants, drawn on, and payable out of, the General Fund of said counties; *provided*, that no warrant, or warrants, shall be received from any person, or persons, except such as are drawn in favor of the person, or persons, offering the same in payment for taxes, and received by them for services rendered the said counties. The Sheriff, or Tax Collector, of said counties shall receive said warrant, or warrants, in payment of such tax, and on his settlement with the county, he shall be credited for the amount of warrants received by him, as aforesaid, the same as for cash; *provided*, that, at the time of such settlement, he shall make oath that the identical warrants, as aforesaid, were received by him in payment for county taxes, and from no other source.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCCI.—*An Act to legalize certain matters connected with the Soda Springs and Pitt River Turnpike Company.*

[Approved May 6, 1861.]

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

Acts legalized.

SECTION 1. All the corporate acts of the President and members of the Soda Springs and Pitt River Turnpike Company, are hereby declared legal; and all deeds and mortgages granted and made, or received, by said company, or by its officers in its behalf, or which were in good faith intended to be so granted and made, or received, shall be as valid and binding to all intents and purposes, as though said company had effected a permanent organization as a corporation, within six months after its preliminary organization.

Organization valid.

SEC. 2. A final organization of said company as a corporation made within sixty days after the passage of this act, shall be as valid in all respects as though the same had been made within six months after the preliminary organization; *provided*, that such final organization shall in all other respects be made in conformity to law.

To take effect.

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

CHAP. CCCII.—*An Act concerning the Wagon Road Fund of the City and County of Sacramento.*

[Approved May 6, 1861.]

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

SECTION 1. The President of the Board of Supervisors and the Auditor of the city and county of Sacramento, are hereby authorized and required to draw, without further action of the Supervisors, their warrant in favor of James G. Plummer, on the Wagon Road Fund, for the sum of one thousand seven hundred and seventy-three dollars and sixty-five cents, this being the sum found to be due the said Plummer, out of said fund ; *provided*, that the said Plummer and his assigns shall be required, before receiving said warrant, to file with the Auditor of the city and county of Sacramento, his, or their, written discharge of all claims, dues, demands, or damages, of every nature and character whatever, held by him, or them, against the city and county of Sacramento, on the account of said Wagon Road Fund ; and the Treasurer shall, upon presentation, pay said warrant out of the moneys now in the fund known as the Wagon Road Fund.

To draw  
warrant.

SEC. 2. After the warrant provided for in the first section of this act, shall have been drawn and paid, all money then remaining in said Wagon Road Fund and all moneys that may thereafter accrue thereto, shall be transferred by the Auditor and Treasurer of said city and county, to the County Contingent Fund.

Transfer  
of funds.

SEC. 3. This act shall take effect immediately.

To take  
effect.

CHAP. CCCIII.—*An Act to transfer certain Moneys in the Treasury of Sacramento County; remaining in the General Fund, to the Contingent Fund.*

[Approved May 6, 1861.]

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

SECTION 1. The Auditor of Sacramento County is hereby authorized to transfer all moneys remaining in the fund known as the General Fund of said county, on the twenty-eighth day of February, A. D. eighteen hundred and sixty-one, to the Contingent Fund of said county.

To transfer  
moneys.

CHAP. CCCIV.—*An Act authorizing the Board of Supervisors of the County of San Bernardino to audit and allow the Claim of V. J. Herring.*

[Approved May 6, 1861.]

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

Claim  
allowed.

SECTION 1. The Board of Supervisors of the county of San Bernardino are hereby authorized to audit and allow the claim of V. J. Herring, for services rendered by him as Assessor of said county, during the years eighteen hundred and fifty-four and eighteen hundred and fifty-five, for such sum as the said Board may deem just, but not to exceed the sum of three hundred and seventy-four dollars.

CHAP. CCCV.—*An Act relating to the War Debt of this State.*

[Approved May 6, 1861.]

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

Duties of  
Commissioners.

SECTION 1. The Commissioners of the War Debt of the State of California, and the Clerk of said Commissioners, as constituted and appointed by an act of the Legislature of the State of California, approved April nineteenth, eighteen hundred and fifty-six, are hereby authorized and directed, within sixty days after the passage of this act, to proceed to the city of Washington, with all necessary vouchers, and to make with the General Government a settlement of the claims of the State of California against the United States, for expenses heretofore incurred and recognized by the State of California, in the suppression of Indian hostilities in said State, in manner and form as provided by the act, or acts, of Congress in reference to said claims, passed at its last session, and for all other claims of like character which may be allowed by the General Government, and for which appropriations shall be made by Congress at its next session.

To deliver  
vouchers.

SEC. 2. Upon the requisition of the Commissioners the Controller, Treasurer, Secretary of State, and all other State officers, shall deliver all the original vouchers on file in their offices necessary to substantiate the claims of the State against the General Government.

Duties of  
Commissioners.

SEC. 3. So soon as a settlement shall have been effected, and the amount due to the State of California shall have been ascertained and agreed upon, it shall be the duty of the Commissioners to forward to the State Treasurer a full statement of the accounts and claims so settled, and upon the receipt of such statement the said Treasurer shall draw upon the proper officer of the General Government for the amount found to be due. Whenever the draft of the Treasurer of the State of California for such amount shall have been paid by the General Government,

the Commissioners shall execute and deliver all necessary receipts therefor in the name of the State of California.

SEC. 4. The bonds of the United States which may be received by the Treasurer of State from the General Government, shall be paid out by him to claimants under the above named act, or acts, of Congress, at par; and in case of any of said claimants owning fractional amounts, the Treasurer shall issue to them certificates for the same, which shall be paid in the same manner as original claims under this act; *provided*, that he shall first set apart the amount that shall be allowed and found due the State of California for money that has been actually paid by the State for the suppression of Indian difficulties.

Duty of  
State  
Treasurer.

SEC. 5. Upon the delivery of any of the bonds of the United States, or issue of certificates by the Treasurer, as above provided, to any party, or parties, entitled to the same, he shall require the said parties to deliver up to him for cancellation the bond, or bonds, heretofore issued by the State of California to such parties, based upon the vouchers, upon which said Treasurer shall make such payments; and in case of any portion of any of the said State bonds not being paid by said Treasurer under this act, he shall issue to the holders a certificate showing the amount unpaid and the character thereof.

Bonds to be  
canceled.

SEC. 6. The Clerk of said Commissioners is hereby directed to make true copies of the minute book and book of certificates of the Board of War Examiners, for said war claims, which copies shall remain in charge of the State Treasurer.

Duty of  
Clerk.

SEC. 7. To enable said Commissioners and Clerk to carry out the provisions of this act, they are hereby allowed out of the State treasury the sum of nine thousand dollars, to be paid upon the joint requisition of said Commissioners; and the sum of nine thousand dollars is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, and the Controller of State is hereby directed, upon the receipt of said requisition, to draw his warrant upon the State Treasurer for the amount above specified.

Appropriation.

SEC. 8. Before the payment of the said Commissioners and Clerk, and within twenty days from and after the passage of this act, the said Commissioners and Clerk shall each execute to the State of California a bond in the penal sum of ten thousand dollars, conditioned for the faithful performance of their duties as defined by this act; said bond to be approved by the Treasurer of State; and in case of either of the said Commissioners failing, or refusing, to perform the duties herein imposed on them, the Governor shall appoint some competent person to fill the vacancy.

To give  
bonds.

SEC. 9. The Commissioners shall on, or before, the first day of January, A. D. eighteen hundred and sixty-two, make a full report of their proceedings to the Governor, whose duty it shall be to lay the same before the Legislature at its next session.

To make  
report.

SEC. 10. This act shall not take effect until the said Commissioners have delivered up to the Treasurer of State all of the coupons belonging to the State of California that they may have in their possession, that they have received since their terms of office as said Commissioners, and the Treasurer is hereby authorized to cancel and destroy the same.

To take  
effect.

CHAP. CCCVI.—*An Act to authorize the parties therein named to construct and maintain a Ferry and Wharfs.*

[Approved May 6, 1861.]

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

Franchise granted.

SECTION 1. The right to establish a ferry across the upper end of Suisun Bay, from the point known on Ringold's map of Suisun Bay as "Point Collberg," in Solano County, to a place known as "New York," in Contra Costa County, is hereby granted to C. J. Collins, his associates and assigns, for the term of twenty years.

Same.

SEC 2. The said parties are also authorized to construct a wharf at each of the landing places of the said ferry, one in Solano County, and one in Contra Costa County, which wharfs shall be substantially built, of such materials and of such dimensions as to make said wharfs sufficient for all the purposes of a steam ferry, as well as for the local business of the two points; and, from time to time, said wharfs shall be enlarged, as the commerce of the places may require.

Use of lands granted.

SEC 3. For the purposes of the ferry and wharfs aforesaid, there is hereby granted to the said C. J. Collins, his associates and assigns, the use and occupation of a strip of land, at each of the said wharfs, commencing at high tide, six hundred feet wide, along the water-line, in Solano County, and three hundred feet wide, along the water-line, in Contra Costa County, and commencing at high water mark and running into the bay to a point where the water is ten feet deep at low tide; *provided*, said wharfs shall be so located as not to obstruct navigation; also, a right of way over any lands owned by the State, from each of the said wharfs, to intersect, at the nearest and most accessible points, the public roads in each of the said counties.

Conditions.

SEC 4. The said parties herein named shall, within six months from the passage of this act, commence the building of the wharfs herein provided for, and, within nine months, shall have the said ferry in operation, with a steam ferry boat running between said wharfs, of sufficient capacity to accommodate the public travel; *provided*, that if the said parties shall fail to commence and complete the said wharfs and establish the said ferry within the time prescribed in this act, or in any other manner violate its provisions, then all the rights granted by this act shall become forfeited to the State.

Rates of toll.

SEC 5. The Board of Supervisors of Contra Costa County shall, from time to time, regulate the rates of toll to be charged for crossing on the said ferry, which rates of toll shall be kept posted upon the boat in a conspicuous place; they shall also have the right to regulate the number of trips that shall be performed by said ferry every day.

Act repealed.

SEC 6. So much of the Act concerning Public Ferries and Toll-Bridges, passed May fifteenth, eighteen hundred and fifty-four, as conflicts with the provisions of this act, is hereby repealed.

CHAP. CCCVII.—*An Act fixing the Salaries of State Officers and Clerks.*

[Approved May 6, 1861.]

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

SECTION 1. There shall be paid, in the manner provided by law, to the several officers and persons named in this act, the following amount of salaries per annum : To the Governor of the State, seven thousand dollars per annum ; to the Secretary of State, four thousand dollars per annum ; to the Controller of State, four thousand dollars per annum ; to the Treasurer of State, four thousand dollars per annum ; to the Attorney-General, four thousand dollars per annum ; to the Surveyor-General, two thousand dollars per annum ; to the Superintendent of Public Instruction, three thousand dollars per annum ; to the State Librarian, two thousand five hundred dollars per annum ; *provided*, that he shall not receive any other salary, or emolument, whatever, but such as is provided in this act ; to the Governor's Private Secretary, one thousand eight hundred dollars per annum.

Salaries.

SEC. 2. None of the officers enumerated in section one of this act shall receive any other compensation whatever, for any duties that are now, or may hereafter be, required of them by law, than such as is fixed by this act. No new office which is now, or may hereafter be, created, the duties of which, in whole, or in part, shall be required to be performed by any of such officers, shall entitle them to receive any extra compensation therefor ; *provided*, that all fees received by any of the officers herein named, which have heretofore been applied to their own use, shall be paid by them into the State treasury, and placed to the credit of the Common School Fund.

Not to allow fees to State officers.

SEC. 3. The only allowance to each of the officers mentioned in this act for contingent, or other, expenses, connected with their respective offices, shall be for all necessary furniture, books, stationery, fuel, lights, and nothing else.

Allowance for expenses.

SEC. 4. Every officer herein enumerated shall, annually, make out and transmit to the Legislature, a statement, under oath, giving the items of all necessary expenses of their respective offices for furniture, books, stationery, fuel, and lights. The Secretary of State, Controller, and Superintendent of Public Instruction, shall also include in their respective statements, the amounts actually expended by them for payment of postage and express charges, connected with their respective offices. All of the statements required by this section shall be accompanied by the necessary vouchers, otherwise they shall not be allowed.

Duty of officers.

SEC. 5. The Secretary of State shall be authorized and empowered to employ two Clerks, except as provided in section six ; the Controller of State, three Clerks ; the Treasurer of State, two Clerks ; the Surveyor-General, one Clerk, and Superintendent of Public Instruction, one Clerk—whose term of office shall commence from and after the passage of this act. Each of said Clerks shall receive a salary of one hundred and fifty dollars

Clerks of departments.

per month. The Treasurer of State shall also be authorized to employ a Watchman, at a salary of one hundred dollars per month; the Clerk of the Board of Examiners, who shall also act as Expert to said Board, shall receive fifty dollars per month; the Clerk of the Board of War Bond Commissioners shall receive fifty dollars per month.

Duties of  
Secretary  
of State.

SEC. 6. All copying of the laws for the State Printer, making the marginal notes and index to the laws, and indexing the journals of the Legislature, shall be performed by, and be a portion of the duties of, the Secretary of State, who shall be allowed an extra Clerk, for a term not to exceed three months in each year, at the same salary allowed other Clerks in his office.

To take  
effect.

SEC. 7. This act shall take effect upon the expiration of the term of office of all the present incumbents, except the Clerk of the Superintendent of Public Instruction, and as to such office, it shall take effect immediately.

Repealing  
clause.

SEC. 8. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed; but such repeal shall not affect the provisions of section seven of this act.

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CHAP. CCCVIII.—*An Act fixing the Salaries of the Judges of the Third and Thirteenth Judicial Districts.*

[Approved May 6, 1861.]

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

Salaries.

SECTION 1. The District Judges of the Third and Thirteenth Judicial Districts, shall each receive, for his services, the sum of four thousand dollars per annum, to be paid, quarterly, out of any moneys in the treasury not otherwise appropriated.

To take  
effect.

SEC. 2. This act shall take effect from and after the expiration of the terms of office of the present incumbents.

Acts  
repealed.

SEC. 3. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed, so far as they conflict with the provisions of this act.

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CHAP. CCCIX.—*An Act to authorize the Board of Supervisors of Tuolumne County to transfer certain Funds.*

[Approved May 6, 1861.]

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

Transfer  
of moneys.

SECTION 1. The Board of Supervisors of Tuolumne County, are hereby authorized and required to cause the Treasurer of said county to transfer, to the General Fund, ten thousand dollars of the Sinking and Interest Fund now in the treasury of



said county, arising from revenues collected in accordance with An Act to authorize the funding of the Debt of the County of Tuolumne, and to provide for the Payment of the same, passed in the year eighteen hundred and fifty-three.

SEC. 2. The Board of Supervisors are hereby required to re-transfer, or hold up, at such time as their discretion may dictate, a sufficient amount of said fund to meet and liquidate the outstanding bonds of said county as they severally become due and to pay the same, in accordance with the provisions of the funding act. Retransfer of moneys.

SEC. 3. This act shall take effect and be in full force, from and after its passage. To take effect.

CHAP. CCCX.—*An Act amendatory of, and supplementary to, An Act relating to the payment of Stewards of the San Francisco Fire Department.*

[Approved May 6, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows:

Section 1. The Board of Supervisors of the city and county of San Francisco, are hereby required to appropriate, out of the General Fund of said city and county, the sum of forty dollars each and every month, for the payment of a Steward, or Engine-Keeper, for each engine, or truck company, in said city and county. Said appropriation shall be made separate and apart from the sum now allowed by law for said department. The steam fire-engine companies belonging to the San Francisco Fire Department shall be allowed sixty dollars per month, additional, for the salary of an Engineer; said sum to be paid in like manner as the salary of the Stewards. Payment of Stewards.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCCXI.—*An Act authorizing Charles H. Brinley, and Andres Pico, and James R. Vineyard, to build and construct a Turnpike Road from the ex-Mission of San Fernando, across the Mountain of San Fernando, to the Arroyo de Santa Clara, in Los Angeles County.*

[Approved May 7, 1861.]

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

SECTION 1. Charles H. Brinley, Andres Pico, and James R. Vineyard, of Los Angeles County, are hereby authorized and empowered to build and construct a turnpike road from the ex- Franchise granted.

Mission of San Fernando, across the San Fernando Mountain and across the Cajon Hill, and through the Cajon Pass, to the Arroyo de Santa Clara, in Los Angeles County.

**Conditions.** SEC. 2. If the said Charles H. Brinley, Andres Pico, and James R. Vineyard, shall within the period of one year from and after the passage of this act, cause to be built and thereafter kept in good repair and condition, a good and substantial turnpike road, between the points, or places, mentioned in the preceding section, and shall cut down the San Fernando Mountain where said road shall pass, or cross over, the same, at least fifty feet from its summit, they, their successors, or assigns, shall be, and are hereby, authorized and empowered to levy and collect such rates of toll as the Board of Supervisors of said county shall fix from time to time.

**Term of franchise.** SEC. 3. In consideration of the construction and keeping in repair of said road, as provided in this act, the said Charles H. Brinley, Andres Pico, and James R. Vineyard, shall have the exclusive right, privilege, and use, of all tolls collected for a period not exceeding twenty years; *provided*, that the Board of Supervisors of the county of Los Angeles may at any time after the expiration of five years from the completion of said road, by paying to the said Brinley, Pico, and Vineyard, or their legal representatives, the amount expended by them in the construction of the said road, which shall be established by competent testimony before the said Board, together with interest thereon at the rate of twelve per cent. per annum, to be computed from the time of the completion of said road, then and thenceforth the same shall become the property of the said county of Los Angeles, and shall thereafter be under the control and management of the Board of Supervisors of the same.

**Tolls.** SEC. 4. The said Brinley, Pico, and Vineyard, are hereby authorized and empowered to commence collecting tolls on said road as soon as the same shall be completed according to the provisions of this act; *provided*, that before tolls shall be collected on said road, the Board of Supervisors of said county shall require satisfactory evidence that the road is completed, and has been built in conformity with the provisions of this act.

**Bulletin board.** SEC. 5. The said Brinley, Pico, and Vineyard, shall at all times cause to be kept in a conspicuous place, at said toll-gate, a written, or painted, list, or bulletin board, of the rates of tolls on said road, as established by the Board of Supervisors of said county.

**To take effect.** SEC. 6. This act shall take effect from and after its passage.

CHAP. CCCXII.—*An Act to authorize the Board of Supervisors of the City and County of Sacramento to levy a Special Tax.*

[Approved May 8, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of Sacramento are hereby authorized and required, in addition to the taxes already authorized by law to be collected for the year eighteen hundred and sixty-one, to levy and cause to be collected, on all property throughout the city and county of Sacramento, subject to taxation, a tax of ten (10) cents on each one hundred dollars' worth of property. To levy tax.

SEC. 2. The revenues collected under the provisions of this act shall be paid into the Agricultural Fund, and applied as follows: The first six thousand and eighty-five dollars and forty-five cents, paid into said fund, shall be paid to the State Agricultural Society, or its assignees; the balance of the money paid into said fund shall be applied to the payment of all indebtedness on account of the Pavilion, or Agricultural Building, which has been allowed by the Board of Supervisors, in the order of their registry; and the balance, if any, which may be in said fund, arising from the above mentioned tax, shall be paid to the Treasurer of the State Agricultural Society, to be expended by its Board of Managers upon improvements on said Pavilion, or Agricultural Hall. Agricultural Fund.

SEC. 3. The indebtedness due to the State Agricultural Society from the said city and county of Sacramento, amounting to the sum of six thousand and eighty-five dollars and forty-five cents, as allowed by the Board of Supervisors, on the seventh day of December, A. D. eighteen hundred and sixty, is hereby declared a good and valid claim against the Agricultural Fund of the said city and county of Sacramento. Valid claim.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. CCCXIII.—*An Act amendatory of an Act entitled An Act to regulate proceedings in Civil Cases, approved April twenty-ninth, eighteen hundred and fifty-one.*

[Approved May 8, 1861.]

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

SECTION 1. Section three hundred and ninety-eight of said act is hereby amended so as to read as follows :

Sec. 398. A licensed Physician, or Surgeon, shall not, without the consent of his patient, be examined as a witness as to any information acquired in attending the patient, which was necessary. Physicians not to be examined as witnesses.

sary to enable him to prescribe, or act, for the patient; *provided*, however, in any suit, or prosecution, against a Physician, or Surgeon, for malpractice, if the patient, or party, suing, or prosecuting, shall give such consent, and any such witness shall give testimony, then such Physician, or Surgeon, defendant, may call any other Physicians, or Surgeons, as witnesses, on behalf of defendant, without the consent of such patient, or party, suing, or prosecuting.

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CHAP. CCCXIV.—*An Act to appropriate Money to pay the claim of Wells, Fargo & Co.*

[Approved May 8, 1861.]

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

Appropriat'n SECTION 1. The sum of ninety-five dollars, (\$95,) is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, to pay the claim of Wells, Fargo & Co. for franked envelopes furnished the Senate, eleventh session, and for the transportation of arms; and the Controller of State is hereby authorized and required to draw his warrant in favor of the said Wells, Fargo & Co. for ninety-five dollars, and the Treasurer of State to pay the same.

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CHAP. CCCXV.—*An Act to amend an Act entitled An Act to amend an 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, and other Acts amendatory thereto, approved April twenty-eighth, A. D. eighteen hundred and sixty.*

[Approved May 8, 1861.]

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

SECTION 1. Section twenty-three of said act is amended so as to read as follows :

Sec. 23. Section two hundred and forty-six of said act is amended so as to read as follows :

Foreclosure. Sec. 246. There shall be but one action for the recovery of any debt, or the enforcement of any right, secured by mortgage, or lien, upon real estate, or personal property, which action shall be in accordance with the provisions of this chapter. In such action, the court shall have power, by its decree, or judgment, to direct a sale of the encumbered property, (or such part thereof as shall be necessary,) and the application of the proceeds of the sale to the payment of the costs and expenses of the sale, the

costs of the suit, and the amount due to the plaintiff. If it shall appear from the Sheriff's return that there is a deficiency of such proceeds and a balance still due to the plaintiff, the judgment shall then be docketed for such balance against the defendant, or defendants, personally liable for the debt, and shall, from the time of such docketing, be a lien upon the real estate of the judgment debtor, and an execution may thereupon be issued by the Clerk of the court, in like manner and form, as upon other judgments to collect such balance, or deficiency, from the property of the judgment debtor.

CHAP. CCCXVI.—*An Act to amend an Act entitled An Act concerning Ferries, and Toll-Bridges, approved April twenty-eighth, eighteen hundred and fifty-five.*

[Approved May 8, 1861.]

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

SECTION 1. Section six of said act is amended so as to read as follows:

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; *provided*, that there is nothing in this act that shall be so construed as to prevent the Board of Supervisors from establishing a ferry, or toll-bridge, at any place they may deem proper, within two miles of any incorporated town, or city, across streams that are not navigable.

Application  
to construct  
toll-bridge.

CHAP. CCCXVII.—*An Act for the relief of E. L. Green, Sheriff of the County of Sonoma.*

[Approved May 8, 1861.]

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

Appropriat'n

SECTION 1. The Controller of State is hereby authorized and directed to draw his warrant on the Treasurer of State, payable out of the General Fund, for the sum of three hundred and thirty-five dollars and ninety-three cents, in full, for moneys overpaid by the said E. L. Green, on account of tax for the year eighteen hundred and fifty-nine.

Payment.

SEC. 2. The Treasurer of State is directed to pay said warrant out of any moneys in the treasury, not otherwise appropriated.

CHAP. CCCXVIII.—*An Act to appropriate Money to pay the Claim of Greenhood and Neubauer.*

[Approved May 8, 1861.]

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

Appropriat'n.

SECTION 1. The sum of one hundred and thirty-six dollars (\$136) is hereby appropriated out of any money, not otherwise appropriated, in the General Fund in the State treasury, to pay the claim of Greenhood and Neubauer, for expressing coin from Shasta to Weaverville during the Indian war; and the Controller of State is hereby required to draw his warrant in favor of the said Greenhood and Neubauer for one hundred and thirty-six dollars, and the Treasurer of State to pay the same.

CHAP. CCCXIX.—*An Act to amend an Act entitled An Act amendatory of, and supplementary to, an Act passed April twenty-fourth, eighteen hundred and fifty-eight, entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento, approved April nineteenth, eighteen hundred and fifty-nine.*

[Approved May 8, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows :

Section 1. Section forty-one of said act is hereby amended so as to read as follows :

Sec. 41. The claims specified in this act may be received for funding, and bonds therefor may be issued prior to the first day of January, eighteen hundred and sixty-two, but not afterwards. Time for funding claims. All claims not presented for funding prior to that time, are excluded from the provisions of this act; and each blank bond, prepared under the provisions of this act, as shall remain on hand, shall be destroyed. in the presence of the Treasurer, County Judge, and the President and Clerk of the Board of Supervisors; *provided*, however, that interest on all claims which may be funded under the provisions of this act, shall only be computed at the rate of six per cent. per annum from and after the first day of January, eighteen hundred and fifty-nine.

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CHAP. CCCXX.—*An Act granting the Right of Way over certain Lands in this State, in the Counties of Alameda and San Joaquin.*

[Approved May 8, 1861.]

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

SECTION 1. Jos. S. Kohn, John O'Brien, and their associates, are hereby authorized and empowered to construct and maintain a railroad from Corral Hollow, in Alameda County, to a point on the San Joaquin River, over the most favorable grounds. And the State hereby grants to the said Jos. S. Kohn, John O'Brien, and their associates, and their assigns, and successors in interest, the right of way, use, and occupancy, of the lands of this State for the purpose of said road, not to exceed eighty feet in width, for the period of fifty years. Franchise granted.

SEC. 2. The said Kohn and his associates, or assigns, shall commence the construction of said road within one year from the passage of this act, and shall complete the same within two years from the date of the commencement thereof, otherwise this act shall be absolutely void, and the rights and privileges granted in this act shall be forfeited. Conditions.

SEC. 3. The said Kohn, his associates, and assigns, shall have the right to use on said road, cars, or wagons, propelled either by horses, or steam power. Motive power.

CHAP. CCCXXI.—*An Act in relation to Bills of Exchange, and other Negotiable Instruments.*

[Approved May 8, 1861.]

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

Bills, when payable.

SECTION 1. All bills of exchange, checks, promissory notes, or other negotiable instruments, which, by the terms thereof, are payable with, or without, grace, if the day for the payment thereof shall fall on any Sunday, or the fourth day of July, or on the twenty-fifth day of December, called "Christmas Day," or on the first day of January, or any other day commonly called "Thanksgiving Day," the same shall become due and payable on the day previous to any of the days aforesaid.

CHAP. CCCXXII.—*An Act to appropriate Money to pay certain Claims.*

[Approved May 8, 1861.]

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

Claim allowed.

SECTION 1. The sum of thirty-seven dollars and five cents (\$37 05) is hereby appropriated out of any money in the General Fund, to pay the claim of G. J. Lytle for newspapers furnished the Senate, Eleventh Session, for five dollars and seventy-five cents; the claim of James Sweaney, for pay as Porter of Committee Rooms of Senate, Eleventh Session, for twelve dollars; the claim of W. F. Hicks and Company, for newspapers furnished the Senate, Eleventh Session, for nineteen dollars and thirty cents; and the Controller of State is hereby authorized and required to draw his warrants in favor of the said G. J. Lytle, for five dollars and seventy-five cents; James Sweaney, for twelve dollars, and W. F. Hicks and Company, for nineteen dollars and thirty cents, and the Treasurer of State to pay the same.

CHAP. CCCXXIII.—*An Act to amend an Act entitled An Act defining the Right of Husband and Wife, passed April seventeenth, eighteen hundred and fifty.*

[Approved May 8, 1861.]

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

SECTION 1. Section eleven of the act entitled An Act defining the Rights of Husband and Wife, passed April seventeenth,



eighteen hundred and fifty, is hereby amended so as to read as follows:

Sec. 11. Upon the dissolution of the community by the death of the husband, one-half of the common property shall go to the surviving wife and the other half to the descendants of the deceased husband, the whole being subject to the payment of his debts; upon the dissolution of the community by the death of the wife, the entire common property shall go to the surviving husband. In case of the death of the husband, if there be no descendants of the husband, one-half of the common property may be subject to his testamentary disposition, and in the absence of any such disposition, shall be subject to distribution in the same manner as the separate property of the husband.

Rights of wife.

CHAP. CCCXXIV.—*An Act amendatory and supplemental to an Act entitled An Act to authorize the Board of Supervisors of Sutter County to construct a Bridge across Feather River, approved April eleventh, eighteen hundred and fifty-nine.*

[Approved May 8, 1861.]

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

SECTION 1. Section four of said act is amended so as to read as follows:

Sec. 4. The Treasurer of said county shall receive any and all moneys paid over to him under the provisions of this act, and shall enter the same upon the books of his office to the credit of the Bridge Fund, and shall disburse the same upon the warrants of said Board of Supervisors on such fund; and the Treasurer shall receive one per cent of all moneys received, as full compensation for receiving and disbursing said funds.

Bridge Fund.

SEC. 2. Section nine of said act is amended so as to read as follows:

Sec. 9. The Board of Supervisors, upon the erection and completion of said bridge, are hereby authorized and empowered to charge and collect such rates of toll as they may, from time to time, by the action of said Board, fix, until the sum arising therefrom, over and above the cost and charges of collecting the same, shall amount to twenty-five thousand dollars, or shall amount to a sum sufficient to pay for the cost and expense of constructing said bridge, over and above the amount donated for that purpose; *provided*, the cost of said bridge, over and above the amount donated, be less than twenty-five thousand dollars; from and after which time the said bridge shall be free for all crossing of persons, or property.

Tolls.

SEC. 3. The Board of Supervisors are hereby authorized and required to draw their warrants upon the Treasurer of the county, payable out of the Bridge Fund, for a sufficient amount to complete said bridge, the amount to be ascertained by the Superintendent of said work; *provided*, the amount shall not ex-

To draw warrant.

ceed the sum of twenty-five thousand dollars over and above the amount donated.

To take effect.

SEC. 4. This act shall take effect from and after its passage.

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CHAP. CCCXXV.—*An Act concerning the Salary of certain County Officers in the County of Napa.*

[Approved May 8, 1861.]

*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 Napa shall receive for his services, the sum of two thousand dollars per annum.

Salary.

District Attorney.

SEC. 2. From and after the next general election, the District Attorney of the county of Napa, shall receive for his services the sum of twelve hundred dollars per annum.

To take effect.

SEC. 3. Section first of this act shall take effect from and after the expiration of the term of office of the present County Judge of said county.

Payment of salaries.

SEC. 4. Each of the above mentioned salaries shall be audited and paid in the same manner as the salaries of said officers are now audited and paid.

Repealing clause.

SEC. 5. All laws and parts of laws, so far as the same conflict with the provisions of this act, are hereby repealed.

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CHAP. CCCXXVI.—*An Act to authorize William T. Wallace to sell certain Real Estate of his Infant Children.*

[Approved May 8, 1861.]

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

May sell real estate.

SECTION 1. William T. Wallace, as Guardian of his infant children, Richard R. Wallace and Ryland B. Wallace, now, or hereafter to be, appointed by the Probate Court, or the Probate Judge, of Santa Clara County, upon his executing, as such Guardian, a bond, in such penalty as such court, or Judge, shall direct, is hereby authorized and fully empowered, to sell at public, or private, sale, any and all real estate, and any right, title, or interest, therein, belonging to said infant children, or either of them, in this State.

To make report.

SEC. 2. The said Guardian shall make a full report of any and all sales that he shall make, by virtue of the power herein granted to the said Probate Court; and the Judge of said court shall, either in term time, or in vacation, in open court, or in chambers, examine the same, and confirm, or set aside, the said sale, or sales, as he may deem just and proper, and for the interest of said infants.

SEC. 3. After the approval of the sale, or sales, by the said Court, or the Judge thereof, the said Guardian shall execute and deliver a deed, or deeds, of conveyance of the lands sold, which deed, or deeds, shall convey to the purchaser, or purchasers, all the right, title, and interest, of the said infants, or either of them, in and to the lands sold by such Guardian, and described in such deed, or deeds, and shall be as valid, to all intents, as if made under an order of the proper Probate Court, in due course of law.

To execute conveyance.

SEC. 4. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCCXXVII.—*An Act to grant the right to construct a Turnpike Road between the Town of Mokelumne Hill and a point on the road to Stockton at, or near, the Golden Gate Ranch, in the County of Calaveras.*

[Approved May 9, 1861.]

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

SECTION 1. Charles Lambard, together with such associates as he may admit, shall take, have, possess, and enjoy, all the right, privileges, right of way, franchises, and immunities, hereinafter mentioned, upon condition that he and his associates shall incorporate themselves under the general laws of the State regulating corporations and providing for the incorporation of turnpike roads, and shall adopt the name of Mokelumne Hill and Golden Gate Turnpike Road Company, and shall abide by and fulfill the further conditions hereinafter mentioned.

Franchise granted.

SEC. 2. The said company shall have full power to build and maintain a public turnpike road from the town of Mokelumne Hill to, or near, the Golden Gate Ranch on the Stockton Road, in the county of Calaveras, and have and enjoy all the rights, and privileges, and immunities, thereto appertaining, and shall have the right of way, which is hereby granted and ceded to said company for the term of twenty years; and the State enters into these covenants, and makes these grants, and guaranties these rights and privileges upon express condition that within one year from the passage of this act the said company shall commence and within two years complete the said turnpike road.

Limit of franchise.

SEC. 3. The same rights as are now extended by the laws of this State to plank and turnpike roads in relation to the taking of property for the use of plank, or turnpike, roads, are hereby extended to the Mokelumne Hill and Golden Gate Turnpike Road Company for the construction of this act referred to. The damages to be ascertained and paid in the same manner as they are by said plank and turnpike roads.

Rights extended.

SEC. 4. The said turnpike shall be constructed of sufficient width to admit of the passage of heaviest sized teams, and shall be at all seasons in condition for travel by the largest lumber and other heavily loaded wagons.

Tolls.

SEC. 5. The said company, upon the completion of said turnpike, shall be authorized and empowered to charge and collect such rates of fare as the Board of Supervisors of Calaveras County may annually fix.

Scale of prices.

SEC. 6. Said company shall keep at each end of the road a sign-board which shall show the scale of prices and the regulations of the road.

CHAP. CCCXXVIII.—*An Act to amend an Act entitled An Act for opening and repairing Roads in the Counties of Sutter and Santa Cruz.*

[Approved May 9, 1861.]

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

SECTION 1. Section six is amended so as to read as follows :

To appoint Viewers.

Sec. 6. The Board of Supervisors of the county shall, on presentation of a petition to said Board, praying for a county road to be laid out in the county and designating the points therein, appoint two proper persons of the county, together with the County Surveyor, to view out the road as petitioned for; and it shall be the duty of those so appointed to proceed as soon as practicable to the place designated in the petition, and lay out said road on the nearest and best route between the points designated in the petition, or order of the Board, and report on its utility, and said report shall be recorded by the Clerk in the records of said Board, and if said Board shall be of the opinion that said road is necessary, they shall make an order to that effect, and declare the same to be a public highway; *provided*, no objection be made; and it shall further be the duty of the Viewers so appointed to put up notices along said line, or road, that they have laid the same out, and that they will report the same to the Board at its next regular meeting; they shall also give either verbal, or written, notice to all parties residing on any of the land the said road may cross.

SEC. 2. Section ten of said act is amended so as to read as follows:

Duty of Overseers.

Sec. 10. It shall be the duty of said Road Overseers to make a list of all inhabitants subject to work on public roads, and from time to time each year, as he may deem proper, to notify such persons to appear and work on the public roads.

CHAP. CCCXXIX.—*An Act to authorize Maria O'Connor, Administratrix of the estate of Michael T. O'Connor, deceased, to sell and convey Real Estate.*

[Approved May 9, 1861.]

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

SECTION 1. Maria O'Connor, Administratrix of the estate of Michael T. O'Connor, deceased, is hereby authorized and empowered to sell at public, or private, sale, all the real estate owned, or claimed, by the said Michael T. O'Connor, deceased, at the time of his death, as, in the judgment of the said Administratrix, shall best promote the interest of said estate. To sell real estate.

SEC. 2. The Administratrix shall make a full report of any sale, or sales, made by virtue of the powers herein granted to the Probate Court of the county of San Francisco; and the Judge of said court shall, either in term time, or vacation, in open court, or in chambers, examine the same, and confirm, or set aside, the said sale, or sales, as he may deem just and proper, for the interest of said estate. To make report.

SEC. 3. After the approval of the sale, or sales, by the Probate Court, the Administratrix shall convey to the purchaser, or purchasers, the property so sold, and receive the purchase money therefor, and the titles so conveyed shall be as valid as if made under an order of the proper Probate Court, in due course of law. Conveyances to be valid.

CHAP. CCCXXX.—*An Act to provide Revenue for the support of the Government of this State.*

[Approved May 9, 1861.]

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

SECTION 1. On and after the first day of May, eighteen hundred and sixty-one, the following tax is hereby imposed on every sheet, or piece, of paper, or parchment, or other material, upon which may be written, printed, engraved, or lithographed, any, or either, of the instruments following, to-wit: Any bill of exchange, draft, or order, certificate, or other written evidence of deposit, whether negotiable, or otherwise, or letter of credit, to any person, or persons, and payable out of this State, of above twenty dollars, and not exceeding fifty dollars, eight cents; if above fifty, and not exceeding one hundred dollars, twenty cents; if above one hundred, and not exceeding one hundred and fifty, dollars, thirty cents; if above one hundred and fifty, and not exceeding two hundred, dollars, forty cents; if above two hundred, and not exceeding three hundred, dollars, sixty cents; if above three hundred, and not exceeding four hundred, dollars, eighty cents; if above four hundred, and not exceeding five hundred, dollars, one dollar; if above five hundred, and not exceeding Stamp tax.

seven hundred and fifty, dollars, one dollar and forty cents; if above seven hundred and fifty, and not exceeding one thousand, dollars, two dollars; if above one thousand, and not exceeding fifteen hundred, dollars, three dollars; if above fifteen hundred, and not exceeding two thousand, dollars, four dollars; if above two thousand, and not exceeding three thousand, dollars, six dollars; if above three thousand, and not exceeding four thousand, dollars, eight dollars; if above four thousand, and not exceeding five thousand, dollars, ten dollars; if above five thousand, and not exceeding seven thousand, dollars, fourteen dollars; if above seven thousand, and not exceeding ten thousand, dollars, twenty dollars; if above ten thousand, and not exceeding fifteen thousand, dollars, thirty dollars; if above fifteen thousand, and not exceeding twenty thousand, dollars, thirty-eight dollars; if above twenty thousand, and not exceeding thirty thousand, dollars, fifty-six dollars; if above thirty thousand, and not exceeding fifty thousand, dollars, ninety dollars; if above fifty thousand, and not exceeding one hundred thousand, dollars, one hundred and seventy-five dollars; if above one hundred thousand dollars, two hundred dollars—or any license to practice, or certificate of admission, of any Attorney-at-Law, granted by any court in this State, ten dollars, and no order shall be entered, granting such license, or certificate of admission, issued, until such fee shall have been paid; any policy of insurance, contract, or instrument, in the nature thereof, upon any house, factory, machinery, ship, steamer, or vessel, of any description, any goods, wares, or merchandize, or furniture, or any life insurance, one-half of the duty levied on bills of exchange; any receipt for the payment of money for, or any contract, certificate, or memorandum, relative to, the purchase of passage from this State to any place out of the limits of, or from any place out of, this State, to another place out of the limits thereof, upon any vessel, or steamship, if for a first class passage, six dollars, and if for a second class passage, four dollars, and if for a steerage passage, two dollars; *provided*, that nothing in this act shall be construed to affect, in any way, the official drafts of officers of the United States, or of this State.

Policies of insurance.

Passengers.

Stamp Commissioners.

SEC. 2. The Governor, Treasurer, and Attorney-General, are hereby named as Commissioners of Stamp Duties, any two of whom shall form a quorum competent to perform any act herein required of them. Immediately after the passage of this act, and thereafter as often as may be necessary, it shall be the duty of said Commissioners to devise and cause to be made, as many seals, differing one from the other in such manner as shall correspond to the several rates herein imposed, that is to say, one seal for each distinct duty, and to make records of said devices and file the same in the office of the Secretary of State. It shall be the duty of the Secretary of State to take charge of, in his official capacity, all the seals required to be used for stamping, or printing, paper, parchment, or other material, used for the purpose of carrying out the provisions of this act, under such conditions, checks, rules, and regulations, as from time to time may be adopted by said Commissioners. The Secretary of State shall provide all paper, or other material, necessary under this act, and shall, from time to time, as may be needed, cause to be

Duty of Secretary of State.

stamped, with the seals devised as aforesaid, as many stamps as may be required by the Controller of State; he shall then deliver the papers, or other material, so stamped, to the Controller, taking his receipt therefor; and, whereby, it shall further be provided, that the Secretary of State shall keep, or cause to be kept, a record of each impression made, or caused to be made, by him, and file the same with the Commissioners, and the Secretary of State shall be responsible, according to the record as aforesaid; and, whereby, further, it shall be provided, that the Controller shall mark, or cause to be marked, such paper, or other material, by numbering, or otherwise, as the said Commissioners may direct, so that an accurate counter check upon their genuineness may be made, and shall preserve a record thereof in his office; and said Commissioners shall further provide a system whereby, as far as possible, frauds, either in the using of the seals, or the disposal and custody of the material stamped, may be avoided; and in all cases not provided for by this act, they may provide for the accountability of parties employed, or acting, in any manner in virtue of any provision herein contained; and, furthermore, they shall particularly investigate all cases of frauds, forgeries, or evasions, of this act, and take such means as may be suitable to subject the offender to the fines and penalties herein ordered.

Duty of  
Controller.

SEC. 3. The Controller shall keep an accurate record, showing the different rates, as well as the aggregate amount, of stamped paper, or other material, received by him from the Secretary of State, the date of the receipt, the description of counter checks placed thereon, and the disposition of the same, whether sold, or transmitted, to the County Treasurers, or otherwise disposed of. The Controller shall, by some reliable means, distribute to the various County Treasurers, such number and denominations of stamped paper, or other material, with his counter check thereon, as may be needed for sale in said counties, obtaining their receipt therefor for his own discharge. Upon remitting to the County Treasurers said stamped paper, he shall keep an accurate account with each County Treasurer, showing the amount, as well as the different rates, of stamped paper transmitted to, and receipted for by, said County Treasurers, and the said County Treasurers shall be responsible on their bonds for the value of said stamps so receipted for by them, unless the said stamps themselves be shown to be in their possession.

Further  
duty of  
Controller.

SEC. 4. Whenever any person shall desire to purchase any stamped papers, or parchments, of the Controller, the purchaser shall inform the Controller of the amount and denomination of stamped papers, or parchments, he may wish to purchase, and the Controller then shall give him an order directing the Treasurer of State to receive into the General Fund, the amount of money for which the purchase is desired to be made, and upon the Treasurer giving the purchaser a certificate of the fact of his having paid the money into the treasury, the Controller shall then deliver to the said purchaser, the equivalent in stamped papers, or parchments; and any person purchasing at one time stamps, as aforesaid, for a sum in the aggregate amounting to

Regulations  
for purchas-  
ing stamps.

one hundred dollars, or more, shall be entitled to a deduction of five per cent. on the aggregate amount of such purchase money.

Stamping  
blanks, etc.

SEC. 5. When any person shall wish to have any blank sheet, or piece, of paper, or parchment, or printed, lithographed, or engraved, forms, stamped in the manner required in this act, he may deposit the same in the office of the Secretary of State, accompanied by a memorandum designating the denomination of the seal, or the rate of duty, that he may wish impressed thereon, respectively, whereupon, it shall be the duty of the Secretary of State to cause the same to be stamped in the manner designated in the said memorandum, and deliver the same to the Controller, the same as other stamped material.

Policies of  
insurance.

SEC. 6. All deeds and writings whatsoever, for the payment of any sum of money upon the contingency of the loss of any ship, steamer, steamship, or other vessel, or of any goods laden, or to be laden, thereon, or damages thereto, shall be construed and adjudged to be policies of insurance within this act, and chargeable with the several rates of duty hereinbefore mentioned.

Instruments  
void unless  
stamped.

SEC. 7. No instrument, or writing, whatever, executed on, or after, the first day of May, eighteen hundred and sixty-one, and charged by this act with the payment of duty as aforesaid, shall be pleaded, or set up, or given, in evidence in any court, or admitted to be available in law, or equity, but shall be and remain absolutely void, unless the same shall be stamped, or marked, as aforesaid.

May change  
impressions.

SEC. 8. The Commissioners may change the impressions, or seals, as often as may be necessary to detect frauds, and shall require the Secretary of State to stamp, with the aforesaid seals, pieces of paper, or parchment, as designated by said Commissioners, which shall be attached to every sheet of, or piece of paper, or parchment, or other material, upon which may be written, printed, engraved, or lithographed, any, or either, of the instruments mentioned in section one and six of this act.

Penalty  
for forging.

SEC. 9. If any person, or persons, shall write, print, or engrave, or cause to be written, printed, or engraved, upon any unstamped paper, parchment, or other material, with intent fraudulently to evade, or to assist, or aid, others fraudulently to evade, any of the duties imposed by this act, any of the matter and things for which the said paper, or parchment, is hereby charged to pay any duty; or shall write, print, or engrave, or cause to be written, printed, or engraved, any matter, or thing, upon any paper, or parchment, or other material, that shall be stamped for any lower duty than the duty by this act payable; or shall write, print, or engrave, or cause to be written, printed, or engraved, upon any paper, or parchment, duly stamped, any matters, or things, in respect whereof the duty is payable as aforesaid, at a distance from the stamps impressed thereon, with intent again to use the said paper, parchment, or other material, or with intent fraudulently to evade the duties imposed by this act; or shall write, print, or engrave, or cause to be written, printed, or engraved, any matters, or things, in respect whereof a duty is payable; or any stamped paper, parchment, or other material, whereon there shall have been before written, printed, or engraved, any other matter, or thing, in respect whereof a duty is



payable by this act, before such paper, parchment, or other material, shall have been again duly stamped according to this act, such person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten, nor more than five hundred, dollars, or by imprisonment in the county jail for a term, not more than six months, or by both such fine and imprisonment.

SEC. 10. If any person, or persons, whatsoever, shall counterfeit, or forge, any seal to resemble any seal which shall be devised, or made, in pursuance of this act, or any counter-checks, devised by the Commissioners of Stamp Duties, and used by the Controller of State, or shall counterfeit, or resemble, the impression of the same, upon any paper, parchment, or other material, thereby to defraud, or to permit others to defraud, the State, of any of the duties imposed by this act, or shall either vend, or sell, any paper, parchment, or other material, with such counterfeit impression, or such counter-check, thereupon, knowing the same to be counterfeited, or shall fraudulently use any seal directed, or allowed, to be used by this act, in relation to the duties hereby levied, with intent to defraud the State of any of the said duties, or shall fraudulently use said seals, or any one of them, in any manner different from the manner prescribed by this act, then every person so offending shall be adjudged guilty of a felony, and upon a conviction thereof, by a court of competent jurisdiction, shall be fined in any sum not exceeding three thousand dollars, and imprisoned in the State Prison, for any time not exceeding seven years.

Forgery.

Penalty.

SEC. 11. It shall be lawful for each the Controller and Secretary of State to employ additional Clerks for the purpose of aiding and assisting them in the discharge of their duties, imposed upon them by this act; *provided*, that not more than two hundred dollars per month be expended in either office for this purpose.

Additional Clerk.

SEC. 12. It shall be the duty of the County Treasurers of the various counties, to receive and receipt for the stamped instruments, or writings, or blank sheets, or pieces, of paper, or parchment, sent to them by the Controller, to sell the same to such persons as may wish to buy, making the deduction of three per cent. to such persons as buy for an amount at any one time exceeding twenty-five dollars; to place the proceeds of said sales in the General Fund, and to account for and pay over the same to the State treasury, in the same manner and subject to the conditions, as other moneys received by them, for the use of the General Fund, under the same pains, penalties, forfeitures, and judgments. The County Auditor, quarterly, shall settle with the County Treasurers, and shall ascertain the amount of duties realized, and the amount of stamped paper, or parchment, on hand with the County Treasurer, and shall forward to the Controller of State an accurate statement of said account, within one week after the settlement thereof; *provided*, that in the counties of San Francisco, Sacramento, and Yuba, said settlements shall be made monthly.

Duties of County Treasurers.

SEC. 13. If the Controller, or Secretary, of State, or any Clerk in either of the said offices, or any County Treasurer, or County Auditor, shall violate, or neglect to perform, or perform

Penalty for neglecting duties.

in any other way than required by this act, any duty imposed upon them by this act, or by the regulations of the Commissioners of Stamp Duties, he, or they, shall be adjudged guilty of a misdemeanor in office, and punished accordingly. Any piece, or sheet, of paper, or parchment, whether in blank, or printed, or engraved, or lithographed, duly stamped, shall be deemed to be valuable property; and any person stealing, robbing, or purloining, or in any manner unlawfully, or fraudulently, coming into, or taking, possession of the same, or unlawfully using the same, for the sake of gain; or any public officer, or any person employed by him, unlawfully, or fraudulently, disposing of the same, in a manner not provided for by this act, shall be guilty of petty, or grand, larceny, as the case may be, according to the value of the stamped paper, or parchment, so taken, possessed, or used, as aforesaid, or the aggregate value thereof, if more than one be so taken, or used, at the same time.

To make  
monthly  
reports.

SEC. 14. Upon the last Saturday in each month, it shall be the duty of the Controller to transmit to the Commissioners of Stamp Duties a report showing the number and denomination of stamped papers, or parchments, receipted for by him, and the disposition of the same; if by sale, the aggregate amount of authorizations issued by him to the Treasurer of State, and the aggregate amount of money acknowledged by the said Treasurer therefor, and if by transmission to the County Treasurers, the aggregate amount thereof, stating the fact of his having their receipts in his possession. Upon the same day, the Secretary of State shall also report to the Commissioners of Stamp Duties, the number and denomination of papers and parchments stamped by him, and it shall be the duty of said Commissioners to receive said reports, and to consider as well the information therein contained, and that derived from such other sources as they may deem proper, in order that they may see that this act is faithfully carried out and obeyed.

Officers  
responsible  
on their  
bonds.

SEC. 15. The Secretary of State shall be responsible and chargeable on his official bond for all the papers and parchments stamped by him, for which he cannot produce the Controller's receipt; and the Controller of State shall be responsible and chargeable upon his official bond for all stamped papers, or parchments receipted for by him to the Secretary of State, for which he, the said Controller, cannot produce either the receipts of the County Treasurer, or the receipts of the money paid into the treasury by purchasers, signed by the Treasurer of State.

Counter-  
feiting.

SEC. 16. Any person who shall cut, engrave, or make, or cause to be cut, engraved, or made, any seal to resemble a seal devised, or made, in pursuance of this act, or any person who shall have in his, or her, possession, any seal resembling a seal devised, or made, as herein provided for, with the intent to defraud, or to aid in defrauding, the State of the duty herein imposed, shall be held guilty of a felony, and be subject to the pains and penalties provided in section ten of this act.

Appropriat'n.

SEC. 17. The sum of five thousand dollars is hereby appropriated out of any money in the treasury, and belonging to the General Fund, not otherwise appropriated, for the purpose of carrying out the provisions of this act, to be drawn under the

supervision of the Commissioners of Stamp Duties, on the warrant of the Controller.

SEC. 18. This act shall take effect from and after its passage.

To take effect.  
Repealing clause.

SEC. 19. An act entitled An Act to provide Revenue for the support of the Government of this State, from a tax to be levied and collected from Foreign and Inland Bills, and other matters, approved April twenty-ninth, eighteen hundred and fifty-seven, and the Acts amendatory and supplementary thereto, are hereby repealed.

CHAP. CCCXXXI.—*An Act in relation to the Militia of the State.*

[Approved May 9, 1861.]

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

COMMANDER-IN-CHIEF.

SECTION 1. The Governor, as Commander-in-Chief of the militia of the State, shall issue commissions to all officers appointed, or elected, under the provisions of this act. The military staff of the Commander-in-Chief, shall consist of one Adjutant-General, with the rank of Brigadier-General; six Aids-de-Camp, with the rank of Lieutenant-Colonel; one Chief Engineer; one Paymaster-General; one Judge Advocate General, and one Surgeon-General, each with the rank of Colonel.

To issue commissions.

ADJUTANT-GENERAL.

SEC. 2. The Adjutant-General shall be appointed by the Commander-in-Chief, by and with the advice and consent of the Senate, and shall hold his office for the same term as the Secretary of State. He shall be *ex officio* Chief of Staff, Quartermaster-General, Commissary-General, Inspector-General, and Chief of Ordnance. He shall receive a salary of one thousand dollars annually, to be paid out of moneys appropriated for that purpose. He shall reside at the seat of government, and shall keep his office open for the transaction of business every day, (Sundays excepted,) from ten o'clock, A. M. to three o'clock, P. M.

Salary.

OTHER OFFICERS OF GENERAL STAFF.

SEC. 3. Other officers of the general staff and all other officers of the staff of the Commander-in-Chief shall be appointed by the Governor, and shall continue in office for the same term as the Governor, or at his pleasure, except as hereinafter provided for officers called into active service.

Appointments.

MAJOR AND BRIGADIER-GENERALS.

SEC. 4. There shall also be appointed by the Commander-in-Chief, by and with the advice and consent of the Senate, one

How appointed.

Major-General to each division, and one Brigadier-General to each brigade, who shall hold their offices for the term of four years, and until their successors are appointed and qualified, except as hereinafter otherwise provided.

#### STAFF OF DIVISIONS, BRIGADES, REGIMENTS, AND BATTALIONS.

Staffs.

SEC. 5. The staff of each Major-General of Division shall consist of one Assistant Adjutant-General, with the rank of Lieutenant-Colonel; two Aids-de-Camp, with the rank of Major; one Engineer Officer; one Ordnance Officer; one Quartermaster; one Commissary; one Paymaster; one Division Inspector; one Judge Advocate, and one Surgeon, with the rank of Lieutenant-Colonel; and four Staff Orderlies, with the rank of Sergeant-Major. The staff of the Adjutant-General shall consist of one Aid-de-Camp, with the rank of Captain. The staff of each General of Brigade shall consist of one Assistant Adjutant-General, with the rank of Major; one Aid-de-Camp, with the rank of Captain; one Engineer Officer; one Ordnance Officer; one Quartermaster; one Commissary; one Paymaster; one Brigade Inspector; one Judge Advocate, and one Surgeon, with the rank of Major; and two Staff Orderlies, with the rank of Sergeant-Major. The staff of a Colonel of a regiment and of a Lieutenant-Colonel, or a Major, commanding a battalion, as hereinafter provided, shall consist of one Adjutant and one Assistant-Surgeon, each with the rank of First Lieutenant; and one Sergeant-Major, to be appointed by such commanding officer, the Adjutant being selected from the line, as in the United States Army.

#### HOW APPOINTED.

Staff officers.

SEC. 6. The Generals of Division and Brigade, and the Adjutant-General, shall appoint the officers of their respective staffs, but those appointed by Generals of Division and Brigade, must be residents of their respective divisions and brigades. Any officer of a regiment, battalion, or company, receiving and accepting any staff appointment, except that of Adjutant, shall be considered as *ipse facto* resigning his commission in such regiment, battalion, or company. All such staff officers will continue to hold their office until their successors shall have been appointed and commissioned, except as is herein otherwise provided for troops called into active service.

#### COMMISSIONS.

Issuance of commissions.

SEC. 7. All military officers appointed, or elected, under the laws of this State, shall be commissioned by the Governor, and each commission shall be countersigned by the Secretary of State, and attested by the Adjutant-General, or officer acting in his place, and the officer so commissioned, shall take the oath of office prescribed by the Constitution, before some officer authorized by law to administer oaths, a copy of which oath shall be indorsed on each commission, and a certified copy of the same shall be made out by the officer administering it, and delivered to the officer taking it, and by him transmitted to the Adjutant-General, and the commission shall be deemed as taking effect on

the day of the indorsement and transmission of the certificate of the oath as herein provided. In case of promotion, the oath need not be renewed, and the commission shall take effect from its date. Commissions shall run at the pleasure of the Commander-in-Chief, except as is herein otherwise provided

DUTIES OF ADJUTANT-GENERAL.

SEC. 8. It shall be the duty of the Adjutant-General to take charge of, and to carefully guard and preserve, and to account for, all arms, accouterments, ammunition, ordnance stores, and other military property belonging to this State, or granted to it by the Congress of the United States. He shall visit, annually, the several military divisions, as hereafter enumerated in the provisions of this act, for the purpose of inspecting and reviewing the troops of said divisions. A report of which shall be made in full, to the Governor of the State. He shall keep and file in his office, all returns, reports, and military correspondence, made by him, in accordance with the provisions of this act. He shall also keep an account of all moneys received and expended by him. The manner of keeping these accounts and papers, where not otherwise provided by law, shall be directed by the Commander-in-Chief, and they shall be always subject to his inspection. He shall on, or before, the second Monday in December, of each year, make to the Governor, to be by him laid before the Legislature, a report of all the transactions of his department since his last annual report, containing—

To report to Governor.

*First*—An account of all moneys received and expended.

Form of report.

*Second*—An account of all arms, accouterments, ammunition, ordnance stores, and military property of every description, belonging to the State, from what source received, to whom issued, or how expended, and by whose order.

*Third*—A statement of the present condition of all such property under his charge, and if any such property shall not be under his charge, he shall state in whose possession the same may be.

*Fourth*—The number, strength, and condition, of the organized militia, and the strength of the enrolled militia of the State. He shall also 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. He shall also perform all other duties appertaining to his office, or which may be enjoined on him by law. He shall be the medium of military correspondence with the Commander in-Chief.

To perform certain duties.

BONDS.

SEC. 9. Before entering upon the duties of his office he shall give bonds to the people of the State of California, with good and sufficient sureties, to be approved by the Governor, in the sum of twenty-five thousand dollars, conditioned that he shall faithfully perform all the duties enjoined on him by law. If at any time the Governor shall deem the sureties so given, to be insufficient, he shall require the Adjutant-General to give new

Bond of Adjutant-General.

sureties, to be approved by him; and if the Adjutant-General shall refuse, or neglect, to do so, the Governor shall suspend him from office and immediately report his proceedings to the Senate, if the Legislature be in session, and if not, then at the beginning of the next session; and if the Senate approve such suspension, it shall be regarded as a removal from office, but if the Senate disapprove of the suspension, the Adjutant-General shall resume the duties of his office. During the time of his suspension from office he shall receive no portion of his salary; but if such suspension be disapproved, he shall receive his back pay.

#### ADJUTANT-GENERAL AD INTERIM.

**Governor to appoint.** SEC. 10. During the suspension of the Adjutant-General from office, or his absence, or inability, from any cause, to perform his duties, the Governor may appoint some competent person to perform the duties of Adjutant-General *ad interim*.

#### TO TURN OVER PROPERTY.

**State property.** SEC. 11. On the expiration of his term of his office, the Adjutant-General, or the person performing his duties *ad interim*, will turn over to his successor, in good order, all arms, ordnance, ordnance stores, and other property, belonging to the State, and all the books, papers, bonds, and money, in his charge, and pertaining to his office.

#### WHO SUBJECT TO MILITARY DUTY.

**Military duty.** SEC. 12. Every free, able bodied, white male inhabitant, of this State, between the ages of eighteen and forty-five years, not exempt by law, shall be subject to military duty, and shall be organized and enrolled as hereinafter directed.

**Exempts.** SEC. 13. The following persons are exempted from military duty and enrollment: All ministers of religion, having a license, or written evidence, according to the rules of their particular persuasion, or organization, that they are such ministers; all civil and military officers of the United States; all officers of foreign governments; all civil officers (including members of the Legislature) of the State of California; all persons who have been wounded in the service of the State, or of the United States, and all persons exempted from military duty by the laws of the United States.

#### ENROLLMENTS AND ASSESSMENTS.

**Duty of Assessor.** SEC. 14. The District, or County, Assessor, of each and every revenue district, or county, in this State, shall, at the same time in each year, when he prepares a roll containing the taxable inhabitants of his district, or county, enroll all the inhabitants of his district, or county, subject to military duty, which list, or roll, shall be sworn to by him and be delivered to the Clerk of the Board of Supervisors, in the same manner and at the same time, as is provided by law for the civil tax list, or assessment roll, and the Clerk of the Board of Supervisors shall keep the same open for inspection, as is provided by law for the civil assessment roll.

SEC. 15. The Board of Equalization shall correct the said military assessment roll at the same time and in the same manner as is prescribed by law for the correction of the civil tax list; and it shall be the duty of the said Clerk to deliver to the Brigadier-General of the brigade to which his county belongs, a triplicate of said list, certified by him, within ten days after the Board of Equalization shall have completed their corrections; and the compensation allowed for making out said military list shall be the same, or be determined and fixed, in the same manner as for making out the assessment list.

Duties of  
Board of  
Equalization

#### NEGLECT OF ASSESSOR AND CLERK OF BOARD OF EQUALIZATION.

SEC. 16. If any Assessor shall neglect, or refuse, to perform any of the duties required of him by this act, he shall be subject to the same penalties, liabilities, and punishments, as is provided by law for a neglect, or refusal, to perform any of the duties required of him for the assessment of the civil taxes; and, moreover, he shall forfeit and pay the sum of not less than three hundred, and not more than one thousand, dollars, to be sued for in the name of the people of the State, by the District Attorney of the respective county, and recovered in the name of the people of the State, and paid into the General Fund of the State; and if the Clerk of the Board of Equalization shall neglect, or refuse, to make and deliver to the Brigadier-General of the brigade to which his county belongs, the triplicate of the military assessment roll, as directed in this act, he shall forfeit and pay the sum of not less than two hundred, and not more than five hundred, dollars, to be sued for and recovered in the same manner as is provided in this section with respect to the Assessor.

Penalty for  
neglect of  
duty.

#### ORGANIZATION OF VOLUNTEER COMPANIES.

SEC. 17. 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.

Volunteer  
companies.

SEC. 18. The person so appointed shall preside at said meeting, and organize the same; he shall superintend the election of the officers of said company, which election shall be by ballot; he shall make out, after said election shall have been determined, a list of the persons so volunteering, a certificate of each officer so elected, and transmit them to the Adjutant-General of the State, together with a copy of the proceedings of said meeting, and a copy of his appointment, and of the notice of said meeting, duly certified by him. And if it shall be found that such company has been organized, and such officers elected in conformity with the provisions of this act, such company shall be listed in the office of the Adjutant-General as a company of the organized

Presiding  
officer.

volunteer militia of this State, and the officers so elected shall be commissioned by the Commander-in-Chief.

Companies  
and officers.

SEC. 19. The volunteer, or independent, companies shall be armed and equipped in the same manner as similar corps 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 First, and two Second, 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 First, and two Second, 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.

By-laws.

SEC. 20. Volunteer companies and battalions 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 and Sergeant-Major of the battalion to keep a perfect and complete record of the constitution, by-laws, rules, and regulations, of his company, or battalion, which shall be signed by the Captain, or Commander, and countersigned by the Orderly-Sergeant, or Sergeant-Major; and said record shall at all times be subject to the inspection of any member of the company, or battalion, and all military officers, or persons, interested therein; and if any member of such volunteer company, or battalion, shall fail to comply with the provisions of such constitution, by-laws, rules, and regulations, he may be expelled from such company, or battalion, and his name erased from its roll.

Application  
for arms.

SEC. 21. When any volunteer company shall be organized according to law, the commanding officer thereof may apply to the Commander-in-Chief, through the proper military authorities, for such arms and accouterments, or stores, as may be required, such application being first submitted to the County Judge, and receiving his approval, which shall be indorsed thereon. If the Commander-in-Chief shall approve such application, or any part thereof, he shall give an order, upon the back thereof, directing the issue by the Adjutant-General, who shall immediately notify the officer making such application, and the County Judge who approved it, that the arms and accouterments, or stores, mentioned in such application, or any portion thereof, are ready for issue; and thereupon, it shall be the duty of such officer to give such bonds and security as may be deemed requisite by the County Judge, to secure the county from loss on account of use, or misapplication, of such arms, or equipments, or other stores. And on due notification from such County Judge that such bonds have been given to his satisfaction, and on receiving triplicate receipts from such officer, the Adjutant-General shall make the issue. He shall file one copy of such receipts in his office, and transmit the other two, one to the Controller of State, and the other to the County Clerk of the county to which such volunteer company belongs.

Bonds.



SEC. 22. It shall be the duty of the Board of Supervisors of any county in which public arms, accouterments, or military stores are so received, to provide, at the cost of the county, and payable out of the General Fund, a suitable and safe armory, or armories, for the organized volunteer companies within the limits of said county; *provided*, that the expense incurred for each company, shall not exceed thirty dollars per month. Armory.

SEC. 23. The Commander-in-Chief shall have authority to demand and receive back from any county, or from any portion of the military force of this State, any arms, equipments, military stores, or other property, belonging to the State, which may be in the possession of any such counties, or military force. And when such arms, equipments, military stores, or other property, shall again come into the possession of the Adjutant-General, or other officer designated by the Governor to receive them from such counties, or military forces, to which they have been issued, as above provided, it shall be the duty of the Adjutant-General, or officer so appointed, to receipt for the same, which receipt shall be in triplicate, one copy to be filed in the office of the County Clerk, one in the office of the Adjutant-General, and the third in the office of the Controller of State. Arms to be returned.

SEC. 24. All arms, equipments, and military stores, issued as hereinbefore provided, shall at all times be subject to examination by the Inspector and Ordnance officers of the State, and of any other officer designated by the Commander-in-Chief for that purpose; and if such officer shall find any of such public property out of repair, injured, or defective, he shall immediately notify the facts to the Board of Supervisors of the county, and report the same, through the proper channels, to the Commander-in-Chief, who, if the damage shall not be repaired, and the defects, or losses, supplied within a reasonable time, shall order the same to be done under the direction of some officer, and the vouchers for the expense thereof shall be duly examined and audited by the State Board of Military Auditors, and paid, on the draft of the Controller of State, out of the General Fund. Arms, etc. subject to inspection.

SEC. 25. It shall be the duty of the Controller of State to charge the value of all arms, equipments, and military stores, issued as above provided, to the counties, to the military companies in which such public property shall be issued, and all expenses of repairs of damage and defects, as provided in the foregoing section, and double the value of any arms, accouterments, and military property, which such counties, or such military companies, shall have failed to return to the State on the demand of the Governor. At the close of each fiscal year he shall settle the account of each county with reference to such issues and military charges, and the amount so found due shall, on the requisition of the Controller of State, be assessed at the time of the next annual assessment, as a part of the county taxes, and be collected in such county in the same manner as the ordinary taxes, and shall be paid into the State treasury as a part of the General Fund of the State. Duties of Controller.

SEC. 26. The transportation of all arms, equipments, and military stores, issued to troops, or received by the State, under the provisions of this act, shall be contracted for, under the direction of the Commander-in-Chief, by the Adjutant-General, and the Transportation of arms.

vouchers for such transportation, when audited by the State Board of Military Auditors, shall be paid from the General Fund, on the warrant of the Controller.

Arms not to be issued.

SEC. 27. No public arms, equipments, or military stores, of any kind, shall hereafter be issued to any person not a member of the organized volunteer militia, or of the enrolled militia, called into active service, except in time of war, insurrection, or public danger, so imminent that the Commander-in-Chief shall consider that the public safety requires him to make such issue, in which case an accurate account shall be taken, of such issues, and to whom they are made.

Bonds of officers.

SEC. 28. Within ninety days from the passage of this act, each and every officer of volunteer companies now organized, having in his possession any arms, equipments, and military stores, belonging to the State, shall give to the county, in which he resides, good and sufficient bonds, to be approved by the County Judge, to secure the county from loss on account of the use, or misapplication, of the same; and the officer so giving bonds to the county, shall, together with his sureties, be released from his and their liabilities for the same property on any bond heretofore given by him and them to the State, and the same shall be charged, as hereinbefore directed, to the said county; and after the expiration of the said ninety days, no person shall retain, or have in his possession, at any time, any arms, equipments, or military stores, of any kind belonging to the State, unless they have been properly issued to such person, in pursuance of law; and he shall be permitted, by proper authority, to retain the same in the discharge of a public duty; and no person shall use any public arms, equipments, or military stores, belonging to the State, for his private use, under penalty, in either of the above cases, of not less than five, nor over fifty dollars, for each offense, to be recovered, in case of a member of the organized militia, or of the enrolled militia, in active service, by sentence of a court-martial, or, in case of any other person, by suit in the name of the people of the State, by the District Attorney of the county, before any court of competent jurisdiction, and the money so recovered, shall be paid into the treasury, as a part of the General Fund of the State.

Penalty for using State arms.

#### ORGANIZATION OF BATTALIONS AND REGIMENTS.

Organization of battalion.

SEC. 29. Any number of organized volunteer companies, not less than three, nor more than eight, may form themselves into a volunteer battalion, by giving notice of such intention through their commanding officers to the General of their brigade, who will appoint some suitable officer to hold an election of the officers of such battalion; and the officer so appointed shall fix a time and place for such election, by giving ten days' notice thereof, by publication in some newspaper, or by posting notices in at least three public places in the county. Such election shall be by ballot, by the commissioned officers of the volunteer companies calling for the organization of the battalion. The officer so appointed to hold the election, shall preside over and superintend such election, and as soon as it shall have been determined, he shall make out certificates of election of the officers so elected,

and a certified account of the proceedings of said meeting, with a certified copy of the notice of said meeting, all of which he shall transmit to the Brigadier-General of the brigade, who shall transmit them, with a certified copy of the appointment of such officer to hold the election, to the Adjutant-General of the State, through the ordinary channels of military correspondence.

SEC. 30. A battalion of eight companies shall be deemed a Regiment and its officers. and shall elect one Colonel, one Lieutenant-Colonel, and one Major; a battalion of more than four, and less than eight companies, shall elect one Lieutenant-Colonel, who shall be the commanding officer, and one Major; and a battalion of three, or four, companies, shall elect one Major, who shall be the commanding officer.

#### MUSTER-ROLLS.

SEC. 31. It shall be the duty of each and every commanding officer of any volunteer company in this State, on, or before, the last Mondays of March and September, of each year, to muster his company, and to make out in triplicate, 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, and stating at the foot of such muster-roll a list of all arms, accoutrements, ordnance, and ordnance stores, and other property belonging to the State, in his possession; one of which muster-rolls, duly certified, he shall transmit through his commanding officer, to the Adjutant-General of the State; he shall file one in the office of the County Clerk of his county, and he shall keep the other as a voucher for himself. If such company shall form a part of any organized battalion, or regiment, the commanding officer thereof shall transmit the same, with a muster-roll of the field and staff officers of his regiment, or battalion, to the Adjutant-General of the State, through the proper channels of military correspondence. Duties of Captains.

SEC. 32. All commissioned officers of the organized volunteer regiments, battalions, and companies, shall take rank according to the date assigned them by their commissions; and when two of the same grade be of the same date, their rank shall be determined by length of service in the militia; and if of equal services, then by lot. Officers of organized volunteer regiments, battalions, and 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. To take rank according to date of commission.

SEC. 33. It shall be the duty of each and every Brigadier-General, to make from the assessment rolls received by him from the Clerks of the Boards of Supervisors, and from the muster-rolls received by him from the officers of companies, battalions, and regiments, as prescribed in this act on, or before, the first Monday in October, of each year, two brigade muster rolls, one to be entitled "Muster Roll of the organized Militia of the — Brigade, — Division," and the other to be entitled "Muster Roll of the enrolled Militia of the — Brigade, — Division," in the first of which he shall include the names of all the officers of his staff, and all the officers, non-commissioned officers, musicians, artificers, and privates, of the organized volunteer regiments, battalions, and companies, in his brigade, in the order of their Duties of Brigadier-Generals.

organization; and in the second, he shall include, in alphabetical order, the names of all other persons subject to military duty. The originals of these muster-rolls, signed by the General of Brigade, shall be filed in his office, and duly certified copies thereof shall be furnished by him to the General of his respective division, and to the Adjutant-General of the State.

Duty of  
Major-  
Generals.

SEC. 34. And it shall be the duty of each and every Major-General of Division, on, or before, the fourth Monday of October, of each year, to make, from the rolls received by him from the Brigadier-Generals of his division, two muster-rolls, one to be entitled "Muster-Roll of the organized Militia of the — Division," and the other to be entitled "Muster-Roll of the enrolled Militia of — Division;" the first to be made up of the names of the officers of the division, staff, and the muster-rolls of the organized militia of the brigades of his division, according to their organization; and the other to be made up of the muster-rolls of the enrolled militia of these brigades, as provided in the foregoing section. The originals of these muster-rolls, signed by the Major-General, shall be filed in his office, and duly certified copies thereof shall be transmitted to the Adjutant-General of the State.

#### CLASSIFICATION OF THE MILITIA.

What con-  
stitutes the  
organized  
militia.

SEC. 35. All commissioned officers of the staff of the Commander-in-Chief, the Adjutant-General, and the officers of his staff, all Major-Generals and Brigadier-Generals, and all officers of their respective staffs, and all commissioned officers, non-commissioned officers, musicians, artificers, and privates, of volunteer regiments, battalions, and companies, whose names are borne upon the muster-rolls of their respective regiments, battalions, and companies, shall be denominated the organized militia of California, and shall at all times be subject to be called into active service by the Commander-in-Chief; and when so called into active service, each person shall be called and mustered according to his commission, enrollment, and organization. All other militia in this State shall be denominated the enrolled militia of California.

#### HOW CALLED INTO ACTIVE SERVICE.

May be called  
into active  
service.

SEC. 36. In case of war, insurrection, or rebellion, or of resistance to 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, in California, or upon the call of any United States Marshal in California, or of any Mayor of a city, or President of the Board of Supervisors of the cities and counties of Sacramento and San Francisco, or of any Sheriff, the Commander-in-Chief is authorized to call into active service any portion of the organized, or enrolled, militia of this State. In case of the absence of the Commander-in-Chief from the Capital, or if it be impossible to immediately communicate with him, the civil, or military, officer making the requisition for troops may, if he deem the danger imminent, and not admitting of delay, serve a copy of such requisition, together with a statement of the Governor's absence, or the impossibility of immediately communicating with him, upon the Major-General of the Division,

Certain  
officers may  
call out  
troops.

or, in his absence, upon the General of the Brigade, who is hereby authorized to exercise, with respect to calling out the troops of his division, or brigade, the powers conferred in this section upon the Governor; but if the call shall be disapproved by the Governor, the troops so called into service will be immediately disbanded. Such call for any portion of the organized militia shall be made by an order issued and directed to the commanding officer of the company, battalion, regiment, brigade, or division, which is so called into service, designating, in such order, the particular troops called, the time and place of rendezvous, and the officer to whom they shall report. If such order be directed to a Major-General of Division, it will be immediately communicated to the Brigadier-Generals of his Division, and by them to all the officers of their respective brigades; and any officer receiving such order will rendezvous and report for duty as herein directed; and any officer commanding an organized volunteer company, or battalion, on receiving such order will immediately proceed to notify the same to each individual of his command by personal notice, or by publication in some newspaper, or by the usual posting in public places of the county, or counties, from which the call is made, and such officer, shall attend in person, or by deputing an officer of the organized militia in his place, at the place of rendezvous, and take the names of all volunteers for service under such call; and if the number of such volunteers shall be sufficient to form one, or more companies, or battalions, according to the provisions of this act, he shall immediately call and superintend the election of the officers of such companies, or battalions, which elections shall be conducted in the manner prescribed in this act for the election of officers of volunteer companies and battalions, except as to the publication of notice of such election, a proclamation of the call of such election, made by the officer calling it at the place of rendezvous, being deemed a sufficient notice. But the Commander-in-Chief shall have authority, if he shall deem it expedient, to direct that a portion of the volunteers so presenting themselves shall be assigned to organized volunteer companies, or battalions, already in active service, whose numbers are less than the full complement prescribed in this act, after which, those volunteering shall organize and elect as herein described.

Sec. 37. If the number of volunteers so presenting themselves at the place of rendezvous shall not be sufficient to satisfy the call of the Commander-in-Chief, the Brigadier-General of the brigade in which such call is made shall promptly proceed to draft from the enrolled militia of his brigade a sufficient number of men to satisfy said call, and this draft shall be made by putting the names of all the enrolled militia of the county, or counties, from which the order directs the forces to be raised, into a box, and drawing therefrom a sufficient number of names to satisfy the call. The persons whose names are so drawn will be summoned by some officer, or officers, appointed for that purpose by the Brigadier-General, in the manner prescribed by law for the summoning of witnesses in civil cases, the time and place of rendezvous, as ordered by the Brigadier-General, being stated in the summons. It shall be the duty of the Major-General to be present, and to superintend the drafting of the enrolled militia

Same.

Calling out troops.

under any call by the Commander-in-Chief, but his presence shall not be necessary to give validity to the proceedings. In case of the absence, or inability, of the Brigadier-General, the officer next in rank of the brigade, or in default of any officer of that brigade for duty, the Major-General of the division, or in his default, the Commander-in-Chief shall designate some officer to perform the duties prescribed to such Brigadier-General with respect to making such drafts; and as soon as a sufficient number of such drafted men shall have appeared at the rendezvous to form a company, or companies, they shall proceed to the election of their company officers in the manner prescribed in section thirty-nine of this act.

May fill  
vacancies.

SEC. 38. Any company, or companies, of the enrolled militia, so drafted and organized, may, by direction of the Commander-in-Chief, be enrolled and mustered into any battalion of the organized militia having less than eight companies; and any drafted men of the enrolled militia, not organized into companies, may, at the discretion of the Commander-in-Chief, be enrolled and mustered into any existing company of organized, or enrolled, militia, not having the full number authorized by law, and which has already been called into active service. If the enrolled militia, when drafted into service, shall fail to elect to any office designated in such call for an election, in the manner and at the time appointed, as provided in this act, such vacancy, or vacancies, shall be filled by appointments made by the Commander-in-Chief; and any company, or companies, of drafted militia, not assigned to, and mustered in, any incomplete battalion of the organized volunteer militia, shall be organized into battalions, or regiments, the field officers of which shall be appointed by the Commander-in-Chief, such appointments being made in all cases where, in the opinion of the Commander-in-Chief, suitable persons can be obtained from the officers of the organized volunteer militia of this State.

Organization  
of brigades  
and divisions

SEC. 39. Where troops are called into active service from different brigades, or divisions, and the number so called into active service shall not be more than sufficient to constitute one complete brigade, or one complete division, the Commander-in-Chief shall so organize them, and shall designate the particular Brigadier-General, or Major-General, for the command of the brigade, or division, so organized.

#### OF OFFICERS IN ACTIVE SERVICE.

Commissions  
to continue  
until dis-  
banded.

SEC. 40. The commission of any officer called into active service, shall continue until he shall be disbanded by the order of the Commander-in-Chief; *provided*, that such commission shall not be vacated by resignation, dismissal, or revocation, as provided in this act. All vacancies of officers and non-commissioned officers, in active service, shall be filled by appointment, or promotion; the first by the Commander-in-Chief, and the second, by the Commanding Officer of the battalion, or of the company, in case such company forms no part of any battalion. In filling such vacancies of commissioned officers, the Commander-in-Chief shall, as a general rule, promote by seniority, or appoint, on the recommendation of their superior officers, those in active service,

and in any case of departure from this rule, the Commander-in-Chief shall report his reasons for such departure to the Senate. The Commanding Officer of troops in active service may nominate to any vacancy for personal bravery, or service in seige, or battle, and if the Governor shall commission some other person than the one so nominated, he shall report his reasons to the Senate; and if the Senate, in either of the foregoing cases, shall disapprove of the reasons given, the commission so given shall be regarded as vacated, and the Governor shall immediately proceed, with the advice and consent of the Senate, to fill such vacancy.

NEGLECT, OR REFUSAL, TO RENDEZVOUS.

SEC. 41. Any officer, non-commissioned officer, musician, artificer, or private, of the organized militia of this State, who shall neglect, or refuse, to rendezvous and organize, when ordered out by the Commander-in-Chief, shall be deemed guilty of disobedience of orders, and shall be tried and punished by a court-martial; and any person of the enrolled militia who shall refuse, or neglect, to rendezvous and organize, when drafted, as provided in this act, shall be subject to a fine of not less than fifty, nor more than five hundred, dollars, to be recovered by an action to be brought by the District Attorney, in the name of the people of the State, upon the certificate of the officer appointed to make the draft, before any court of competent jurisdiction in the county from which such person was drafted, and the fine so recovered shall be paid into the treasury as belonging to the General Fund of the State.

Penalty for refusal to rendezvous.

SUBSTITUTES AND ALIENS.

SEC. 42. Any private of the organized militia, and any person of the enrolled militia, called, or drafted, into service, under the provisions of this act, may furnish, as a substitute, any person fit for military duty, who has not been called, or drafted, into service. No alien drafted into service shall be obliged to serve and bear arms against any foreign enemy, nor beyond the limits of the county where he resides.

Substitutes.

PARADES AND INSPECTIONS.

SEC. 43. The Commander-in-Chief shall order a public parade of all the organized militia of the State, on, at least, two days of each year; such parades to be held within the limits of the brigade to which such troops respectively belong; and such public parades shall be reviewed by the Commander-in-Chief, or, in his absence, by the Major-General of Division, or by the officer of the brigade of the highest rank present. Immediately after such troops have been reviewed, they shall be inspected by the Inspector-General, or, in his absence, by the Division, or Brigade, Inspector, and such inspecting officer, after a minute inspection of the dress and military bearing of the field officers and commissioned staff, and the officers of companies, and the arms, accouterments, and dress, of each soldier, will report the result of such inspection to his commanding officer; *provided*, that in the city and county of San Francisco the organized mili-

Duties of Commander-in-Chief.

tia shall parade at least six times during the year; two parades as hereinbefore provided, two by regiments, or battalions, and two parades by company, one of which company parades shall be for target practice, the result of which target practice shall be reported to the commanding officer of the brigade; and, *provided*, further, that upon occasions of reception, or upon the celebration of any event of public importance, the Commanding Officer of the brigade shall have authority to order out the organized militia to join such parade, two thirds of the commissioned officers of his brigade having first requested him to order such parades, and the parade so ordered is hereby constituted a legal parade; and, *provided*, further, that each and every company of the organized militia of the city and county of San Francisco shall assemble, at least, once in each week for military instruction, and all members who absent themselves from such meetings for instruction during four consecutive meetings, unless properly excused by the commanding officer of such company, or through absence from the county, or bodily disability, shall be debarred from the exemption of jury duty, and subject to expulsion from their company.

#### JURY DUTY.

Exempt  
from jury  
duty.

SEC. 44. All members of the organized militia of this State, commissioned, or mustered, as such, and all members of the enrolled militia, drafted and mustered into active service, under the provisions of this act, shall be exempt from jury duty, and from serving on any *posse comitatus*, except when called to do so in their military capacity by the Commander-in-Chief. Whenever a member of the organized militia shall be summoned as a juror, in order to entitle him to the exemption provided in this section, he shall be required to produce to the court a certificate of the commanding officer of his company, countersigned by the First Sergeant, that he is a member in good standing, fit for active service, and not in arrears for fines, or dues, and such certificate shall bear date within ten days of its presentation. In the case of commissioned officers, or non-commissioned officers of staff, the production of their commissions, or warrants of appointment, and, if required by the court, their oath, that they are active members of the organized militia of this State, shall be deemed sufficient to exempt them from jury duty.

#### RULES OF DISCIPLINE.

The rule of  
discipline.

SEC. 45. The rules of discipline and regulations of the army of the United States, shall, so far as the same may be applicable, constitute the rules of discipline and regulations of the organized militia of this State; and the rules and articles of war established by Congress for the army of the United States, shall be adopted, so far as they may be applicable, for the government of the militia of California in active service.

#### COURTS-MARTIAL.

Courts-  
martial.

SEC. 46. The Commander-in-Chief will appoint courts-martial for the trial of general officers, and all officers of the staff of the Commander-in-Chief; the Major-Generals of Division will ap-



point courts-martial for the trial of all staff officers of their divisions and brigades, and for the field and staff officers of battalions and regiments of their respective divisions; and Brigadier-Generals will appoint courts-martial for the trial of all Captains and commissioned officers under that rank in their respective brigades; the commanding officers of regiments and battalions will appoint courts-martial for the trial of all non-commissioned officers, musicians, artificers, and privates, of their respective regiments and battalions. The commanding officer of a single company not forming a part of any battalion, or regiment, shall have power to appoint courts-martial, the same as the commanding officer of a regiment, or battalion. The officer appointing a courts-martial will revise the proceedings, and approve, or disapprove, the sentences of such courts-martial, and will direct the execution of such sentences, or mitigate the punishment, or pardon the person, or persons, convicted; but the person, or persons, so sentenced, may apply to the Commander-in-Chief to revise the proceeding, and to disapprove them, or pardon the offense; in which case, the officer approving the sentence will transmit the proceedings in such case to the Commander-in-Chief, and the execution of the sentence shall be suspended until the proceedings shall be returned with the decision thereon. Courts-martial appointed under the provisions of this act, shall be organized in like manner, and be subject to the rules and regulations governing courts-martial in the United States Army; they shall have the same power to compel the attendance of witnesses, when duly summoned by the Judge Advocate, to preserve order in and about the court-room during their session, and to punish contempt, as the Judges of the District Courts have, under the laws of this State.

Appeals.

#### REMOVALS AND ABSENCE FROM THE STATE.

SEC. 47. Any commissioned officer of a brigade, or division, who shall remove his residence from the limits of his brigade, or division, will be deemed to have resigned his commission; and any Major-General, or Brigadier-General, who shall absent himself from the State for more than three months, without the permission of the Commander-in-Chief, shall be deemed to have resigned his office.

Removal  
or absence.

#### PAY AND ALLOWANCES OF MILITIA IN ACTIVE SERVICE.

SEC. 48. Whenever any of the militia of this State shall be called into active service for the space of more than one week, they shall receive the same pay and allowances as United States troops serving in California. Any general, or field, officer being called into active service, such call shall be deemed to include all the officers of their respective staff. In case of a division, or part of a division, is called into active service, the Commander-in-Chief shall be authorized to put upon active service one of his Aids-de-Camp, and in case more than one division shall be called into active service, one more Aid for each additional division which shall be so called into active service.

Pay of  
militia.

## RETURN OF ARMS, ETC.

**Return of arms.** SEC. 49. When the Commander-in-Chief shall order the return to the State of any arms, equipments, military stores, or other military property, belonging to the State, such arms and military property shall be immediately delivered to the officers authorized in such order to receive it, he receipting for the same, and describing their condition in such receipts; and if the property mentioned in such order shall not be promptly delivered as directed, the officer named in such order is hereby authorized to take immediate possession of the same in the name of the people of the State; and any person resisting such officer in the performance of this duty, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not more than six months in the county jail, and shall be subject to a fine not exceeding five hundred dollars, to be recovered by an action brought by the District Attorney in the name of the people of the State, and be paid into the treasury as a part of the General Fund.

**Board of Military Auditors.** SEC. 50. The Commander-in-Chief, Adjutant-General, and the Controller of State, shall constitute a State Board of Military Auditors. The Commander-in-Chief shall be President, and the Adjutant-General shall be Secretary of said Board.

**Seal.** SEC. 51. The Board of Military Auditors shall have a seal, an impression of which shall be deposited by the Secretary of the Board in the office of the State Treasurer, and be attached to all orders drawn upon the General Fund.

**Form of orders.** SEC. 52. No money shall be paid out of the General Fund of this State by the State Treasurer, upon the order of the Board of Military Auditors, except as provided in the foregoing 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.

**Duty of Board.** SEC. 53. 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 General Fund not otherwise appropriated. No company shall be deemed in the service of the State, so as to be entitled to the benefit of this section, unless the same has been called out in accordance with the provisions of section thirty nine of this act.

**Fees.** SEC. 54. Each and every military officer of this State, who shall be commissioned by the Governor, shall, on receiving his commission, pay to the Adjutant-General of the State the sum of five dollars, the receipt for which shall be indorsed upon the commission; and all moneys so received by the Adjutant-General shall be paid into the treasury of the State at the end of every month, and shall constitute a part of the Library Fund of the State; *provided*, that officers in active service shall receive their commissions free of cost.

**Duties of Secretary of State.** SEC. 55. The Secretary of State shall, under the direction of the Governor, prepare and keep in his charge, all blank military commissions. He will issue, from time to time, to the Adjutant-

General, such blank commissions as he may require for use, charging him with the same.

OFFICERS AND TROOPS ALREADY COMMISSIONED AND ORGANIZED.

SEC. 56. All volunteer companies, battalions, and regiments, organized prior to the passage of this act, shall be deemed to have been organized in compliance with its provisions, and to be entitled to its benefits; but such companies, battalions, and regiments, shall be required to comply with all the remaining provisions of this act. And all military officers now holding commissions, will be deemed to have been commissioned according to the provisions of this law. To comply with act.

DIVISIONS AND BRIGADES.

SEC. 57. The organized and enrolled militia of this State shall be organized into six divisions and twelve brigades, as follows: Divisions and brigades  
 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, San Mateo, Alameda, and Contra Costa, shall compose the Second Division; the counties of San Joaquin, Mariposa, Tulare, Tuolumne, Fresno, Stanislaus, 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, Colusa, Shasta, Siskiyou, Trinity, Humboldt, Del Norte, 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, San Mateo, 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, Fresno, and Mariposa, shall compose the First Brigade, Third Division; the counties of Tuolumne, Stanislaus, 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, Colusa, and Shasta, shall compose the First Brigade, Sixth Division; the counties of Siskiyou, Trinity, Humboldt, Del Norte, and Klamath, shall compose the Second Brigade, Sixth Division.

SEC. 58. 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. To attach new counties

SEC. 59. Whenever any portion of the organized, or enrolled, militia shall have been called into active service, to suppress an insurrection, or rebellion, to disperse a mob, or to enforce the execution of the laws of this State, or of the United States, it shall be competent for the Commander-in-Chief, or the General acting in his place, as provided in section thirty-nine, to place such troops under the temporary direction of the Mayor of any city, or the President of the Board of Supervisors of the cities and counties of Sacramento and San Francisco, or person acting in that capacity, of the Sheriff of any county, or of any Marshal of the United States. And if, in the opinion of such civil officer, it shall become necessary that the troops so called out shall fire, or charge, upon any mob, or body, of persons, assembled to break, or resist, the laws, such civil officer shall give a written order to that effect, to the superior officer present in the command, who will at once proceed to carry out the order, and shall direct the firing and attack to cease only when such mob, or unlawful assembly, shall have been dispersed, or when ordered to do so by the proper civil authority. No officer who has been called out to sustain the civil authorities, shall, under any pretense, or in compliance with any order, fire blank cartridge upon any mob, or unlawful assemblage, under penalty of being cashiered by sentence of a court-martial; *provided*, that nothing in this section shall be construed as prohibiting any such troops from firing, or charging, upon such mob, or assembly, without the orders of such civil officers, in case they shall first be attacked, or fired upon, or forcibly resisted, in discharge of their duty. When the Commander-in-Chief, or General acting in his place, shall call troops into active service, for the purposes mentioned in this section, and shall not place them under the temporary direction of any civil officer, the commanding officer shall use his own discretion with respect to the propriety of attacking, or firing, upon any mob, or unlawful assembly.

Civil officers  
in certain  
cases to control  
troops.

Collection  
of fines.

SEC. 60. All fines legally imposed by a court-martial lawfully constituted, after the proceedings and findings of said court in the premises have been approved, as prescribed by this act, shall be, and the same are, hereby, made collectable by law. And any person failing to pay the same, shall be proceeded against by the District Attorney, in the name of the people of the State, as for ordinary debts, in any court of competent jurisdiction of the county. And a copy of so much of the finding and approval as relates to imposition and approval of such fine, certified by the officer authorized by law to approve the same, shall be received as evidence in the case. And if judgment be obtained, it shall be collected, as in ordinary cases, and shall be paid into the county treasury, as belonging to the General Fund of the State, and to be accounted for as such.

Regulations.

SEC. 61. The Commander-in-Chief may, from time to time, make and publish, rules, regulations, and orders, for the government of the militia of this State, in accordance with the provisions and spirit of this act.

Names of  
companies.

SEC. 62. Any volunteer company may, on its organization, or thereafter, adopt a distinctive name, but shall be known by a particular letter, or number, in the battalion, or regiment, to which it belongs.

SEC. 63. No person shall be a member of two companies at the same time, and any member of a company who removes beyond the limits of the county, shall be considered as having been discharged from such company. Members of companies.

SEC. 64. In the cases of military taxes and fines assessed and charged against a minor, the parent, or Guardian, shall be held to pay. In case of minors who are orphans, the Commander-in-Chief shall have power to remit any military taxes, or fines. Minors.

SEC. 65. In the absence of any appropriate commander, the next in rank in the command of troops, where not otherwise provided in this act, shall succeed to his authority. Absence.

SEC. 66. Every senior, in his appropriate command, shall have authority to control the actions of his junior, in accordance with the principles of military subordination, under the laws and usages that govern the United States Army. Authority of senior.

SEC. 67. Any officer cashiered by sentence of a court-martial, shall be precluded thereby from holding any commission in the military service of the State, except the sentence be remitted by the Commander-in-Chief. Cashiered officers.

SEC. 68. No non-commissioned officer, artificer, musician, or private, expelled from his company, or dismissed from service, for any disgraceful cause, shall be permitted to again enter any volunteer company, except the offense be pardoned by the Commander-in-Chief. Expulsion.

SEC. 69. No officer, inferior in grade to a regimental, or battalion, commander, shall have power to grant discharges to non-commissioned officers, artificers, musicians, or privates, in active service; but commanders of companies of the organized militia, when not in active service, may issue certificates of service and discharges. All discharges shall be in writing, and shall set forth fully the cause of the discharge, and shall be signed by the officer granting the same. Discharges.

SEC. 70. Any officer resigning his commission, shall do so in writing, and transmit the same through his immediate commanding officer, who will make his indorsements thereon, and the resignation shall go into effect when accepted by the Commander-in-Chief, and not before. Vacancies of commissioned officers of organized companies and battalions, (not in active service,) caused by resignation, death, dismissals, or removals, or by the expiration of the term fixed by the rules and regulations of such company, or battalion, or by any other cause, shall be filled by election, in accordance with the provisions of this act. Such elections of company officers shall be presided over by an officer appointed for that purpose by the Brigadier-General; and of field officers, by an officer appointed by the Major-General; and such presiding officer shall report the result of such election to the officer appointing him, which report shall be transmitted to the Commander-in-Chief, who shall issue commissions in accordance therewith; *provided*, however, that when the same officer shall be re-elected, no new commission shall be issued, but the officer so re-elected shall continue to hold under his original commission. Resignations  
Election of officers.

SEC. 71. The commission of any staff officer, whose term of office depends upon the pleasure of the officer by whom he is appointed, shall, when such officer is not in active service, be considered as vacated upon the qualification of his successor, and Vacation of commission.

shall be so noted upon the proper books, or rolls, kept in the office of the Adjutant-General of the State.

**May disband companies.** SEC. 72. The Commander-in-Chief is authorized, at any time, by issuing his orders to that effect, to disband any portion of the organized volunteer forces, or of the enrolled militia, mustered into service, which may evince a mutinous, disorderly, or disobedient spirit, and to deprive them of arms; a copy of which order shall be transmitted to the Clerk of the County Court, or courts, of the county, or counties, in which such force was raised; after which, it shall be a misdemeanor, in any person so disbanded, to appear with State arms in his possession, or as any portion of the organized volunteer militia, or of the enrolled militia, in active service, until again drafted, or regularly mustered, into service, under the penalty of not less than ten, nor more than one hundred, dollars, for each offense; and such person shall be proceeded against by the District Attorney, in the name of the people of the State, before any competent court of the county where such person may happen to be; and all fines so recovered and collected, shall be paid into the treasury, as a part of the General Fund.

**Uniforms.** SEC. 73. Every company, battalion, or regiment, of organized militia of this State, may adopt a uniform for itself, which shall be subject, however, to the approval of the Commander-in-Chief, on report of the inspection officers, made through the proper channels of communication; and no uniform which is not thus approved, shall be worn when on duty.

**Same.** SEC. 74. The uniform of all general officers and members of their staff, and all other officers not required to wear the distinctive uniform of their regiment, or corps, shall be similar to that of the corresponding grades and corps in the United States Army, with such modifications as may be directed by the Commander-in-Chief, for adapting it to State troops.

**Tactics.** SEC. 75. The systems of instruction in tactics, prescribed for the different arms and corps in the United States Army, shall be followed in the military instruction and practice of the militia of this State, and the use of any other system is forbidden.

**To furnish list of members to County Clerk.** SEC. 76. The commanding officer of every organized company, shall, during the months of June and December, of each year, furnish the County Clerk of his county with a list of the names of the *bona fide* members of his company, who attend regularly to appropriate duty. He shall, also, at the end of each year's service of any member of his company, who has performed duty in accordance with the regulations and by-laws of such company, during the year, issue to such member a certificate to that effect. And if such commander of a company shall make a false list of the members of his company, who have done duty as aforesaid, or a false certificate of service, he shall, on conviction by a court-martial, be cashiered from service, and shall, moreover, be subject to a fine of not less than fifty, nor over five hundred, dollars, to be sued for and recovered in the name of the people of the State, by the District Attorney of the county of his residence, in any court of competent jurisdiction, and be paid into the treasury as a part of the General Fund of the State.

SEC. 77. The President of any general court-martial, assembled in pursuance of the provisions of this act, may make a re-

quisition upon the Sheriff of the county in which the session is held, for a Deputy Sheriff to attend upon such court as Provost Marshal, and such Deputy Sheriff shall receive for his attendance the same pay and fees and be subject to the same responsibility, as when attending upon the sessions of a District Court. And the President of any regimental, battalion, or company, court-martial, may make a requisition upon any Constable of the county, to act as Provost Marshal of such court; and such Constable shall receive the same pay and fees as in a Justice's Court; and the pay and fees of such Deputy Sheriff, or Constable, shall be paid, on the certificate of the Judge Advocate and warrant of the Controller of State, by the State Treasurer, from the General Fund, such account being first audited by the Board of Military Auditors.

Courts-martial.

SEC. 78. When bands of music shall not have been organized for any regiment, battalion, or isolated company, in the manner provided in the Regulations of the Army of the United States, it shall be lawful for such regiment, battalion, or isolated company, through its commanding officer, to hire the services of any band of musicians, at their own expense, and the persons so employed shall, during the term of their engagement, be subject to the same laws and regulations that govern the military body with which they may serve.

Bands of music.

SEC. 79. When any person, drafted for service, shall offer, at, or after, the time of rendezvous, a suitable substitute, of the age of twenty-one years, and such substitute shall consent, in writing, to subject himself to all the duties, fines, forfeitures, and punishments, to which his principal would have been subject had he personally served, he shall be accepted by the officer making such draft. And the same rule shall apply to substitutes offered by members of organized volunteer companies called into active service, the commanding officer of such company being the judge of the suitability of the substitute offered. And the person whose substitute shall be so accepted, shall be exempted from draft during the term of service of his substitute.

Substitutes.

SEC. 80. No action shall be maintained against any member of a court-martial, or officer, or agent, acting under his authority, on account of the imposition of a fine, or the execution of a sentence, on a person not liable to military duty, if such person shall have been duly summoned, and shall have neglected to appear and show his exemption before the court.

Not to bring action against officer.

SEC. 81. Courts of Inquiry may be ordered by the Commander-in-Chief, or by any Major-General, or Brigadier-General. Such Courts of Inquiry shall be governed by the same rules as similar courts in the United States Army, and they shall have the same power to preserve order, punish contempts, and compel the attendance of witnesses, as courts-martial have.

Courts of Inquiry.

SEC. 82. For all services under this act, Sheriffs, Constables, and Jailors, shall receive like fees as for similar services in other cases, and shall be subject to the same penalties for any neglect of duty.

Fees.

SEC. 83. The Adjutant-General shall have a seal of office, to be approved by the Commander-in-Chief, and all copies of records, or papers, in his office, duly certified and authenticated

Seal.

under the said seal, shall be in evidence, in all cases, in like manner as if the originals were produced.

Hours of  
military  
duty.

SEC. 84. On the days of military parade, appointed by the Commander-in-Chief, the militia so called out and doing military duty, shall be considered to be under military discipline from the rising to the setting of the sun; and no officer, non-commissioned officer, musician, artificer, or private, belonging to the same, during the time aforesaid, shall be subject to be arrested on any civil process.

Encroach-  
ment.

SEC. 85. The commanding officer of any parade, review, or drill, and the officer in charge of any rendezvous, may cause the grounds selected for that purpose to be marked, or designated, in such a manner as not to obstruct the passage of travelers on any public highway; and if any person, during the occupation of such ground for such military purpose, shall encroach upon such bounds, and enter upon such ground, without the permission of such officer commanding, or in charge, he may be put and kept under guard, by the order of such commander, until the setting of the sun of the same day, and, moreover, shall be subject to arrest and punishment, by any court of competent jurisdiction, for a breach of the peace.

Insulting  
officers.

SEC. 86. If any person shall intercept, molest, or insult, by abusive words, or behavior, any officer, non-commissioned officer, or soldier, while in the performance of his military duty, he shall be immediately put under guard, and kept at the discretion of the commanding officer of the forces engaged in the performance of such military duty, until the setting of the sun of the same day on which the offense shall have been committed; and, moreover, shall be subject to arrest and punishment, by any court of competent jurisdiction, for a breach of the peace.

Disobeying  
orders.

SEC. 87. Any officer, non-commissioned officer, or soldier, on military duty, who shall disobey the legal orders of his superior, use any reproachful, or abusive, language to his superior, or misbehave, or demean, himself in an unofficer, or unsoldierlike, manner, shall be immediately arrested, if an officer; and if a non-commissioned officer, or soldier, shall be disarmed and put under guard, and shall be tried and punished by a court-martial, according to law and military usage.

Temporary  
organiza-  
tions.

SEC. 88. In case of parades, reviews, inspections, or musters, of the troops of any brigade, any companies not organized into battalions, shall be temporarily organized into a battalion for the duties of the day, and the battalion so temporarily organized, shall be commanded by the officer senior in rank of the companies composing it. It shall be optional with any such unattached companies to attach themselves for the day to any organized battalion, [or] battalions, or to organize a temporary battalion; but no such temporary battalion shall be organized of less than three companies, if there be any organized battalion, or battalions, present on duty to which they may attach themselves without exceeding the complement fixed by this act. If such unattached companies shall not attach, or organize, themselves, in accordance with the provisions of this section, the officer commanding the brigade for the day shall order such assignment, or organization.

SEC. 89. Horses and equipments of officers of mounted com-



panies, and all company property of uniformed companies, organized under this act, shall be exempt from execution. Property exempt.

SEC. 90. The act approved April twenty-third, eighteen hundred and fifty-eight, entitled An Act to provide for the issuing of Arms and Accouterments to Colleges and Academies for the use of the Youth, and to prescribe the Tactics to be used by them, the act approved April twenty-fifth, eighteen hundred and fifty-five, entitled An Act concerning the Organization of the Militia, and all other acts, or parts of acts, conflicting with this act, are hereby repealed. Acts repealed.

CHAP. CCCXXXII.—*An Act to pay certain Warrants of the City and County of Sacramento, herein mentioned.*

[Approved May 11, 1861.]

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

SECTION 1. The following warrants, drawn by the Mayor and Common Council, of the city of Sacramento, bearing date May first, eighteen hundred and fifty-eight, numbered as follows, to wit: Sixteen hundred and ninety-nine (1,699), sixteen hundred and sixty-three (1,663), sixteen hundred and sixty-seven (1,667), seventeen hundred (1,700), seventeen hundred and two (1,702), seventeen hundred and seventeen (1,717), seventeen hundred and nineteen (1,719), seventeen hundred and twenty (1,720), seventeen hundred and thirty-one (1,731), seventeen hundred and thirty-three (1,733), seventeen hundred and thirty-six (1,736), seventeen hundred and forty-four (1,744), seventeen hundred and forty-eight (1,748), seventeen hundred and fifty-three (1,753), seventeen hundred and fifty-nine (1,759), seventeen hundred and sixty (1,760), seventeen hundred and sixty-one (1,761), seventeen hundred and sixty-two (1,762), seventeen hundred and sixty-three (1,763), seventeen hundred and sixty-five (1,765), seventeen hundred and sixty-six (1,766), seventeen hundred and sixty-eight (1,768), seventeen hundred and seventy (1,770), seventeen hundred and ninety-three (1,793) eighteen hundred and fourteen (1,814), eighteen hundred and eighteen (1,818), eighteen hundred and twenty-two (1,822), eighteen hundred and twenty-seven (1,827), eighteen hundred and thirty-one (1,831), eighteen hundred and thirty-three (1,833) eighteen hundred and thirty-five (1,835), eighteen hundred and forty-one (1,841), eighteen hundred and forty-six (1,846), eighteen hundred and fifty-one (1,851), seventeen hundred and sixteen (1,716), seventeen hundred and thirty-eight (1,738), seventeen hundred and fifty-seven (1,757), seventeen hundred and forty-two (1,742), eighteen hundred and five (1,805), eighteen hundred and thirty-six (1,836), are hereby made receivable for any taxes due the city of Sacramento. To receive warrants for taxes.

SEC 2. The Sheriff, or other officer, whose duty it is to collect the taxes due the city of Sacramento, is hereby authorized and required, when the same are tendered to him, to receive said warrants, or any of them, in payment of taxes due the city of Same.

Sacramento, and for such warrants so received by him and paid over to the Treasurer of the city and county of Sacramento, he shall receive the same credit as though the same amount had been paid over in gold, or silver.

SEC. 3. This act shall be in force from and after its passage.

To take effect.

CHAP. CCCXXXIII.—*An Act amendatory of An Act to facilitate the establishment of Telegraphic Communication between California and the Atlantic States.*

[Approved May 10, 1861.]

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

SECTION 1. Section two of an act entitled An Act to facilitate the establishment of Telegraphic Communication between California and the Atlantic States, approved April twenty-seventh, eighteen hundred and sixty, is hereby amended so as to read as follows :

Sec. 2. The said sum of one hundred thousand dollars shall be paid, or disbursed, in the way and manner following : To the company that shall first construct and put in complete working order, a line of telegraphic wire, from some point in California, connecting with the telegraphic system of this State, to some point east of the Rocky Mountains, connecting with the telegraphic system of the Atlantic States, there shall be paid, as a bonus, or premium, the sum of sixty thousand dollars ; said sum to be paid in ten yearly payments, of six thousand dollars per annum ; and to the company that shall construct and put in complete working order the second line of telegraphic wire, from some point in California, connecting with the telegraphic system of this State, to some point east of the Rocky Mountains, connecting with the telegraphic system of the Atlantic States, there shall be paid, as a bonus, or premium, the sum of forty thousand dollars, in ten yearly payments, of four thousand dollars per annum ; *provided*, however, that the said line, or lines, shall both be completed within thirty months, dating from the twenty-seventh of April, eighteen hundred and sixty, or they shall not be entitled to receive the whole, or any part, of the bonus, or premium, so offered ; and, *provided*, further, that if one line only of telegraphic wire be erected, completed, and put in perfect working order, in the way and manner aforesaid, and within the said period of thirty months, the company constructing such line shall be entitled to receive the said bonus, or premium, of sixty thousand dollars ; *provided*, also, that the government of this State shall at all times, during said period of ten years, be entitled to priority in the use of said line, or lines, and that said use for government purposes shall be free of charge ; and the payments to any company which shall fail for a period of six months to keep its line in good working order, shall absolutely cease, and the State be discharged from all obligations to said company under this act.

Bonus to telegraph lines.

CHAP. CCCXXXIV.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to change the Grade of certain Streets.*

[Approved May 11, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby authorized to alter the grade of First Street, between Harrison and Bryant streets, in such manner as, in their discretion, they may deem proper; *provided*, that a majority of the owners of the land abutting upon such proposed change shall first petition therefor in writing. To alter grade.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCCXXXV.—*An Act for the relief of Lewis Teal, late Tax Collector in and for the City of San Francisco.*

[Approved May 11, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby authorized to allow to Charles A. Davis, Sidney Brooks, and Theodore Dehon, out of the General Fund of said city and county, and the Auditor of said city and county is hereby authorized to audit and allow out of said General Fund to, and in favor of, said Davis, Brooks, and Dehon, the sum of two thousand five hundred and forty-five dollars, with legal interest thereon from the sixth day of April, eighteen hundred and fifty-three, being the amount of a certain judgment recovered by said Davis, Brooks, and Dehon, against Lewis Teal, late Tax Collector in and for the city of San Francisco, for taxes illegally collected from them by said Lewis Teal, or so much thereof as may be due and unpaid; *provided*, said taxes have been heretofore paid over by said Lewis Teal to the city of San Francisco, or the Treasurer thereof. To allow claims.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCCXXXVI.—*An Act amendatory of, and supplemental to, an Act entitled An Act to establish a Standard of Weights and Measures.*

[Approved May 11, 1861.]

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

SECTION 1. Section two of said act is hereby amended so as to read as follows.

County  
excepted.

Sec. 2. The Secretary of State shall be *ex officio* State Sealer of Weights and Measures, and the Clerks of the County Courts shall be County Sealers of Weights and Measures for the several counties, except in the city and county of San Francisco, and the Secretary of State is hereby authorized and required to appoint some suitable person as Deputy County Sealer in and for said city and county, and all Deputies, or County Sealers, are hereby required to deliver to the County Clerks of their respective counties all standards of weights, or measures, in their possession, or under their control; *provided*, that the said standards in the city and county of San Francisco shall be delivered to the said Deputy appointed by the Secretary of State under the provisions of this section, and the said Deputy so appointed shall hold his office for the term of two years from the date of his appointment.

Using  
unsealed  
weights.

Sec. 2. All persons using any weights and measures, or beams, in the city and county of San Francisco, by which any commodity, or article, of trade, or traffic, is weighed, or measured, shall have the same certified to by the said Deputy, at least once a year, and any person hereafter using any such weights and measures, or beams, in said city and county, not conformable to the standard of the county in which said weights and measures, or beams, are used, or without having such weights, measures, or beams, first certified to, as aforesaid, shall be liable to a criminal prosecution therefor, and upon conviction shall be fined in a sum not less than twenty-five, nor more than two hundred, dollars, for each offense, and it is hereby made the duty of said Deputy to report immediately to the District Attorney of the said county, all violations of this act as may come to his knowledge, and it shall be the duty of said District Attorney to prosecute all persons so offending, and the said fines so collected shall be paid into the county treasury for county purposes.

Powers of  
Deputies.

Sec. 3. The said Deputy shall have power to inspect at any time (Sundays excepted) in the daytime, all such weights and measures, or beams, at, or in, the places they are so used, and any person refusing to allow such inspection upon reasonable request, shall be liable to the penalties of section two of this act.

To take  
effect.

Sec. 4. This act shall take effect from and after its passage.

CHAP. CCCXXXVII.—*An Act to authorize the Board of Supervisors of the County of Los Angeles to make an appropriation for the purpose of assisting in the construction and finishing the Road known as the "Santa Barbara and Los Angeles Road," through the Simi Pass.*

[Approved May 11, 1861.]

*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 Los Angeles are hereby permitted to appropriate any sum, not exceeding two thousand dollars, out of the treasury of the county to aid in the construction and finishing of the road known as the "Santa Barbara and Los Angeles Road," through the Simi Pass. Authorized to appropriate moneys.

CHAP. CCCXXXVIII.—*An Act making appropriations for Deficiencies in the appropriations made for the Twelfth Fiscal Year, ending the thirtieth day of June, A. D. eighteen hundred and sixty-one.*

[Approved May 13, 1861.]

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

SECTION 1. The following sums of money are hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, for the objects hereinafter expressed, to-wit :

For contingent expenses of the Senate, for the payment of certain newspaper accounts of the eleventh session, on file in the Controller's office, nine hundred and twenty dollars and fifty cents. Contingent expenses of Senate.

For contingent expenses of the Assembly, for the payment of C. W. Tozer, for arrests made, as Sergeant-at-Arms of the Assembly, during the eleventh session of the Legislature, four hundred and eighty dollars. Of Assembly

For copying laws for the State Printer, five hundred dollars.

For contingent expenses of the Attorney-General's office, one hundred dollars.

For salary of Clerk in the Attorney-General's office, five hundred dollars.

For contingent expenses in the office of the Superintendent of Public Instruction, sixty-five dollars.

For rent of office of the Superintendent of Public Instruction, sixty dollars.

For compensation of persons employed to convey the returns of the last Presidential election to the seat of government, five hundred and seventy-nine dollars.

For the payment of the indebtedness incurred by the expedition against the Indians, in the counties of Tehama, Shasta, Plumas, and Butte, during the year eighteen hundred and fifty-nine, Indian wars.

as exhibited by certain audited accounts on file in the office of the Controller of State, nine hundred and fifty-nine dollars and nine cents.

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CHAP. CCCXXXIX.—*An Act to amend an Act entitled An Act concerning Courts of Justice and Judicial Officers, passed May nineteenth, eighteen hundred and fifty-three.*

[Approved May 13, 1861.]

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

SECTION 1. Section forty-five of said act is hereby amended so as to read as follows :

Jurisdiction  
of County  
Judge.

Sec. 45. The County Court, or the Judge thereof, shall have power at chambers to try and determine writs of *mandamus*, *certiorari*, and *quo warranto* ; hear and dispose of all motions and applications for new trials, and to issue all writs and orders necessary, or proper, to a complete exercise of the powers and jurisdiction conferred upon it by law, and may, in the exercise of their discretion, also hear applications to discharge such writs and orders.

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CHAP. CCCXL.—*An Act for the relief of the Sureties upon the recognizance of Mike Freel, of the County of Sierra.*

[Approved May 13, 1861.]

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

Sureties  
released.

SECTION 1. The sureties upon the recognizance of Mike Freel, indicted in the county of Sierra, for the crime of murder in the second degree, are hereby released and discharged from all demands on the part of the people of the State of California.

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CHAP. CCCXLI.—*An Act to separate the Office of County Recorder from the Office of County Clerk in the County of Solano.*

[Approved May 13, 1861.]

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

Offices  
separated.

SECTION 1. From and after the first Monday of October, A. D. eighteen hundred and sixty-one, the office of County Recorder, in the county of Solano, shall be separate from the office of County Clerk.

SEC. 2. At the next general election, and at the general election of every succeeding two years thereafter, there shall be elected in said county, a County Recorder, who shall enter upon the discharge of the duties of his office on the first Monday in the month next succeeding such election, and shall hold such office for the term of two years, and until his successor is elected and qualified. Election of Recorder.

SEC. 3. Upon the qualification of said Recorder to perform the duties of his office, it shall be the duty of the County Clerk of the county of Solano to deliver to him, on demand, all papers, books, furniture, and other property, belonging to the office of County Recorder. To deliver archives.

SEC. 4. All duties and liabilities heretofore imposed upon the Clerk of said county as Recorder, shall be performed by said County Recorder, elected under the provisions of this act; and said County Recorder shall be required to give such bond, or bonds, as by law are required to be given by the County Clerk, as Recorder, to be approved and filed in the same manner, and shall have power to appoint a Deputy. Duty of Recorder.

SEC. 5. The Recorder to be elected under the provisions of this act shall, also, be *ex officio* Auditor of said county, and shall do and perform all the duties of Auditor; and it shall be the duty of the Clerk of said county, upon the election and qualification of said Recorder, to deliver to him, on demand, all property, books, records, and papers, appertaining to the office of Auditor of said county. Recorder to be ex officio Auditor.

SEC. 6. All acts, or parts of acts, inconsistent with the provisions of this act, are hereby repealed. Repealing clause.

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CHAP. CCCXLII.—*An Act to establish the Boundary Line between the Counties of Monterey and San Luis Obispo.*

[Approved May 13, 1861.]

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

SECTION 1. The southern boundary of the county of Monterey, separating said county from the county of San Luis Obispo, is hereby established as follows: Beginning at the summit of the Monte Diablo Range of Mountains, three miles north of the sixth standard line, south of the Monte Diablo base and meridian, and thence due west to the Pacific Ocean. Boundaries.

CHAP. CCCXLIII.—*An Act fixing the Salary of the County Judge of the County of Mariposa.*

[Approved May 13, 1861.]

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

Salary.

SECTION 1. The compensation of the County Judge of Mariposa County is hereby fixed at three thousand dollars per annum, to be paid quarterly, on the warrant of the County Auditor, drawn on the County Treasurer of the county. Said warrants to be paid as other county warrants drawn on the General Fund of the county.

Repealing clause.

SEC. 2. All acts, or parts of acts, inconsistent with the provisions of this act, are hereby repealed, so far as they conflict with the provisions of this act.

To take effect.

SEC. 3. This act not to take effect until after the expiration of the term of office of the present incumbent.

CHAP. CCCXLIV.—*An Act to exempt the City and County of San Francisco from giving Undertakings in certain cases.*

[Approved May 13, 1861.]

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

Bonds not required.

SECTION 1. In any suit at law, or in equity, wherein the city and county of San Francisco is a party plaintiff, or defendant, no bond, written undertaking, or security, shall be required of said city and county, under the provisions of sections seventy-six, one hundred and two, one hundred and fifteen, and one hundred and twenty-two, 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, commonly called the "Civil Practice Act," and of the acts amendatory thereof and supplementary thereto, requiring of plaintiffs security in cases of arrest, replevin, injunction, and attachments, but on complying with the other provisions required by law, the said city and county of San Francisco shall have the same rights, remedies, and benefits, as if the undertakings, bond, or securities, were given and approved, as required by law in such cases.



CHAP. CCCXLV.—*An Act to appropriate Money for the payment of Joseph Bridger, J. W. Mitchell, and C. W. Piercy.*

[Approved May 13, 1861.]

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

SECTION 1. The sum of three hundred dollars is hereby appropriated out of any moneys in the State treasury not otherwise appropriated, to pay the claims of Joseph Bridger, J. W. Mitchell, and C. W. Piercy, in the sum of one hundred dollars each, for the transportation of prisoners from San Bernardino County to the State Prison; and the Controller of State is hereby authorized and directed to draw his warrant on the Treasurer in favor of each of the said persons, for the sum of one hundred dollars, and the Treasurer of State is authorized to pay the same. Appropriat'n

CHAP. CCCXLVI.—*An Act to define the Boundary Line between the Counties of Sonoma and Marin.*

[Approved May 13, 1861.]

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

SECTION 1. The boundary line between the counties of Sonoma and Marin shall be as follows, viz: Beginning at a point in the Pacific Ocean three miles in a direct line from, and opposite to, the mouth of the Estero Americano; thence to the mouth of said estero; thence up the middle of said estero, to its head; thence in a direct line to the head of San Antonio Creek, on the line surveyed and established by Wm. Mock, under the direction of the Surveyor-General, in the year eighteen hundred and fifty-six; thence down the middle of San Antonio Creek to Petaluma Creek; thence down the center of Petaluma Creek, along the present boundary line of Marin County, to the corner of Contra Costa County, in San Pablo Bay. Boundary defined.

SEC. 2. So much of An Act to define the Limits and Boundaries of Marin County, approved April twenty-fifth, eighteen hundred and sixty, and all other acts and parts of acts conflicting with the provisions of this act are hereby repealed. Act repealed.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. CCCXLVII.—*An Act to extend the provisions of An Act to extend the terms of Office of the Board of Supervisors of certain Counties of this State, and to fix the compensation of the Board of Supervisors of Mendocino County.*

[Approved May 3, 1861.]

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

Provisions  
of act  
extended.

SECTION 1. The provisions of an act entitled An Act to extend the terms of Office of the Board of Supervisors of certain Counties of this State, approved April twenty-sixth, eighteen hundred and fifty-eight, are hereby extended to the county of Mendocino.

Meetings of  
Supervisors.

SEC. 2. The Supervisors of the county of Mendocino shall hold regular meetings for the transaction of county business, at the county seat, on the third Monday of each of the following months, viz: February, May, August, and November; two special terms, and no more, may be held within the same year, at the call of the President of the Board. The compensation shall be twenty cents for every mile necessarily traveled in going from their residences to the county seat to attend any regular, or special, meeting of the Board, and returning therefrom; also, each member of the Board shall be allowed five dollars per diem during the session of the Board.

Repealing  
clause.

SEC. 3. Section thirteen of An Act to define the Boundaries and provide for the Organization of Mendocino County, approved April eleventh, eighteen hundred and fifty-nine, is hereby repealed.

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CHAP. CCCXLVIII.—*An Act to authorize Martin T. Smith to construct and maintain a Wharf at Fishing Rock, in the County of Mendocino.*

[Approved May 13, 1861.]

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

Franchise  
granted.

SECTION 1. The right to build, maintain, and use, a wharf in the bay, or ocean, at Fishing Rock, in the county of Mendocino, is hereby granted to Martin T. Smith, his associates and assigns, for the term of fifteen years from the time of the commencement of its construction.

Lands  
granted.

SEC. 2. For the purpose of said wharf, there is hereby granted unto the said Smith, his associates, and assigns, the right to use and occupy a strip of land two hundred feet wide, commencing at low tide and extending into the bay, or ocean, until a sufficient depth shall be obtained for the accommodation of commerce; *provided*, said wharf shall not in any manner obstruct the navigation of the bay.

SEC. 3. The said Smith, his associates, and assigns, shall commence the construction of said wharf within one year, and com-

plete the same within two years, from the passage of this act. Time for building.  
 Said wharf shall be firmly and substantially built of such materials and of such dimensions, as to make it sufficient for the requirements of the commerce of the vicinity.

SEC. 4. The Board of Supervisors of Mendocino County shall from time to time fix the rates of wharfage to be collected at said wharf, and the said Smith, his associates, and assigns, may charge, and collect, such wharfage as shall be fixed by said Board. The rates of wharfage shall be posted in a conspicuous place on said wharf. Tolls.

SEC. 5. If said wharf shall not be commenced within one year, and finished within two years, from the passage of this act, all the rights herein granted shall be forfeited. Forfeiture.

SEC. 6. This act shall take effect from and after its passage.

CHAP. CCCXLIX.—*An Act to appropriate Money to pay Barney Clark, Assignee of J. M. Anderson.*

[Approved May 13, 1861.]

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

SECTION 1. The sum of two thousand nine hundred and eighty dollars and seventy-five cents is hereby appropriated out of any money in the General Fund, not otherwise appropriated, to pay Barney Clark, assignee of J. M. Anderson, for writing done for Assembly, Eleventh Session of the Legislature; *provided*, that all vouchers for said writing are duly certified by the Secretary of State as being correct. Appropriation

CHAP. CCCL.—*An Act to legalize the Levy of certain Taxes in the County of Tehama, for the year eighteen hundred and sixty-one.*

[Approved May 13, 1861.]

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

SECTION 1. The taxes levied for the various county purposes, by the Board of Supervisors of Tehama County, on the fifth day of February, eighteen hundred and sixty-one, are hereby legalized and confirmed, and shall have the same force and effect as though they had been levied in accordance with law. This act to be in force from and after its passage. Levy of taxes legalized.

CHAP. CCCLI.—*An Act authorizing C. S. Higgins and his Associates and Assigns, to lay down Gas-Pipes in the City and County of San Francisco.*

[Approved May 13, 1861.]

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

Franchise granted.

SECTION 1. C. S. Higgins, and his associates and assigns, are hereby authorized to lay down pipes in the city and county of San Francisco, and through the streets thereof, and through said pipes to supply illuminating gas to the citizens and public buildings of said city and county, for the term of fifty years.

Conditions.

SEC. 2. In consideration of the rights above granted, the said grantee, and his associates and assigns, shall, within two years after the passage of this act, have erected the necessary buildings and apparatus for the supply of at least fifty thousand cubic feet of gas, in each twenty-four hours; and they shall also have laid, within two years from the passage of this act, at least two miles of street main pipes and through the same before the expiration of said two years; always afterwards, during the continuance of the franchise privileges hereby granted, shall supply all the gas required for the use of the City Hall, free of charge. Within four years after the final passage of this act, the said grantee, and his associates and assigns, shall have laid three miles additional of street main pipes, and shall supply Gas through the same. The said grantee, his associates and assigns, shall at all times supply all the gas required for the use of such engine houses of the city and county of San Francisco, as may be located within two hundred feet of their street mains, free of charge.

To keep in good repair.

SEC. 3. Whenever any of the streets in said city and county may be opened under authority of this act, they shall be replaced in as good condition as they were at the time of being opened, subject to the approval of the Superintendent of Streets and Highways of said city and county.

Damages.

SEC. 4. If under the privileges hereby granted, any injury shall be done to any water-pipes, gas-pipes, sewers, or drains, belonging to other parties, the amount of said damages, including losses of water, or gas, shall be assessed by the Superintendent of Streets and Highways, and paid by the party designated in this act, his associates and assigns; and the assessment of said Superintendent of Streets and Highways shall be final and conclusive as to the amount of damages to be paid.

Limit of franchise.

SEC. 5. Under the provisions of this act, the said grantee, his associates, or assigns, shall not erect any works, or apparatus, for the manufacture of gas, within the district bounded on the north by Greenwich Street, on the west by Jones and Harris streets, and on the south and east by the water front of said city and county of San Francisco; *provided*, that nothing in this act shall authorize the grantee herein named, or his assigns, to build, or maintain, any works, or erections, which shall be a nuisance.

To give bond

SEC. 6. For the faithful performance of the terms of this act on the part of the grantee, his associates, or assigns, they shall execute, within three months from the date of this act becoming

a law, a bond to the Treasurer of the city and county of San Francisco, in the sum of twenty thousand dollars, with two sureties, to be approved by the Judge of the Twelfth Judicial District of the State of California, and shall file the same in the office of said Treasurer; and upon the forfeiture of said bond, it shall be the duty of the Attorney of said city and county to bring an action for the amount thereof, and upon recovery, to have the amount of said bond, with costs of suit, paid into the treasury of said city and county of San Francisco; and in case said bond shall not be executed, approved, and filed, as provided in this act; or in case of the non performance of any of the terms, or conditions, of this act, by said grantee, his associates and assigns, required to be performed, then the franchises and privileges herein granted shall utterly cease and determine.

Disposition  
of moneys.

SEC 7 This act shall take effect and be in force, from and after its passage.

To take  
effect.

CHAP. CCCLII — *An Act to provide for the Reclamation and Segregation of Swamp and Overflowed, and Salt Marsh and Tide, Lands, donated to the State of California by Act of Congress.*

[Approved May 13, 1861]

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

SECTION 1. J. C. Pemberton, of Tulare County, William J. Hooten, of Solano County, B. B. Redding, of Sacramento, T. T. Bouldin, of San Joaquin County, and A. M. Winn, of Sutter County, are hereby appointed a Board of Commissioners, for the reclamation of the swamp and overflowed lands belonging to this State. Said Commissioners shall hold their office for the term of two years, and until their successors shall be elected in joint convention of the two branches of the Legislature, to be convened for that purpose. In case any of the Commissioners named in this act fail to qualify, or if a vacancy occur from death, resignation, or otherwise, the Governor shall appoint some one to fill the vacancy.

Commis-  
sioners  
appointed.How to fill  
vacancies.

SEC. 2. The Board of Commissioners shall, within thirty days after the passage of this act, take the usual oath of office and elect one of their number as President, and another as Secretary, who shall receive no additional compensation as such President and Secretary, other than the compensation allowed to them under this act.

Oath of  
office.

SEC 3. Said Board of Commissioners, a majority of whom shall constitute a quorum, shall hold monthly meetings at the capital of the State, for the reception of petitions and the transaction of business. They may adjourn from day to day, but no adjournment shall be for a longer period than one month. They shall keep a full and complete record of all their transactions as a Board, and they shall transmit to the Governor, to be by him presented to the Legislature, an annual statement, in detail, showing the location and quantity of land reclaimed, its cost per

To meet  
monthly.

To report  
annually

acre, the location and quantity, in acres, in progress of reclamation, under contract, the location and quantity of lands for the reclamation of which petitions have been received, together with such other statistical information, suggestions, and recommendations, connected with the purposes of the commission, as they may deem proper.

Petitions for  
reclamation.

SEC. 4. Whenever a petition shall be received by the Board of Commissioners, from the holders of patents, or certificates of purchase of swamp lands, on a tract of swamp and overflowed land susceptible of one mode, or system, of reclamation, which petition shall represent one-third, in acres, of said tract of land, asking for the drainage and reclamation of said land, it shall be the duty of the Board of Commissioners to appoint an Engineer, whose duty it shall be to make an examination and survey of said tract of land. The Engineer shall, with the plat of such examination and survey, return an exhibit, showing the levels of the country surveyed, the average depth of water in winter and in summer, the sources from whence the water flows in to cover the land, the height and width of embankments necessary to prevent overflow, the depth and width of sloughs to be filled, the streams to be diverted, and specify, in detail, the work necessary to be performed for the reclamation of the tract of country, for the reclamation of which the petition was received; also, an estimate of the total cost of the work.

Duties of  
Engineer.

Same.

SEC. 5. It shall be the duty of the Engineer so appointed to aid and assist in making plans and specifications for the reclamation of said lands, and give general directions for its reclamation, subject to the orders and control of the Board of Commissioners.

SEC. 6. The Board of Commissioners shall have power to remove the Engineers, and appoint their successors, at will.

Reclamation.

SEC. 7. If, from the report and estimates of the Engineer, it shall appear that the total cost of the complete work of permanent reclamation, including the cost of survey, advertising proposals, and other contingent expenses, properly chargeable against the tract of land so surveyed, will not exceed, in the aggregate, one dollar per acre, and such further sum as may be subscribed and paid in cash, by individuals, the Board may, in its discretion, adopt the plan so reported, or it may adopt any other plan based upon the same survey. Upon the adoption of a plan and specifications for the construction of such work, they shall cause a duplicate to be placed on the file in the County Clerk's office of one of the counties in which the said district is situate, and give notice, by publication in a newspaper published in the county, for a period of thirty days, if a newspaper be published in the county, and if none be published therein, then in a newspaper published in an adjoining county, that the plans and specifications can be seen at the County Clerk's office, and that the Board of Commissioners are prepared to receive sealed proposals for the construction of such work, in accordance with the plans and specifications, and that the same will be let to the lowest responsible bidder, stating the time and place said proposals will be received and opened. The time shall be, at least, thirty days from the first publication of said notice.

Proposals.

Awarding  
of contract.

SEC. 8. The Board of Commissioners shall award said contract to the lowest responsible bidder, but shall have power to reject

any and all bids, if deemed too high, and advertise again for further proposals. Any person, or persons, to whom said contract shall be awarded, shall enter into a bond with good and sufficient sureties, to be approved by the Board of Commissioners, payable to the State of California, for the use of said swamp land district, for double the amount of the contract, conditioned for the faithful performance of said contract.

SEC. 9. Whenever it shall be found necessary to use any levee, or embankment, or other means of reclamation, which has been constructed by any person owning lands, the said levee, embankment, or other work, shall be measured, estimated, and paid for, to said owners, at the contract price, and the sum so paid shall be deducted from the amount to be paid the Contractor. Using levees  
already  
built.

SEC. 10. When any given portion of the work under contract has been completed, and such portion has been approved by the Engineer and by the Board, as being in accordance with the terms of the contract, the Board may, by a vote, approve the account for said completed portion of the work, and certify said account for fifty per cent. of the amount, to the State Board of Examiners, and on the approval of the Board of Examiners the Controller shall draw his warrant on the Treasurer, payable out of the Swamp Land Fund, for the said fifty per cent. of the amount in the account so approved. When the whole work has been completed, in accordance with the terms of the contract, the Board shall certify that the whole work has been performed in accordance with the contract, whereupon the Controller may draw his warrant in favor of the Contractor, for the remaining balance on the accounts then due; *provided*, always, that no warrant shall be drawn for any sum in payment for reclamation, which shall in the aggregate, as provided in this act, exceed one dollar per acre for the whole land thus certified as having been reclaimed; and, *provided*, further, that in no case shall an account be certified, or a warrant drawn, in payment for the reclamation of a particular district, for a greater sum than has been paid into the Swamp Land Fund from said district. Payment for  
reclamations

SEC. 11. No contract shall be considered as complete, until after it has been approved by the Engineer; and the work shall not be accepted by the Board, if objection be made thereto, until after an examination and report of a committee of not less than three members, whose report shall be unanimous. Contracts.

SEC. 12. The Commissioners mentioned in this act shall each receive a compensation of one hundred dollars per month, and the Commissioner who shall be elected Secretary shall receive an additional compensation of fifty dollars per month, for his services as such Secretary, payable from the Swamp Land Fund. The Civil Engineer to be selected by the Board, shall receive as compensation for his services in surveying, measuring, leveling, and estimates, a reasonable sum, to be allowed by the Board of Commissioners, which in no case shall exceed eight dollars per day for the time actually employed, and the Board may also allow reasonable compensation to such Assistants as he may require; *provided*, that in no case shall it exceed four dollars per day, and the sum so paid the Engineer and his Assistants shall be a part of the charges in the estimate of the total cost of the reclamation of the particular district of land surveyed. Pay of  
officers.

Copies of surveys, etc.

SEC. 13. The copies of all surveys, field-notes, plats, plans, specifications, profiles, charts, and all other papers, made and executed by the Engineer, in the discharge of his duties under the provisions of this act, shall be the property of the State. All the articles mentioned in this section shall be delivered by the Engineer, so soon as such surveys, field-notes, plats, plans, specifications, profiles, charts, and all other papers be completed, to the Secretary of the Board of Commissioners, as the property of the State, for the use of the Board of Commissioners, until the expiration of their term of office, when the said articles, together with all the books, papers, contracts, and all other documents pertaining to the objects of the Commission, shall be delivered to their successors in office.

Examination of surveys.

SEC. 14. The books, papers, contracts, agreements, and all documents, pertaining to the Commission, shall be always open to the inspection of the State Board of Examiners and to committees from either branch of the Legislature.

When reclamation costs more than one dollar per acre.

SEC. 15. After a petition has been received by the Board of Commissioners for the survey and reclamation of a particular tract of land deemed susceptible of one mode of reclamation, and the survey of said tract of land has been ordered, and upon the return of said survey, accompanied by the estimates, it is found that the said tract of land cannot be reclaimed, except at a cost that will exceed one dollar per acre, in the aggregate, and such sum as may have been subscribed and paid in cash by individuals, for the whole tract sought to be reclaimed, the cost of such survey paid to the Engineer shall be a charge against the particular tract of land so surveyed, to be computed in any future estimate for the reclamation of said tract of land.

Appraisers.

SEC. 16. If in the work of reclamation it be found necessary to construct levees, excavate trenches, or perform other work, on lands other than swamp and overflowed lands, the Board of Commissioners shall have power to enter upon, and take possession of, so much of said land as may be necessary for said work of reclamation. If the same be private and individual property, and the rights and privileges necessary be not granted by the owners, the Board of Commissioners shall petition the District Court of the district in which said lands is situated, to appoint three Appraisers, to assess the damages arising from the taking of such land, and the District Court shall thereupon appoint three disinterested persons, who shall have full power to proceed to such premises, and to examine, hear, and determine, all questions of damages and injuries to such land, arising from such taking, and to award the amount of the same to the person, or persons, entitled thereto, and for this purpose said Appraisers shall have power to administer oaths. The Appraisers shall make their report to the court, and the same shall be approved, or set aside, for cause shown, and if set aside, other Appraisers shall be appointed, who shall proceed in like manner; and as soon as such award shall be affirmed, it shall have the effect of a judgment. The award thus found shall be allowed by the Board of Commissioners, and shall be paid in like manner as for work under contract, and the amount thus awarded shall be computed in the total cost of reclamation, as a portion of the charges against the tract of land to be reclaimed; *provided*, that no dam-



ages shall be allowed for the use of, or for the taking of, lands, where said lands have been purchased from the State, under the several acts providing for the disposal of the swamp and overflowed lands.

SEC. 17. The Commissioners appointed, or who shall be elected, under the provisions of this act, shall each severally, before they shall qualify and enter upon the duties of their office, file with the Secretary of State a bond to be approved by the Governor, in the penal sum of ten thousand dollars, conditioned for the faithful performance of their duties as Commissioners.

Bond of Commissioners.

SEC. 18. No Commissioner shall be concerned, or interested, either directly, or indirectly, as principal partner, or agent, in any contract to be awarded by the Board, or the profits to be derived therefrom; and any Commissioner convicted of violating the provisions of this section shall be deemed guilty of felony, and such conviction shall work a forfeiture of his office, and he shall be punished by imprisonment in the State Prison for a period not less than one year nor more than five years.

Penalty for being interested.

SEC. 19. The County Surveyors of the several counties of this State shall, immediately after the organization of the Board of Commissioners, proceed to segregate the swamp and overflowed lands within their respective counties from the high lands in said counties, and make complete maps of all the swamp and overflowed lands within their respective counties, in legal subdivisions of sections and parts of sections, together with a tabular statement of all such lands as have been sold by the State, and under what act the same were sold, of all lands claimed and by whom claimed, and as nearly as possible by what title the same are held, and file the said tabular statement in the County Recorder's office of their respective counties, also transmit duplicates of said maps to the Surveyor-General of the State; *provided*, however, that it shall be discretionary with the Board of Commissioners whether land already surveyed and segregated under any former act for the sale and reclamation of swamp and overflowed lands shall be reseggregated or surveyed under this act; and, *provided*, further, that they shall determine whether the segregation may be made by a complete survey of all such swamp and overflowed lands into sections, or by running the line of division between the swamp and United States land and make said maps from said survey. It shall further be the duty of the County Surveyors to procure such testimony, to be taken before a Notary Public, or any officer authorized by law to administer oaths, as they shall be able to procure, that all of such lands that are embraced within the said survey and exhibited on the map, are swamp and overflowed lands; and in all cases where any of the said lands have been returned as United States lands, whether sold, or unsold, they shall state that fact and procure all the evidence that they may deem sufficient to substantiate the fact that such lands are swamp and overflowed lands, and transmit the same to the Surveyor-General of the State. As soon as practicable after the passage of this act, the Board of Commissioners shall send a copy thereof, with instructions thereupon, to the County Surveyors of all the counties in the State, with blank affidavits in the form required by the Commissioner of the General Land Office at Washington.

Duties of County Surveyors.

Proviso.

Duties of Commissioners.

To file maps  
and surveys.

SEC. 20. One copy of the survey and map herein required to be made, shall be retained by the County Surveyor, and shall be the property of the county; another copy, accompanied by affidavits as in this act required, covering the whole tract of swamp and overflowed land, exhibited as such on his map, and numbered with a corresponding number entered on the tract of land exhibited on the map to which it refers, shall be filed with the Surveyor-General, as hereinafter required, and the County Surveyor shall at the same time report to the Surveyor-General a general description of the land returned and mapped as swamp and overflowed, showing the cause of the overflow of the land, and a general description of the sloughs or creeks through which the waters enter into the low lands.

Duties of  
Surveyor-  
General.

SEC. 21. The Surveyor-General shall compile a general map of the State in duplicate, showing all the swamp and overflowed lands of the State, which shall have been returned by the County Surveyors as the property of the State, together with the county boundary lines where crossing the same. He shall also enter thereon the number corresponding with the affidavits; he shall also compile from the testimony received and on file in his office, a general schedule of the swamp lands in the State by their description; he shall also distinguish on said map the lands already sold by the State as swamp and overflowed; he shall also prepare a report showing any cases in which the swamp lands have been infringed upon by the United States Government surveys.

To transmit  
copy to U. S.  
Land Office.

SEC. 22. One of the copies of the general map to be compiled and made by the Surveyor-General, with the schedule of the swamp and overflowed lands so claimed, and the affidavits required by this act shall be by him transmitted to the Governor, and by the Governor forwarded to the proper department of the General Government at Washington, as an exhibit of the lands which the State claims under the act of Congress of September twenty-eight, eighteen hundred and fifty, and request the department to certify said land to the State of California.

Duty of  
Surveyor-  
General.

SEC. 23. The Surveyor-General shall receive for his services, under the provisions of this act, and for any assistance he may require, the sum of one thousand dollars; *provided*, that one copy of the map herein required to be made, shall be the property of the State, and be turned over to his successor in office. When the Governor shall receive from the Surveyor-General the map, affidavits, and report, herein required of him, the Governor shall give to the Surveyor-General a receipt therefor, which receipt shall be a voucher upon which he may present his claim to the Board of Examiners, who are authorized to allow his account, payable out of the Swamp Land Fund.

Claims for  
services.

SEC. 24. It shall be the duty of the Board of Commissioners to settle with and adjust the claims of the County Surveyor and other persons employed in selecting and segregating the swamp and overflowed lands in their respective counties, under the provisions of this act. Said Board shall have power, and they are hereby authorized to administer oaths, or affirmations, and to examine, under oath, claimants and other persons that they may call before them relating to such claims; and the Board may certify to the Board of State Examiners such allowance as shall ap-

pear right and proper in the premises. Upon the approval of the account of the Board of State Examiners, the Controller may issue his warrant in payment for the same out of the Swamp Land Fund; *provided*, that in no case shall the County Surveyor receive more than eight dollars per day, nor his Assistants more than four dollars per day.

SEC. 25. The Board of Commissioners shall ascertain the aggregate amount of the cost for the segregation and surveying of all the swamp and overflowed lands in each county, and divide the said amount by the number of sections of swamp land in said county; the cost per section thus ascertained, the Board of Commissioners shall certify to the County Treasurers, and thereafter purchasers shall pay to the County Treasurers, prior to the issuance of a certificate, the cost of survey and segregation thus ascertained. Costs of segregation.

SEC. 26. After the survey by sections and the segregation contemplated by this act has been made, any person desirous of purchasing swamp and overflowed lands shall file an affidavit in the office of the County Surveyor of the county in which the land is situate, that he has not purchased any other land under the provisions of any act to provide for the sale of swamp and overflowed lands belonging to this State, which, with the lands sought to be purchased, shall exceed six hundred and forty acres; that he has no knowledge of any other legal, or equitable, claim than his own to the tract of land desired to be purchased by him. It shall be the duty of the County Surveyor to make out a plat and field-notes for each applicant from the map on file in his office, and forward a certified copy of the same to the Surveyor-General, in accordance with An Act to provide for the Sale of the Swamp and Overflowed Lands of this State, approved April eighteenth, A. D. eighteen hundred and fifty-nine. Affidavit for purchase of lands.

SEC. 27. The provisions of this act shall apply equally to all salt, marsh, or tide, lands in this State, as to swamp and overflowed.

SEC. 28. The sum of two hundred thousand dollars, now in the Swamp Land Fund, or hereafter to be received into the Swamp Land Fund, is hereby appropriated and set apart as a fund to be applied and expended under the provisions of this act, as hereinafter provided. Appropriation

SEC. 29. This act shall take effect and be in force, from and after its passage. To take effect.

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CHAP. CCCLIII.—*An Act to amend an Act entitled An Act to regulate Fees in Office in certain Counties of this State, approved April twenty-eighth, eighteen hundred and fifty seven.*

[Approved May 9, 1861.]

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

SECTION 1. Section seventeen of said act is hereby repealed.

SEC. 2. Section twenty of said act is hereby amended so as to read as follows:

Jurors.

Sec. 20. Jurors shall be paid as provided for in section thirty-three of An Act to regulate Fees in Office, approved April tenth, eighteen hundred and fifty-five, and the miscellaneous provisions and section forty of said act shall apply to the counties herein named.

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CHAP. CCCLIV.—*An Act to repeal An Act to declare Feather River Navigable, approved March the fourteenth, eighteen hundred and fifty-seven.*

[Approved May 14, 1861.]

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

Repealing  
clause.

SECTION 1. The act to declare Feather River navigable from Yuba City to Oroville, approved March fourteenth, eighteen hundred and fifty-seven, is hereby repealed; *provided*, that nothing in this act shall be construed so as to affect the navigation of the waters of Feather River below Fall, Hanson & Co.'s bridge, at Yuba City.

SEC. 2. This act shall be in force from and after its passage.

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CHAP. CCCLV.—*An Act submitting to the qualified Electors of San Mateo County, at the next general election, the question of the removal of the County Seat of said County.*

[Approved May 14, 1861.]

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

Election.

SECTION 1. At the next general election for Members of Assembly, the question of the removal of the county seat of San Mateo shall be submitted to the qualified electors of said county.

Board to  
declare  
result.

SEC. 2. The Board of Canvassers of the election returns shall declare the result of the same; and the place receiving the highest number of votes on the question of the location of the county seat, shall be and is hereby declared the county seat of said county, and the county officers shall remove there, together with the records of said county.

Notice.

SEC. 3. The Board of Supervisors of said county shall give notice of the submission of said question at least twenty days before said election.

To take  
effect.

SEC. 4. This act shall take effect from and after its passage.

CHAP. CCCLVI.—*An Act to provide for the Sale of the Marsh and Tide Lands of this State.*

[Approved May 14, 1861.]

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

SECTION 1. The sales of all marsh and tide lands belonging to this State, that have been made in accordance with the provisions of any of the acts of the Legislature, providing for the sale of the swamp and overflowed lands belonging to this State, are hereby ratified and confirmed; and any of said marsh and tide lands that remain unsold, may be purchased under the provisions of the laws now in force, providing for the sale of the swamp and overflowed lands of this State; and all moneys derived from the sale of such lands shall be paid into the State Swamp Land Fund, to be used for the reclamation of the swamp and overflowed lands; *provided*, no marsh, or tide, lands, located within five miles of the city of San Francisco, or of the city of Oakland, or within one mile and one-half of the State Prison grounds, at Point San Quentin, shall be sold, or purchased, by authority of this act; and, *provided*, further, that no sales of lands, either tide, or marsh, excepting Alcalde grants, which are hereby ratified and confirmed, within five miles of said cities, or within one mile and one-half of the State Prison grounds aforesaid, shall be confirmed by this act.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCCLVII.—*An Act to appropriate Money for salary of the Clerk of the Superintendent of Public Instruction for the Twelfth Fiscal Year.*

[Approved May 14, 1861.]

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

SECTION 1. The sum of thirteen hundred dollars is hereby appropriated out of any money in the treasury, not otherwise appropriated, for the payment of the salary of the Clerk of the Superintendent of Public Instruction, for the twelfth fiscal year, ending on the thirtieth day of June, eighteen hundred and sixty-one.

CHAP. CCCLVIII.—*An Act to audit and allow the Claim of G. D. Bliss & Co.*

[Approved April 14, 1861.]

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

Claim  
allowed.

SECTION 1. The claim of G. D. Bliss & Co. for balance due for beef furnished the State Prison in the months of June, July, August, September, and October, eighteen hundred and fifty-five, the sum of three thousand two hundred and three dollars and nine cents is hereby audited and allowed; *provided*, that the Treasurer of State shall not deliver to the said G. D. Bliss & Co. State bonds, nor any evidence of indebtedness for such claim, until warrant number six hundred and thirteen, for six thousand eight hundred and fifty-one dollars and forty-seven cents, dated December fourth, eighteen hundred and fifty-five, in favor of G. D. Bliss, shall be surrendered up to the Controller of State to be canceled.

CHAP. CCCLIX.—*An Act to Fund the indebtedness of Calaveras County, contracted prior to the eighteenth day of March, eighteen hundred and fifty-seven, and a certain indebtedness of Eight Thousand Dollars, contracted subsequent thereto, and to provide means for the payment of the same.*

[Approved May 14, 1861.]

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

Commis-  
sioners.

SECTION 1. The county of Calaveras is hereby authorized to fund its entire indebtedness, contracted prior to the eighteenth day of March, eighteen hundred and fifty-seven, and to that end the Board of Supervisors and the Treasurer of said county shall constitute a Board of Commissioners, to be styled the "Board of Commissioners of the Funded Debt of Calaveras County," and shall have and exercise the powers and perform the duties hereinafter provided, and shall, at their first meeting, elect one of their number as President, and the Clerk of the Board of Supervisors shall act as Secretary of the Board of Commissioners. The first meeting of said Board shall be held on the second Monday of the month first ensuing after the passage of this act, at the court-house at Mokelumne Hill, in said county, and they shall have power to adjourn, from time to time, as they may deem necessary and proper, until they shall have discharged the duties imposed on them by this act, and shall receive for their services not to exceed the sum of one hundred dollars each.

Compensation.

Duties of  
Commissioners.

SEC. 2. The said Commissioners shall cause to be prepared and shall have power to issue, on behalf of the county of Calaveras, bonds to an amount not exceeding, in all, the sum of fifty thousand dollars, bearing interest at a rate not to exceed ten per centum per annum, of the denominations of fifty dollars, one

hundred dollars, two hundred and fifty dollars, five hundred dollars, and one thousand dollars, each, respectively, with coupons for interest attached; which bonds shall be made payable at the office of the Treasurer of said county, on, or before, the first day of January, A. D. eighteen hundred and sixty-eight, and the interest on the same shall be made payable annually at the Treasurer's office in said county on the first day of January in each year, on presentation of the respective coupons therefor. Every bond so issued, shall be signed by the President and Secretary of said Board of Commissioners, and be authenticated with the seal of said county, and shall purport that the county of Calaveras owes the holder thereof the sum named in the bond, payable and bearing interest as aforesaid.

Bonds.

SEC. 3. The Board of Commissioners shall cause the bonds issued by them to be delivered to such persons as may, at that time, have in their possession, or be the holders, or owners, of any portion of the debt of said county, contracted prior to the eighteenth day of March, A. D. eighteen hundred and fifty-seven, and which shall have been decided by the Board of Commissioners as the legal and equitable indebtedness of said county, as the holders thereof will surrender to said Commissioners at par, after adding all interest that may have accrued upon such indebtedness up to the time of such surrender, and such bonds, or scrip, so surrendered shall be canceled and destroyed by said Board of Commissioners.

Claims to be bonded.

SEC. 4. It shall be the duty of the Secretary of said Board to attend the meetings of the Board, and to keep a correct record and minutes of their proceedings.

Secretary.

SEC. 5. It shall be the duty of the Board of Supervisors to cause to be levied annually a special tax, to be collected in the same manner as is now provided by law in force, or which may be hereafter enacted, on the real and personal property of said county, not to exceed one per cent. in addition to the tax now authorized by law to be levied and collected, sufficient to meet the interest accruing annually on said bonds, and to create a Sinking Fund for the redemption of the same, of at least ten thousand dollars annually.

To levy tax.

SEC. 6. No appropriation shall be made out of the yearly revenue arising from taxes on the real and personal property of said county, until sufficient money shall have been set aside to pay the interest on all the bonds outstanding; and there shall also be set aside, from each yearly revenue derived from taxation on the real and personal property of said county, the further sum of five thousand dollars, as above provided, to be levied as a Sinking Fund for the redemption of said bonds.

Sinking Fund.

SEC. 7. The office of said Board of Commissioners shall expire as soon as they shall have completed all the business submitted to them by this act, when they shall turn over all papers, books, and accounts, to the Clerk of the Board of Supervisors to be filed and preserved by him, with the records of said Board. And, in the discharge of their duties, the said Board of Commissioners shall have free access to the books of all the revenue officers of said county at all times.

Commissioners.

SEC. 8. On the first day of January, A. D. eighteen hundred and sixty-two, and on the first day of January of each succeed-

- ing year, it shall be the duty of the Treasurer, on the order of the Board of Supervisors, from the money in his hands set aside and appropriated for that purpose, to pay the interest on the bonds outstanding; and on the first day of January, eighteen hundred and sixty-two, and on the first day of January of each succeeding year, it shall be the duty of the Treasurer of said county, under the order of the Board of Supervisors, from the moneys in his hands set apart and appropriated to that purpose, to redeem five thousand dollars of the principal of said bonds, previously advertising for at least thirty days in one newspaper in said county for sealed proposals for the surrender of said bonds, the Treasurer shall open said sealed proposals at the time and place specified in said publication in the presence of the Board of Supervisors of said county, who shall accept only of such bids as shall cancel the greatest amount of bonds; *provided*, that no bonds shall be redeemed at a greater rate than one hundred cents for one dollar, together with the accrued interest thereon.
- Treasurer to set aside moneys.**
- Redemption**
- Register of bonds.**
- SEC. 9. It shall be the duty of the Treasurer of said county, and the Clerk of the Board of Supervisors, 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, and also the dates and rates of cancellation.
- Expenses of bonds.**
- SEC. 10. The Board of Supervisors of said county are hereby authorized to appropriate, out of the General Fund of the county, a sum sufficient to pay the expenses that may be incurred by the Board of Commissioners in having said bonds prepared and issued; *provided*, the said Board of Commissioners shall not be authorized to make any outlay preparatory to issuing bonds to the holders of county indebtedness until they are satisfied that twenty thousand dollars, or more, of said indebtedness, will be offered for funding under the provisions of this act.
- Issuance of bonds.**
- SEC. 11. The said Board of Commissioners may issue said bonds to persons holding legal indebtedness against said county, either in bonds, warrants, or otherwise, in exchange and cancellation of the same.
- Powers, etc.**
- SEC. 12. The Board of Supervisors of said county shall have power to make any order necessary to carry into effect the provisions of this act.
- Advertisement.**
- SEC. 13. The Board of Commissioners shall advertise in some newspaper in said county, for proposals for the exchange of said bonds, for any of the indebtedness of said county, contracted previous to the time referred to, and named in section one of this act.
- To publish statement.**
- SEC. 14. The Board of Commissioners, as soon as they have completed the business assigned them by this act, shall publish a statement of their proceedings in some newspaper published in said county.
- Construction of act.**
- SEC. 15. This act shall not be so construed as to annul, or change, any acts now in force, or effect, in the county of Calaveras.
- Bonds.**
- SEC. 16. In the event the said bonds authorized to be prepared and issued under this act, are not accepted and applied for by the holders of the indebtedness of said county, referred to in section one of this act, in any year after the passage of this act, before the levying of the tax, and the appropriations referred



to in sections five and six of this act The taxes so levied and appropriated by the Board of Supervisors under this act, for the payment of interest on, and redemption of, the same, shall be legal and valid, to all intents and purposes, as if the bonds had been issued; and it shall be the duty of the Board of Supervisors of said county, to set apart and appropriate the amount of the tax so levied and collected, to the redemption of the indebtedness of the said county, contracted as stated in section one of this act Redemption

SEC 17. The said Board of Commissioners of said county are also hereby authorized and empowered to fund an order drawn by the Board of Supervisors of said county on the County Treasurer, for the sum of eight thousand dollars, in favor of A. H. Herchenor, upon the Hospital Fund of said county, upon the same terms and conditions, to be paid in like manner, and from the same fund, as other indebtedness authorized and directed to be funded under the provisions of this act; *provided*, the holder thereof shall elect to fund the same. Claim to be funded

SEC 18. This act shall take effect and be in force, from and after the date of the passage thereof. To take effect.

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CHAP CCCLX.—*An Act amendatory of, and supplementary to, an Act entitled An Act to Incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four.*

[Approved May 14, 1861.]

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

SECTION 1. The sixth section of an act entitled An Act to Incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, is amended so as to read as follows :

Sec. 6 The Treasurer shall receive and pay out all the moneys belonging to the city, and keep an account of all receipts and expenditures, under such regulations, as may be prescribed by ordinance. He shall make a monthly statement to the council of the receipts and expenditures of the preceding month, and publish the same by posting up, in three of the most public places in the city, or by publishing the same in any newspaper that may be published in the city. He shall also be *ex officio* Clerk of the city, and keep all the papers and documents belonging to the city; attend the meetings of the council and keep a journal of their proceedings, and a record of all their ordinances, and shall do all other things required of him by the council. Treasurer.

SEC. 2. The seventh section of said act is hereby amended so as to read as follows :

Sec. 7. The Marshal shall execute, within the city, and return all processes issued and directed to him by the Justice, or Mayor; arrest all persons guilty of a breach of the peace, or of a violation of any ordinance of the council, and take them before the Marshal.

Mayor, or any other legal authority, within the city. He shall collect the taxes of the city, and pay over all moneys into the city treasury, received in pursuance of the ordinance of the council, and shall attend the meetings of the council. He shall also perform the duties of Street Commissioner, and do and perform such other duties as the council may require.

SEC 3. The eighth section of said act is hereby amended so as to read as follows :

Assessor.

Sec. 8. The Assessor shall prepare, within such time as the City Council may direct, a correct list of all the taxable property within the city, with the true valuation thereof, and shall present the same, certified by him, to the council. Said listing and assessment shall be made, as nearly as can be, in conformity to the law for listing and assessing property for State and county taxes. He shall include in said assessment all the delinquent taxes of the preceding year, which shall remain unpaid at the time of said listing and assessment, and said delinquent taxes shall be added to the assessment so made. Should the owner of any property, assessed as aforesaid, not be satisfied with the valuation thereof, he may apply, under oath to the Mayor, Assessor, and Marshal, who shall constitute a Board of Commissioners of Assessment, for the reduction and equalization of the assessment; if they refuse, he may appeal to the council, and their decision shall be final. All taxes assessed upon real and personal property in the city of Oakland, as city taxes, shall be payable, and be paid, directly to the Marshal thereof; and in default of such payment, before the time when the Tax Collector of State and county taxes, in said city, may be authorized by the general revenue law of the State, to seize and sell the property therefor, the said Marshal shall proceed to collect said city taxes, together with the same fees for collecting the same as are provided for the Tax Collector in said revenue law, by seizure and sale of the property liable, in some public place in said city, in the mode prescribed in said revenue law for the collection of delinquent State and county taxes. If no person at said sale should offer to take any piece of property, and pay the taxes and charges thereon as aforesaid, the Mayor shall bid off the same, for said city, at a price equal to the amount of said assessment and the costs and expenses of said sale.

Collection of taxes.

Opening streets.

SEC. 4. Applications for laying out and opening streets, in said city, shall be made to the council by petition in writing, setting forth the starting point, the route, and terminus, thereof. If the council, on receiving such petition, shall decide that the public convenience requires the laying out and opening of the street mentioned therein, it shall direct the Marshal to give written notice to the owners of the land through which said street is proposed to be laid out, if they can be found, stating the substance of said petition, and requiring them to appear before said council at a time mentioned in said notice of not less than twenty days from the presenting of said petition and make their objections, if they have any, to the laying out and opening of said street. At the time appointed for said hearing, if no objections are made by the parties who have been served with said notices, and no damages are claimed, the council may direct the Marshal to lay out, and open, said street, in accordance with the prayer

of said petition. If said owners appear at the time appointed and object to the laying out and opening of said street, or claim damages therefor, the council shall hear said objections, and if, after hearing the same, it shall decide to lay out and open said street, it shall thereupon appoint three disinterested persons, real estate owners in said city, as Commissioners, who shall proceed, after having taken an oath to discharge their duties faithfully, to ascertain as near as they can the amount of said damages and report the same to the council. Said damages shall be estimated, both with reference to the value of the land to be taken and also to any advantage resulting to the owner thereof from the opening of said streets. Whereupon, the council, upon payment of said damages, may direct the Marshal to lay out, and open, said street, in accordance with the prayer of said petition. Parties aggrieved by the action of the council respecting the amount of damages allowed them, shall have the right to appeal to the County Court, where the question of damages shall be heard anew and determined.

Appeal.

SEC. 5. The Common Council of the city of Oakland is hereby authorized and empowered to ratify and confirm any ordinance, or resolution, of the Board of Trustees of the late town of Oakland.

Powers of council.

SEC. 6. This act shall take effect immediately.

CHAP. CCCLXI.—*An Act in relation to the Public Pound in the City and County of San Francisco.*

[Approved May 14, 1861.]

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

SECTION 1. The jurisdiction and powers of the Board of Supervisors of the city and county of San Francisco concerning the impounding of animals running at large, mentioned in the fourteenth subdivision of section one of the act entitled An Act to confer further powers upon the Board of Supervisors, and Auditor, and Treasurer, of the City and County of San Francisco, and to authorize them to perform certain acts therein mentioned, approved April twenty-fifth, eighteen hundred and fifty-eight, are hereby enlarged and extended to the limits of said city and county of San Francisco, and said Board of Supervisors are hereby authorized and empowered to exercise any, or all, of the powers mentioned in said fourteenth subdivision over the entire limits of said city and county, or any limited portion thereof, as in their discretion they may prescribe by order.

Jurisdiction extended.

CHAP. CCCLXII.—*An Act to legalize the levy of State and County Taxes for the year eighteen hundred and sixty-one, in the County of San Luis Obispo.*

[Approved May 14, 1861.]

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

Levy  
legalized.

SECTION 1. The levy of State and county taxes for the year eighteen hundred and sixty-one, by the Board of Supervisors of the county of San Luis Obispo, is hereby legalized and made of the same force and effect as if the same had been done within the time prescribed by law.

To take  
effect.

SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCCLXIII.—*An Act granting to Thomas Harrigan and his Assigns the right of laying a Railroad Track along a certain Road in the City and County of Sacramento.*

[Approved May 14, 1861.]

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

Franchise  
granted.

SECTION 1. It shall be lawful for Thomas Harrigan and others whom he may associate with him, to construct a single track iron railroad, commencing at a point known as the crossing of the Upper Stockton Road, of the Sacramento Valley Railroad, in the city and county of Sacramento, and near a point where said railroad crosses Thirty-First Street, in said city of Sacramento, and thence running along said Upper Stockton Road, to a point known as the Centerville Race-Track, being one mile, or less, from the point of beginning; and said parties shall have the right of running cars upon the said road, and levying and collecting tolls for the transportation of passengers and freight. Horses, or mules, may be used, but no car propelled by steam shall ever be used on the track of said road, nor shall any car be run at a speed exceeding eight miles per hour.

Conditions.

SEC. 2. The parties designated in section first shall grade, entirely at their own expense, and keep in repair, the line on which said road shall be constructed. Said road shall be laid as nearly as practicable on one side of said Upper Stockton Road, and shall not occupy a space of more than fifteen feet, and shall be a single iron track.

Same.

SEC. 3. In grading, said parties shall not interfere in any manner with the present Upper Stockton Road, but the same shall be kept open for the passage of teams and vehicles of all kinds.

Limit of  
franchise.

SEC. 4. The road and the cars running on the same, exclusively used for it, shall be taxed, as other property; and the privileges herein granted shall continue for a period of twenty years.

SEC. 5. This act shall be in force immediately after its passage.

CHAP. CCCLXIV.—*An Act to authorize Franklin Birdsall, Executor of the Last Will and Testament of George W. Birdsall, deceased, to sell the Real Estate of said deceased at private sale.*

[Approved May 14, 1861.]

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

SECTION 1. Franklin Birdsall, Executor of the last will and testament of George W. Birdsall, deceased, is hereby authorized to sell, at public, or private, sale, the real estate of which the said George W. Birdsall, died, seized and possessed, in severalty, or in common with others, and any right, title, or interest, in any real estate owned, or claimed, by said George W. Birdsall, situate in the State of California, on such terms, and in such manner, and at such time, or times, as may, in his opinion, be most advantageous to said estate. May sell  
real estate.

SEC. 2. The said Executor shall make a full report of any and all sales of such real estate, to the Probate Court of the County of Yuba, for confirmation, or rejection, within a reasonable time thereafter; and no sale, under and by virtue of this act, shall be valid, until the same shall have been approved and confirmed by said Probate Court. To report

SEC. 3. The said Executor is hereby authorized and empowered, upon the confirmation by said court, of any such sale, or sales, to execute, acknowledge, and deliver, to the purchaser, or purchasers, good and sufficient deeds, or conveyances, of the property sold, which shall be as valid and binding as if executed by the said George W. Birdsall in his lifetime. To execute  
conveyance.

SEC. 4. In case of the death, resignation, or removal, of the said Executor, his successor, or the Administrator with the will annexed duly appointed and qualified, shall have the same authority and power to sell and convey such real estate as is by this act granted to said Executor. Successor.

SEC. 5. This act shall take effect from and after its passage.

CHAP. CCCLXV.—*An Act to legalize certain Grants and Sales made by the Ayuntamiento of the Pueblo, and by the Mayor and Common Council of the City of Santa Barbara, of Lands belonging to the said Pueblo and City.*

[Approved May 14, 1861.]

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

SECTION 1. All grants of lots, or parcels of land, within the jurisdiction of Santa Barbara, heretofore made by the Ayunta-

**Grants confirmed.** miento of the pueblo of Santa Barbara, in conformity to the laws and regulations in force at the date of said grants, in the department of Upper California, and for which titles have been duly issued, are hereby ratified and confirmed.

**Sales confirmed.** SEC. 2. All grants and sales heretofore made in good faith by the Mayor and Common Council of the city of Santa Barbara, of lands belonging to said city, and for which proper conveyances have been executed by the Mayor and Common Council of said city, are hereby approved, ratified, and confirmed; *provided*, however, that nothing in this act shall be so construed as to ratify, approve, or confirm, any grant, or sale of any lands, made by the Mayor and Common Council of said city, of which any person, or persons, other than the grantee, or grantees, named in the conveyance, or their successors in interest, were at the date of the grant, or sale, in peaceable possession under color of title, or otherwise; or upon which any person, or persons, other than the grantee, or grantees, named in the conveyance, or their successors in interest, had erected any building, or buildings, or made other valuable improvements; and, *provided*, further, that nothing in this act shall be so construed as to ratify, approve, or confirm, any grant made of any of the plazas, or portions of them, as such plazas are designated in the official map of the city of Santa Barbara, since the existence of such map.

**Proviso.** SEC. 3. All titles, or conveyances of lands made and issued by the proper officers, in virtue and in pursuance of any grant of lands made by the Ayuntamiento of the pueblo of Santa Barbara, or by the Mayor and Common Council of said city, as specified in this act, and in accordance with the provisions of this act, shall be valid, and invest the grantee, or grantees, and their successors in interest, with all the right, title, and interest, of the said pueblo and city of Santa Barbara, to all intents and purposes, according to the terms and conditions of such grants, or sales.

**Titles valid.** SEC. 4. A certain book of record, kept by the former Ayuntamiento of Santa Barbara, entitled "Acuerdo de Titulis," shall be deposited by the custodian thereof, in the office of the Recorder of the county of Santa Barbara, where it shall remain as a part of the records of said county; and anything contained therein, may thereafter be read as *prima facie* evidence of the acts recited therein, without further proof of its authenticity; and such book of records shall be in like manner as legally recorded conveyances, notice to all persons of the contents thereof, from the time of such deposit.

**Evidence of certain act.** SEC. 5. This act shall take effect from and after its passage.

**To take effect.**

CHAP. CCCLXVI.—*An Act to legalize the Acts of the Surveyor of the County of Siskiyou, in defining the Northern Boundary Line of said County.*

[Approved May 14, 1861.]

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

SECTION 1. The northern boundary line of the county of Siskiyou, ascertained and defined by the Surveyor of said county, acting under instructions from the Board of Supervisors of said county, is hereby declared to be, to all intents and purposes, a final settlement of the same, until otherwise fixed and defined by a joint commission representing respectively this State and the State of Oregon. Acts legalized.

CHAP. CCCLXVII.—*An Act amendatory of, and supplementary to, an Act entitled An Act concerning Marks and Brands, passed May first, eighteen hundred and fifty-one.*

[Approved May 14, 1861.]

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

SECTION 1. Section two of an act entitled An Act concerning Marks and Brands, passed May first, eighteen hundred and fifty-one, is hereby amended so as to read as follows :

Sec. 2. Every such owner shall record with the Recorder of his county, his mark, brand, and counter-brand, by delivering to said Recorder, his mark cut upon a piece of leather, and his brand and counter-brand burnt upon it ; and the same shall be kept in the Recorder's office. A certified copy thereof, made by the Recorder, with the seal of his office attached thereto, shall be deemed evidence, on the trial of any action in a court of competent jurisdiction, as to the ownership of all animals legally marked, or branded, as provided for in section four of the act hereby amended. The Recorder shall enter in a book, to be kept by him for that purpose, a copy of said marks, brands, and counter-brands ; *provided*, that such Recorder shall be satisfied that such brand, and counter-brand, tendered to him for record, is unlike any other mark, brand, or counter-brand, in the county, or, as far as his knowledge extends, is different from any other in the State. To record brands.

For recording the mark, brand, and counter-brand, the Recorder shall be entitled to demand and receive, one dollar. Fees.

SEC. 2. Section four of the aforesaid entitled act is, also, hereby amended, so as to read as follows :

Sec. 4. Every person shall mark, or brand, his horses and mules, before they are eight months old, and cattle, before they are twelve months old, on the hip, or hinder part ; and mark, or brand, his sheep, goats, and hogs, before they are six months old. On the trial of any action, as provided for in section one of this Brands evidence of ownership.

act, to recover the possession of any animal which is marked, or branded, as provided in this act and the act hereby amended, the mark, or brand, shall be deemed evidence that the animal belongs to the owner, or owners, of the mark, or brand, and that he, she, or they, were entitled to the possession of the said animal at the time of the commencement of the action.

SEC. 3. Section seven of the aforesaid act is, also, hereby amended, so as to read as follows:

SEC. 7. Any person, or persons, selling cattle which are not intended for slaughter, or any horses, mares, or mules, jacks, or jennies, shall be required to counter-brand them on the shoulders, or give a written descriptive, bill of sale; and when cattle are purchased for slaughter, any person, or persons, purchasing said cattle, shall be required to go before a Judge of the Plains where said cattle were purchased, and procure from him a certificate that the cattle were purchased for slaughter, giving the mark and brand, and also the number and class, of said cattle, and the names of the person, or persons, from whom they were purchased—who, after examining such cattle, and finding them to be of the mark, or brand, of the person, or persons, who sold the same, shall give a certificate with a copy of the bill of sale attached thereto. All persons slaughtering cattle, shall keep at the place of slaughter, a book, in which they shall enter, daily, the number and class of cattle slaughtered, the name of the person, or persons, from whom such cattle were purchased, the marks, or brands, of such cattle, and whether counter-branded, or not; and if not counter-branded, such person, or persons, slaughtering such cattle, shall enter in the book herein mentioned, a copy of the bill of sale received by him from the person, or persons, who sold him such cattle, with a certificate attached thereto. Such book shall be kept ready at all times for the inspection of any person interested who may desire to examine the same.

Regulations  
for killing,  
or selling,  
cattle.

May retain  
hides.

SEC. 4. Any person, or persons, who shall, at any time, kill, or slaughter, any cattle, either for their own use and consumption, or for sale, shall retain in their possession the hide taken off said animal, with the ears attached thereto, without any alteration of the marks on the same, or any disfiguration of the brand, for the period of eight days.

Inspection  
by Judge.

SEC. 5. Any Judge of the Plains, or owner of cattle, may, within the period of time mentioned in the fourth section of this act, demand an exhibit of the hide, or hides, of any cattle so killed, or slaughtered (as herein provided), by the person so killing the same, or by any other person, for whose use and benefit said animal was killed; and upon such demand being made, he, or they, shall produce the same for the inspection of said Judge of the Plains.

Sale of  
young stock.

SEC. 6. It shall not be lawful for any person to sell, or dispose of in any manner whatever, any unmarked colts, or calves, unless the mare, or cow, of which they are offspring, be brought before, and exhibited to, a Judge of the Plains, or two respectable citizens in the county, to determine whether such colts, or calves, are the offspring of the mares, or cows, so exhibited; and if declared by such Judge of the Plains, or any two respectable citizens, to be such offspring, a certificate shall be issued by him, or them, and delivered to the owner, or owners, thereof, setting



forth the fact, who thereupon shall be at liberty to sell and dispose of the same, and under no other circumstances whatever.

SEC. 7. All persons, owners of cattle, shall, when he, she, or they, sell any hide, or hides, of their own mark, or brand, place their counter-brand upon the same; and it shall not be lawful for any person to purchase any hide, or hides, without such counter-brand thereon, under a penalty of five dollars for each hide purchased on which such counter-brand is not placed—to be recovered on complaint being made before any Justice of the Peace in the county where such hide, or hides, were sold, besides paying all damages and costs of suit. One-half of all fines recovered under the provisions of this section, shall be paid to the Judge of the Plains, or to any person who may make the complaint, and the other half to the District Attorney of the county where the suit is brought. Penalty for selling hides without being branded.

SEC. 8. The penalty provision, contained in section twelve of the act of which this act is amendatory and supplementary, is hereby declared to apply to sections four, five, and six, of this act. Penalty to apply.

SEC. 9. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed. Acts repealed.

SEC. 10. The provisions of this act shall be applicable only to the counties of Los Angeles, San Diego, Santa Barbara, San Bernardino, and San Luis Obispo. Counties.

SEC. 11. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCLXVIII.—*An Act to amend an Act entitled An Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved April nineteenth, eighteen hundred and fifty-six.*

[Approved May 14, 1861.]

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

SECTION 1. Section eight of said act is hereby amended so as to read as follows:

SEC. 8. The Sheriff, County Clerk, County Recorder, Treasurer, District Attorney, Auditor, Tax Collector, Superintendent of Public Streets and Highways, Surveyor, Harbormaster, and Clerk of the Board of Supervisors, of said city and county, shall keep public offices which shall be kept open for the transaction of business, every day in the year, except Sundays, Christmas, New Year's, Fourth of July, Thanksgiving, the Twenty-Second of February, and on any days during which a general election shall be held, between the hours of nine o'clock, A. M. and four o'clock, P. M. Office hours.

SEC. 2. Each and every act, or part of act, prior to this, concerning the office hours of said officers of the city and county of San Francisco be, and the same are hereby, repealed, and this act shall take effect from and after its passage. Acts repealed.

CHAP. CCCLXIX.—*An Act concerning Records of Fees, and duties of certain Officers in the County of Contra Costa.*

[Approved May 14, 1861.]

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

Record of fees.

SECTION 1. From and after the passage of this act it shall be the duty of the Clerk and Recorder, and of the Sheriff, of the county of Contra Costa, to keep, in their respective offices, a book in which they shall enter, or cause to be entered, each and all fees by them, or their Deputies, received, and for what service, and from whom received; and the said officers shall, once in three months, at the regular term meeting of the Board of Supervisors of the county, make to the said Board a report, upon oath, of the aggregate amount of the fees received in their respective offices during the three months preceding.

To keep Fee Books.

SEC. 2. The books required by this act shall be respectively entitled, "The Clerk and Recorder's Fee Book," and "The Sheriff's Fee Book;" and they shall be provided and preserved as public records, and open as such to public inspection.

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CHAP. CCCLXX.—*An Act to fix the Compensation of the County Judge of San Luis Obispo 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 seventeenth, eighteen hundred and fifty-three.*

[Approved May 14, 1861.]

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

Salary.

SECTION 1. The County Judge of San Luis Obispo County shall receive for his services annually the sum of twelve hundred dollars.

Repealing clause.

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, eighteen hundred and fifty-three, is hereby repealed, so far as the provisions of said section extend to the county of San Luis Obispo.

To take effect.

SEC. 3. This act to take effect and be in force, from and after the commencement of the ensuing term of office.

CHAP. CCCLXXI.—*An Act authorizing the Administrators of the Estate of Gilbert A. Grant, deceased, to sell and convey Real Estate at private sale.*

[Approved May 14, 1861.]

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

SECTION 1. H. L. Dodge and Geo. Cadwallader, Administrators of the estate of Gilbert A. Grant, deceased, are hereby authorized to sell at private sale all the interest of said decedent in real estate, situate, lying, and being, in the city and county of Sacramento, State of California; *provided*, that no conveyance by the said Administrators, shall be valid until the sale of the property described therein shall have been approved by the Probate Court of the city and county of San Francisco.

CHAP. CCCLXXII.—*An Act to fix the Compensation of the District Attorney of the County of Sierra.*

[Approved May 14, 1861.]

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

SECTION 1. The District Attorney of the county of Sierra shall receive for his services, the sum of twelve hundred dollars per annum, in addition to the fees allowed by law.

SEC. 2. The act entitled An Act to fix the Compensation of the District Attorney of the County of Sierra, approved April twenty-first, eighteen hundred and fifty-eight, is hereby repealed, so far as the same conflicts with the provisions of this act.

SEC. 3. This act shall take effect from and after the term of office of the present incumbent expires.

CHAP. CCCLXXIII.—*An Act to pay the Claim of B. F. Hastings.*

[Approved May 14, 1861.]

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

SECTION 1. The sum of three hundred and seventy-eight dollars and twelve cents is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of paying the claim of B. F. Hastings for a balance due John O'Meara, late State Printer, for printing the "Transactions of the State Agricultural Society" for the year eighteen hundred and fifty-

nine; and the Controller of State is hereby authorized and directed to draw a warrant for the same, in favor of said B. F. Hastings.

CHAP. CCCLXXIV.—*An Act concerning Roads and Highways in certain Counties in this State.*

[Approved May 14, 1861.]

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

Road districts.

SECTION 1. The Boards of Supervisors of the counties of Sonoma and Marin shall, if the same shall not have been previously done, at their next regular meeting after the passage of this act, divide the several townships of their respective counties into a suitable number of road districts, and they may at any regular meeting thereafter change, or alter, the same, or create new districts, as the public convenience may require. They shall cause each district to be numbered, and a description of the boundaries thereof, with the number to be entered in their minutes.

Roadmasters

SEC. 2. The Boards of Supervisors shall, as soon as they shall have divided their counties into road districts, appoint some suitable person, a legal voter in each district, Roadmaster, who shall hold his office until the next general election, and until his successor shall be elected and qualified. There shall be elected, at each general election thereafter, by the qualified voters of each road district, a Roadmaster for each district, who shall hold his office for one year, and until his successor shall be elected and qualified.

Bonds of Roadmasters

SEC. 3. Each person elected, or appointed, Roadmaster shall, before entering upon the discharge of the duties of his office, take the proper oath of office, and give bond in such sum, and with such surety, or sureties, as the Board of Supervisors, by entry in their minutes, shall prescribe, which bond shall be made payable to the proper county, conditioned for the faithful discharge of the duties of his office. The said Roadmaster and his sureties shall be liable, jointly and severally, for the forfeiture of any of the conditions thereof, in the same manner and to the same extent as in cases of the bonds of the other public officers, and it is hereby made the duty of the District Attorney of the proper county, on request of the Board of Supervisors, to commence and prosecute all actions and proceedings necessary to carry out the provisions of this act.

Duty of.

SEC. 4. It shall be the duty of the Roadmaster of each road district to open and keep in repair all public roads and highways in his district; to call upon and require of each person in his district to perform the labor prescribed by this act upon the public highway, and lay out and expend in opening and repairing roads, and repairing bridges in his district, all moneys which shall come into his hands under the direction of the Board of Supervisors.

SEC. 5. Each able-bodied male person (Indians excepted)

over twenty-one and under fifty years of age shall each and every year perform two days' labor of ten hours on the public roads and highways within the district in which he shall reside, under the direction of the Roadmaster of such district, as provided in this act. The Roadmaster of each road district shall, between the first day of October and the first day of June after his election notify each person in his district, who is by this act required to perform labor on the public highways, to appear at a time and place within said district, prepared with such tools, or implements, as the Roadmaster shall direct, for the purpose of performing such labor; and if any person, after receiving three days' notice, verbally, or in writing, by the Roadmaster, except in case of sickness, shall refuse, or neglect, to attend, or, having attended, shall refuse to labor, or shall disobey any reasonable order of the Roadmaster, every such person shall forfeit and pay for the use of roads in his district the sum of three dollars per day for each day he shall refuse, or neglect, to labor, and an additional sum of one dollar for every disobedience of any reasonable order of the Roadmaster, while performing such labor.

Labor on roads.

Penalties.

SEC. 6. If the labor required by this act shall not be sufficient in any year to open and keep the roads in any district in proper repair, the Roadmaster may demand of, and require, each person, liable by this act to perform labor, one additional day's labor, for the purpose of opening, or repairing, the public highway in his district, for which additional labor he shall give to the person performing the same a receipt for such additional labor, which shall be a discharge to such person for so much labor, to be deducted from the labor required of such person for the succeeding year.

Additional labor.

SEC. 7. The Roadmaster of each district shall, within twenty days after he shall have entered upon his duties, make out a list of the names of persons residing in his district, in alphabetical order, who are required by this act to perform labor on the public highway, and file the same in the office of the Clerk of the Board of Supervisors of the proper county.

Alphabetical list.

SEC. 8. For any violation of the provisions of section five of this act, the Roadmaster may, and he is hereby permitted to commence an action, before any Justice of the Peace of his township, in his own name, for the recovery of any, or all, of the penalties mentioned in said section; and in the trial of all such actions the Roadmaster shall be a competent witness for either party, and he shall apply all money recovered by him under the provisions of said section, in repairing the public roads and highways in his district.

Recovery of penalties.

SEC. 9. The Board of Supervisors of each of the counties named in the first section of this act, shall, at the same time they levy a tax for county purposes, levy an additional tax of not less than five cents, nor more than twenty cents, on each one hundred dollars of the valuation of all property subject to taxation in their county for road purposes, which said tax shall be levied and collected, and shall be paid into the county treasury, in the same manner as other taxes, and shall constitute the Road Fund of the county, and shall be applied by the Roadmasters of the several districts in repairing roads, and building and repairing bridges therein, under the direction of the Board of Super-

Road tax.

visors, in such sums and for such repairs to the public roads and highways as they may direct.

Annual settlements.

SEC. 10. The Roadmasters of the several road districts shall faithfully apply all moneys which shall come into their hands in opening and repairing roads and bridges within their proper districts, and on the first Monday of November of each year, they shall account to, and settle with, the Boards of Supervisors of the proper county, for all moneys received by them under the provisions of this act for the last year, how, and for what purpose, the same has been expended, and the vouchers therefor.

Road Fund.

SEC. 11. The Board of Supervisors of each of the counties named in the first section of this act, may set apart and appropriate the whole, or so much of the Road Fund provided for by this act, as they shall deem proper, for the purpose of building, or repairing, bridges, or for the payment of damages sustained by any person in the location of public roads in their respective counties.

Pay of Roadmasters

SEC. 12. The Roadmasters, for all services required of them by this act, shall be entitled to receive the sum of three dollars for each day necessarily employed by them in the discharge of their duties, to be paid out of the Road Fund, on the order of the proper County Auditor. They shall keep an account of the time they shall have been employed, and shall render the same on their annual settlement with the Board of Supervisors, on oath, and if the same shall be found correct the amount shall be audited as in other cases.

Repealing clause.

SEC. 13. An act to amend an act entitled An Act concerning Roads and Highways in the Counties of Humboldt, Napa, and Siskiyou, approved February twenty-second, eighteen hundred and sixty, and to extend the same to the County of Sonoma, approved April twenty-fourth, eighteen hundred and sixty, is hereby repealed, so far as said acts, or either of them, apply to the counties of Sonoma and Marin; and all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

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CHAP. CCCLXXV.—*An Act concerning Telegraphic Messages, and to secure secrecy and fidelity in the transmission thereof.*

[Approved May 14, 1861.]

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

Penalties.

SECTION 1. If any Officer, Agent, Operator, or Clerk, of any telegraph company, or any other person, shall willfully divulge to any other person than the party to whom the same is addressed, any message received, or sent, over any telegraph line, or the contents, substance, purport, effect, or meaning, of such message, or shall willfully change any such message, by adding to, or omitting from, the same, any word, or words, so as to materially alter the sense, or meaning, of such message, to the injury of the person sending, or receiving, the same, such Officer,

Agent, Operator, Clerk, or person, shall be deemed guilty of a misdemeanor, and shall be punished by fine not to exceed five hundred dollars, or imprisonment, not to exceed six months, or both such fine and imprisonment, in the discretion of the court.

SEC. 2. If any Agent, or Operator, in any telegraph office, shall knowingly send by telegraph any false, or forged, message, purporting to be from such officer, or any other person, or if any other person, or persons, shall furnish, or conspire to furnish, to such Agent, or Operator, to be so sent, any such message, knowing the same to be false, or forged, with the intent to deceive and injure, or defraud, any individual, or corporation, or the public, such Agent, Operator, or person, shall be deemed guilty of a misdemeanor, and shall be punished as provided in the preceding section. Same.

SEC. 3. Contracts made by telegraph, between two, or more, persons, shall be deemed contracts in writing; *provided*, they contain a statement of the consideration thereof. Contracts by telegraph.

SEC. 4. Whenever any person, or persons, shall have been charged with any public offense amounting to felony, and a warrant shall have been issued for the arrest of such person, or persons, the Magistrate issuing such warrant, or any Supreme, District, or County, Judge, in this State, may indorse upon said warrant of arrest an order signed by him, and authorizing the service of said warrant by telegraph, and thereupon such warrant of arrest and order may be sent by telegraph to any Sheriff, Constable, Marshal, or Policeman, in this State, and upon the receipt of the telegraphic copy thereof, by any such officer, he shall have the same authority to arrest, take into custody, and detain, the said accused person, or persons, as if the said original warrant of arrest had been placed in his hands; and the said accused person, or persons, shall be subject to the same restraint, and entitled to the same rights, and shall be treated in all respects in the same manner, as if he, or they, had been arrested under the said original warrant; *provided*, that no Magistrate shall make such order, unless an affidavit shall first have been made accusing the said person, or persons, of the offense mentioned, nor shall any such order be made by any of the officers above named, unless in the opinion of such officer there is probable cause to believe the said accused person, or persons, guilty of the offense charged; and, *provided*, further, that the original warrant of arrest and order, or a copy thereof, certified by the officer making such order, shall be preserved in the telegraph office from which the same is sent. Arrest.

SEC. 5. Any writ issued out of any court in this State, in any civil suit, may be transmitted by telegraph, for service in any county in this State, and such writ, so transmitted, may be served by the officer, or person, to whom the same may have been so sent for that purpose, and returned by him in the same manner, and with the same force and effect, in all respects whatsoever, and subject to the same liabilities as the original of said writ might be, if delivered to such person, or officer; *provided*, that the more effectually to guard against fraud, or mistake, the said original writ shall also be returned to, and filed in, the Court from which the same shall have been issued, and a certified copy Writ.

thereof shall be preserved in the office of the telegraph company from which the same shall have been sent.

Order of  
dispatches

SEC. 6 It shall be the duty of the owner, or the association, owning any telegraph line doing business within this State, to transmit all dispatches in the order in which they are received, under the penalty of one hundred dollars, to be recovered with costs of suit, by the person, or persons, whose dispatch is postponed out of its order; *provided*, that communications to and from Government and State officers, on official business, shall be entitled to priority over all other communications.

Section  
repealed

SEC. 7. Section one hundred and fifty-five of An Act concerning Corporations, passed April twenty-second, eighteen hundred and fifty, is hereby repealed.

CHAP. CCCLXXVI.—*An Act granting to certain parties the right to lay a Railroad Track through certain Streets in the City of Sacramento.*

[Approved May 14, 1861]

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

Franchise  
granted.

SECTION 1. It shall be lawful for Henry M Stow, H H Hartley, Mike Gray, J. H. Gass, R H. Daly, J. D. Howard, and those whom they may associate with, them, or their assigns, to construct a single, or double, track railroad with necessary switches, commencing at the intersection of I Street and Front Street, in the city of Sacramento; thence along I Street to Thirty-First Street; also, a branch single, or double, railroad track, commencing at the intersection of I and Twentieth streets; thence along Twentieth Street to the center of F Street; also, a branch single track along Sixth Street, from I to M streets; also, a single, or double, track, commencing at the intersection of I and Seventh streets; thence along Seventh Street to the intersection of F Street; thence along F Street to Twentieth Street; thence along Twentieth Street to B Street; thence along B Street to Thirty-First Street; thence along Thirty-first Street to the intersection of R Street; *provided*, that before said parties shall commence the construction of any railroad on any such street in the city of Sacramento, they shall obtain the written consent of the majority of the owners of real property, according to the assessed value thereof, along and adjoining the street, on any proposed line, and file the same with the Secretary of the Board of Supervisors of the city and county of Sacramento whereupon the President of said Board of Supervisors shall grant a written permit to the parties mentioned in this act, or their assigns, and have the same entered on the books of said Board.

Line of  
railroad.

SEC 2 The parties designated in the first section of this act shall grade, entirely at their own expense, and keep in repair, the line on which said road, or roads, shall be constructed. Said road, if a single track, shall be placed in the center of the streets; if a double track, it shall be placed as near as practica.



ble in the center of the streets, and, in no case, shall it occupy a space of more than twenty feet from outside rail to outside rail; and the grading of said road shall conform to the grade of the streets over which it runs, as the same has been, or may be, established by the Board of Supervisors of the city and county of Sacramento; and said parties shall make, and at all times keep in repair, good and suitable crossings for wagons, carriages, and other vehicles, on all streets over which said road shall pass.

General conditions.

SEC. 3. The said parties shall complete the construction of all roads proposed to be built by them, in pursuance of the provisions of this act, within four years from and after the passage of this act; and after the expiration of four years from and after the passage of this act, said parties shall not have the right to construct any road, or any part of any road, by virtue of the rights hereby granted to them.

Limit of construction.

SEC. 4. No car, propelled by steam, shall ever be run upon any road constructed in pursuance of the provisions of this act, nor shall any car be run upon any portion of said road at a rate of speed greater than eight miles per hour; and the Board of Supervisors of the city and county of Sacramento shall, from time to time, prescribe by ordinance such penalties for the violation of this act as they may deem proper.

Motive power.

SEC. 5. Said parties shall have running, from sunrise until nine o'clock, P M each day, (Sundays excepted,) sufficient and comfortable cars for passengers; *provided*, that no freight shall, at any time, be carried over, or upon, any portion of said roads, except materials intended to be used for filling in the streets.

Hours of running.

SEC. 6. The parties named in the first section of this act, their assigns and successors in interest, shall, after they have commenced running cars for the transportation of passengers on any part of said road, or roads, make quarterly reports to the Board of Supervisors of the city and county of Sacramento, of the gross receipts of said road, which reports shall each be verified by the oath, or affirmation, of the President, or other Managing Agent, of said company, or road, and, also, of the Treasurer of said city and county, for the use of the Common Schools of said city, three per cent of the gross receipts of said road, or roads, for that quarter; and the Board of Supervisors of the city and county of Sacramento shall have the right, from time to time, to regulate, at pleasure, the rate of tolls, freight, fare, or other profits, of said road, or roads; *provided*, that the rate of fare shall not, at any time exceed ten cents for each passenger for any distance on said road.

To report quarterly.

Per centage

SEC. 7. The said road and all property belonging to, or leased by, the said parties mentioned in the first section of this act, and connected with, or used upon, such roads, shall be liable to taxation as other property.

Taxable property.

SEC. 8. Any person, persons, or company, having, or obtaining, the right to lay down any track, or tracks, along any street, or streets, that may cross any track laid down in pursuance of the provisions of this act, shall have the right to cross said track, or tracks, at right angles, such crossings shall be made at the expense of the persons, or company, desiring to cross the track, or tracks, provided for in this act, in a substantial and workmanlike

Crossing railroad track.

manner, without obstruction to, or altering, the grade of such track, and without causing any injury to the same.

Term of franchise.

SEC. 9. The franchise granted by this act, shall continue for a period of twenty years.

Rights not exclusive.

SEC. 10 Nothing in this act shall be so construed as to give to the parties first mentioned, any exclusive privilege to construct railroads on any street, or streets, in the city of Sacramento; but it is hereby declared, that the Legislature may at pleasure grant to any person, or persons, the right to construct railroads on any of the streets in said city, anything in this act to the contrary notwithstanding.

To take effect.

SEC. 11. This act shall be in force from and after its passage.

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CHAP. CCCLXXVII.—*An Act to amend an Act entitled An Act to Incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four.*

[Approved May 15, 1861.]

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

SECTION 1. Section four of an act entitled An Act to Incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, is amended so as to read as follows :

Meetings of council.

SEC. 4. The Common Council shall meet on the first Monday after their election, and at such other times as they may by ordinance appoint; a majority of the council shall constitute a quorum for the transaction of business. They shall determine the rules of their proceedings, and judge of the qualifications and elections of all officers elected under the provisions of this act; their sittings shall be public; a journal of their proceedings shall be kept by the Clerk, under their direction, and the ayes and noes on any question shall be taken and entered on the journal, at the request of any member; they shall prescribe by ordinance the duties of all officers whose duties are not defined in this act, and shall have the power to elect such other officers as they may deem necessary in the government of the city, and they shall have the power to determine the compensation to be attached thereto; they shall have the power to raise, by a tax not exceeding one and a half per cent. on the assessed value of the real and personal property in the city, money for the establishment and support of free common schools, and to provide suitable buildings therefor, and for defraying the ordinary expenses of the city; *provided*, that in each of the years, eighteen hundred and sixty-one and eighteen hundred and sixty-two they may levy and collect an additional tax of not to exceed one per cent. for the purpose of paving, planking, graveling, or macadamizing, Broadway, and of constructing suitable buildings for free common schools for said city. They shall also have power to pass all proper and necessary ordinances for the regulation, improvement, and sale, of city property; *provided*, that an amount, not

Powers of.

Tax.

exceeding ten per cent. of the proceeds of the sales of the said property, made by virtue of this act, shall be set apart and appropriated, from time to time, by said Common Council, for the construction, or endowment, of a college, or university, within the limits of said city; they shall have power to open, alter, extend, establish, grade, pave, or otherwise improve and regulate, streets, alleys, and lanes; to construct and keep in repair bridges, fences, public places, ferries, wharfs, docks, piers, slips, sewers, and wells, and to make the assessments therefor; to regulate and collect tolls, wharfage, dockage, and cranage, upon all water crafts, and all goods landed; to make regulations for securing the health, cleanliness, ornament, peace, and good order, of the city; for preventing and extinguishing fires, and regulating firemen, policemen, and such other officers as may be necessary to appoint for the care and regulation of persons and markets; for licensing, taxing, and regulating, all such vehicles, business, and employments, as the public good may require, and as may not be prohibited by ordinance; to regulate and suppress all occupations, houses, places, amusements, and exhibitions, which are against good morals, or contrary to public order and decency; for regulating the location of slaughter-houses, markets, stables, and houses for the storage of gunpowder and other combustible materials; and to pass all such other ordinances, and provide suitable buildings for the management, good government, and general welfare, of said city, as may not be inconsistent with this charter, or with the Constitution, or laws, of this State, or the United States. They shall also have power to pass such ordinance, or ordinances, as may be necessary to prevent animals from running at large within the limits of the city; to establish a pound, and appoint a Pound-Keeper, and prescribe his duties, and to provide for the public sale by the Pound-Keeper of such animals as may be impounded, in the same way and upon like notice, that personal property is sold by execution under the laws of the State, and to apply the proceeds of the sales of said animals, after deducting the expenses, to the support of common schools in said city; *provided*, said Common Council shall allow, by ordinance, the owner, or owners, of such property so impounded to reclaim the same at any time before sale upon payment of costs and charges of taking up and impounding, and, within thirty days after the sale, shall allow him, or them, upon proof of the ownership of the property sold, and payment of the costs and expenses of impounding and selling, the purchase money arising from such sale, or sales. They shall also have power to affix penalties to the violation of any ordinances, such penalties not to exceed imprisonment of ten days, and a fine of five hundred dollars; they shall provide for vacancies in the office of Mayor, Councilmen, or any other office, and to determine the compensation to be paid to the Assessor, Treasurer, and Clerk, Marshal, and all other officers, to whom the receipt, or expenditure, of the moneys, or funds, of the city shall be intrusted; *provided*, that the members of the Common Council shall receive no compensation for their services. The Common Council shall have no power to borrow money, unless they shall by ordinance, direct the same in anticipation of the revenue for the current year, and shall provide in

College.

License.

General powers.

Pound-Keeper.

Penalties for violation of ordinances

Limit of loans

said ordinance for repaying the same out of such revenue—nor in such case shall they borrow a sum to exceed ten thousand dollars; they shall have power to provide for all city elections, to designate the place, or places, of holding the same, giving at least ten days' notice thereof; to appoint Inspectors and Judges of Election, examine the returns, and declare the result, and to determine contested elections. The Board shall elect a member from their own body to preside at their meeting, and to discharge the duties of Mayor whenever there shall be a vacancy in the office of Mayor, or the Mayor shall be absent from the city, or be unable from sickness, or other cause, to attend to the duties of his office; they shall have power, whenever they deem it proper to exercise the same, to establish and fix, by ordinance, a salary for the office of Mayor, in addition to the fees received by him as Justice of the Peace, but such ordinance shall not take effect unless ratified by a vote of the citizens of said city at the next succeeding general election. Every ordinance passed by the Common Council shall be presented to the Mayor for his approval; if he approve, he shall sign it; if not, he shall return it within five days thereafter; or, if the Common Council be not then in session, at its next stated meeting, when said Common Council shall reconsider said ordinance, and if approved by two-thirds of all the members elected to such Board, it shall take effect and stand as an ordinance of the city.

Vacancy  
in office  
of Mayor.

Ordinances.

SEC. 2. Section two of an act entitled An Act to incorporate the City of Oakland, passed March twenty-fifth, eighteen hundred and fifty-four, is hereby amended so as to read as follows:

Boundaries.

Sec. 2. The boundaries of said city shall be the same as the boundaries of the late town of Oakland, which are more particularly defined and described as follows, to-wit: Northerly by a straight line drawn at right angles with Broadway, formerly Main Street, in said city, crossing the extended line of Broadway at a point three hundred and sixty rods northerly from where formerly stood the "Oakland House," on the northwest corner of Broadway and First Street, and running from the bay of San Francisco on the west to the easterly, or southeasterly, line of that branch of the San Antonio Slough, or Estuary, over which crosses the bridge from Oakland to Clinton; thence along the eastern and southern high tide line of said slough and of the estuary of San Antonio, following all the meanderings thereof to the mouth of said estuary, in the bay of San Francisco; thence southwesterly to ship channel; thence northerly along the line of ship channel, to a point where the same intersects the said northern boundary line extended westwardly; *provided*, that nothing in this section contained shall be so construed as to prohibit, or abridge, the right of the Trustees of the towns of Clinton and San Antonio, whenever the citizens thereof may elect to become a body corporate, under the provisions of an act for the incorporation of towns, or under the provisions of any act which may hereafter be passed, to provide for the construction of wharfs and other improvements, for the accommodation and convenience of the trade, travel, and commerce, of the said towns, or villages, at their respective sites.

Proviso.

SEC. 3. Section twelve of the said entitled act is hereby so amended as to read as follows:

Sec. 12. The corporation created by this act shall succeed to all the legal and equitable rights, claims, and privileges, and be subject to all the legal, or equitable, liabilities and obligations of the town of Oakland; and the ordinances of the Board of Trustees of said town are hereby ratified and confirmed, and the Common Council shall have power to maintain suits in the proper courts to recover any right, or interest, or property, which may have accrued to the town of Oakland.

Rights and privileges.

SEC. 4. This act shall take effect from and after its passage.

To take effect.

CHAP. CCCLXXVIII.—*An Act to authorize the Controller of State to make settlement of certain Fees with the Treasurer of San Bernardino County.*

[Approved May 16, 1861.]

*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 allow, in his next settlement with the County Treasurer of the county of San Bernardino, the amount of the State's apportionment of the fees of the Auditor and Assessor of said county, which has been paid into the State treasury by said county since the year eighteen hundred and fifty-four; *provided*, that the Board of Supervisors of said county shall furnish the Controller of State an abstract which shall be certified to by the County Auditor and Treasurer, showing, separately, the amount of State, county, and other, taxes collected since the year eighteen hundred and fifty-four, also showing the amount of fees paid to the Auditor and Assessor by said county since said year, and the State's *pro rata* of said fees now due the county of San Bernardino by the State.

Controller to allow certain fees.

CHAP. CCCLXXIX.—*An Act to grant the right to construct a Bridge across Big River, in Mendocino County, to certain parties therein named.*

[Approved May 16, 1861.]

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

SECTION 1. Spencer W. Hill, Isaac P. Smith, and P. S. Palmstream, together with such associates as they may admit, shall take, have, possess, and enjoy, all the rights of way, franchises, and immunities, hereinafter mentioned, upon condition that they and their associates shall incorporate themselves under the general laws of the State regulating corporations, and providing for the incorporating of bridge companies, and shall adopt the name of "Big River Bridge Company," and shall

Franchise granted.

abide by, and fulfill, the further conditions hereinafter mentioned.

Powers of  
company.

SEC. 2. Said company, when incorporated as aforesaid, shall have full power to build, erect, construct, and maintain, a public toll-bridge across the Big River, near its mouth, and have and enjoy all rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for that purpose, which is hereby granted and ceded to said company for the term of fifteen years; *provided*, within one year from the date of the passage of this act, the said company shall commence the construction of said bridge, and shall within two years thereafter build and fully complete the same; otherwise, the right to construct the same shall be forfeited, and this act become null and void. Said company shall, at all times after its completion, keep said bridge in good order and condition, and shall be responsible for any and all damage arising to persons, or property, crossing said bridge, caused by neglecting to keep said bridge in proper repair and condition. After the expiration of ten years from the completion of said bridge, the county of Mendocino shall have the right to purchase said bridge, together with the franchise and right of way, at an Appraiser's value, to be determined by three Appraisers, one to be selected by the bridge company, one by the Board of Supervisors of the county of Mendocino, and one to be selected by the two Appraisers hereinbefore provided for; and such value shall be estimated to be the value of the bridge, not including the franchise or right of way; and, *provided*, further, that if the said bridge be purchased by the county of Mendocino, then the right to levy and collect tolls shall cease.

Manner of  
construction

SEC. 3. The said bridge shall be constructed in a good and substantial manner, and of the most durable material. Whenever the public convenience shall demand it, the said company shall construct a draw, or opening, in said bridge, of sufficient dimensions to admit the passage of the largest sized vessels plying in, or upon, the said Big River, and shall then keep the draw, or opening, in good working condition, so that the free navigation of said river shall not be interfered with thereby, or by reason thereof; and said company shall keep said draw open at any and all times required for the purpose of navigation of the river, and any damage that shall accrue by reason of inattention to the duties as prescribed, shall be at the cost of said bridge owners, to be recovered by an action in any court of competent jurisdiction.

Draw.

Tolls.

SEC. 4. The said bridge company, upon the erection and completion of said bridge, shall be authorized and empowered to charge and collect such rates of toll as the Board of Supervisors of Mendocino County may fix annually; *provided*, that the Legislature may, at all times, modify, or change, the rates so fixed by the Board of Supervisors.

Speed of  
travel.

SEC. 5. Said company may regulate the speed of travel, riding, or driving, upon said bridge.

Bulletin  
board.

SEC. 6. Said company shall keep in some conspicuous place, on each end of the bridge, a bulletin board, which shall contain the scale of prices, and rate of speed allowed on said bridge.

SEC. 7. Any person riding or driving over said bridge faster

than the speed allowed by said bridge company, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any Justice of the Peace, shall be fined in any sum not less than one dollar, nor more than ten dollars, and costs of prosecution. Penalty for fast driving.

CHAP. CCCLXXX.—*To provide for the establishment, maintenance, and protection, of Public and Private Roads.*

[Approved May 16, 1861.]

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

SECTION 1. Any person, or persons, proposing to apply for the location, alteration, or vacation, of any road, or highway, shall give notice of such intention by posting three notices thereof in public places in each road district affected thereby and in the vicinity of the road proposed to be established, altered, or vacated, and one such notice on the door of the room in which the Board of Supervisors of the county hold their meetings, at least thirty days previous to the time of making such application, which application shall only be made at a regular meeting of the Board of Supervisors; and in such notice shall set forth, specifically, the place of beginning, the intermediate points, if any, a general description of the proposed route, the termination of said road, or the particular portion of said road proposed to be altered, or vacated, and the time at which the application will be made. To give notice.

SEC. 2. Upon the day specified in any notice of the character described in the previous section, the person, or persons, giving such notice shall complete the proposed application by petition to the Board of Supervisors, which petition shall be signed by at least five citizens of the county residing in the vicinity of such road, and set forth the same matter contained in said notice, and shall ask for the appointment of Viewers to view said proposed location, alteration, or vacation, and the final confirmation and establishment thereof; and the joining of any person in such petition shall be considered as a waiver of all right to damages arising from the location of such road through any lands owned, or claimed, by such petitioner, and the dedication of them to the public use as a highway. Proof shall also be made to the Board of Supervisors, upon the affidavit of some competent person, of the posting of the notices required in the first section of this act, and also that all persons owning, or claiming, land on the proposed route have been notified of said proposed application, at least ten days previous to the day specified in the notice; *provided*, that where the owner, or claimant, is a minor, idiot, or insane person, notifying the legal Guardian of such minor, idiot, or insane person, shall be sufficient, and shall be set forth in the affidavit. If the owner of any land over which any road is proposed to be located does not reside thereon, or is not personally notified, the person notifying shall cause such no- Viewers to be appointed.

tice to be served, by publication once a week, for at least four consecutive weeks, in a newspaper published in the county; and if no newspaper be published in the county, then such service shall be by publication in some newspaper having general circulation in the county, to be designated by the Clerk of the Board of Supervisors, by a written order to that effect, and such order, together with a copy of the publication verified by the oath of the publisher, shall be filed with the petition in proof of notice.

**To give bond** SEC. 3. Upon the filing of the petition specified in the foregoing section, the petitioners, or some of them, shall enter into a bond, with sufficient sureties, in such sum as the Board of Supervisors may determine, conditioned that the persons making such application will pay into the county treasury the amount of all costs, or expenses, accruing on, or in consequence of, such application; in case the prayer of the petitioners shall not be granted, and the location, alteration, or vacation, finally confirmed, or established, and should such applicants fail to pay such costs, or expenditures, into the treasury, according to the tenor of such bond, within three months after such liability shall have accrued, then the Board of Supervisors shall cause said bond to be delivered to the District Attorney of the county, whose duty it shall be to proceed forthwith to collect all sums due by the makers of the bond, according to law.

**Manner of applying for damages.**

SEC. 4. Any person, or persons, owning, or claiming, lands through, or upon, which it is proposed to locate and establish a public highway, and desiring to apply for damages in consequence of such location, shall make application by petition, in writing, to the Board of Supervisors, on the day on which the application for such location shall be made according to notice, wherein they shall set forth the particular road referred to, the amount and character of the land affected thereby, and any other circumstances having relation to the subject of damages upon such land; *provided*, that the legal Guardians of minors, idiots, or insane persons, shall be authorized and required to take all the measures in the premises which may be necessary fully to protect their rights. All persons who fail to make application for damages within the time and in the manner specified in this section, shall be considered as waiving all rights to damages, and as dedicating the lands affected by the proposed location, or alteration, to the public use as a highway, and their failure so to do shall forever be a bar to any action for damages in any of the courts of this State.

**Supervisors to appoint Viewers.**

SEC. 5. Upon the filing of a sufficient bond and proof of the notice required in the first section of this act, together with the affidavits required in the second section of this act, at the time specified in said notice, the Board of Supervisors shall appoint, as Road Viewers, three disinterested citizens, one of whom shall be a practical Surveyor, and shall place in the hands of such Road Viewers, the petition of the road which they are to view, together with all applications for damages in the premises, and upon a day named by the Supervisors, or within five days thereof, after taking an oath to perform faithfully the duties devolving upon them by law, as such Road Viewers, they shall proceed to view the proposed location, alteration, or vacation, and shall decide whether such proposed location, alteration, or vacation, is



required for public convenience; and they shall take into consideration private as well as public interests. If, in the opinion of the Viewers, the prayer of the petitioners is reasonable, and the location, alteration, or vacation, necessary to the public, they shall take to their assistance, two Chainmen and a Marker, who shall be sworn by one of the Road Viewers, who are each hereby authorized to administer all oaths required by this act, and shall proceed to survey said proposed location, or alteration, and shall distinctly mark the commencement, the courses, distances, and the termination, of said route; and the Surveyor shall make a plat and field-notes of said survey, which shall be filed as a part of the report of said Road Viewers. At, or before, the first day of the regular meeting of the Board of Supervisors next succeeding that at which Road Viewers have been appointed, as provided by this act, they shall file with the Clerk of the Board of Supervisors, a report of their proceedings in the premises, in which they shall set forth—

Duties of Viewers.

*First*—Who of them were present.

*Second*—That they were sworn.

*Third*—Whether such location, alteration, or vacation, is, or is not, advisable.

*Fourth*—A plat and field-notes of the survey.

*Fifth*—The expenses of the view and survey.

*Sixth*—The amount of damages sustained, separately, by each applicant for damages.

*Seventh*—The width of the road, which shall not exceed sixty-six feet.

SEC. 6. Upon the first day of the regular meeting of the Board of Supervisors next succeeding that at which the Road Viewers were appointed, the Board of Supervisors shall proceed to consider all the matters touching the original petition for the location, alteration, or vacation, of any road, and all subsequent proceedings had thereon, in connection with the report of the Viewers on file, and such evidence as parties interested may introduce touching the same; and if, in their opinion, the public good and convenience require that the proposed location, alteration, or vacation, should be established, they shall confirm the report thereon, in whole, or in part, as they may deem advisable, and establish said location, or alteration, or as much thereof as they may deem advisable, as a public highway, either absolutely—in which case, the damages assessed and the costs which have accrued, shall be paid out of the Road Fund, and the Board of Supervisors shall order a warrant drawn accordingly; *provided*, the Board of Supervisors shall be authorized to pay the same out of the General Fund, by especial order made for that purpose—or they may make the establishment conditional, upon the payment by the petitioners of all, or any part, of the damages assessed, or the costs which may have accrued. If, in the opinion of the Board of Supervisors, the proposed location, alteration, or vacation, is not necessary for the public good, or is not of sufficient importance to warrant the action asked for, they may refuse to confirm the report of the Viewers, and may discontinue proceedings in the premises, and they shall then direct the District Attorney to collect the expenses which may have accrued during the progress of the proceedings had in the premises, upon the bond pro-

Further duties of Supervisors.

Same.

vided for in section three of this act. Whenever any public road is established, as contemplated in this act, it shall be recorded by the Clerk of the Board of Supervisors, in a book to be kept for that purpose, which book will be called the "Road Record" of the county. Upon the final establishment of any road and the payment, or securing, of the damages finally awarded, the Clerk of the Board of Supervisors shall, within ten days thereafter, notify the Roadmaster, or [Road]masters, of the district, or districts, within which such road is situated, of the establishment thereof, and to furnish him with a specific description of said road; and it shall be the duty of such Roadmaster, or Roadmasters, to open such road within thirty days from the reception of such notice, unless there were, at the time of locating such road, growing crops upon the ground affected by such road, in which case, it shall be the duty of said Roadmaster, or Roadmasters, to open such road within thirty days after the harvesting of such crops.

Private roads.

SEC. 7. Any person, or persons, desiring to establish a road for private convenience, and which is not intended for the benefit of the traveling public generally, may do so by consent of the parties owning land affected thereby, but such consent, together with a specific description of the proposed private road, and the conditions in reference to gates, inclosures, or other matters agreed upon, shall be filed with the Board of Supervisors, or their Clerk, and upon the filing of such consent and specific description, such road shall be recorded in the Road Record of the county, and shall become to all intents and purposes a private road for the use of parties interested; *provided*, that the parties for whose benefit such roads are established shall keep them in repair at their own expense, except that they may by special consent of the Roadmaster of the district, expend the amount of their poll tax upon such private roads, and for such services they shall receive a certificate from the Roadmaster, on the same conditions and for the same purposes as provided for labor on public roads. Whenever any person, or persons, wishing to establish a private road, and from any cause are unable to obtain the consent of the parties owning the lands affected thereby, the same measures shall be taken, and the same law shall apply thereto, as in the establishment of public roads, except that only one petitioner shall be necessary; and in the assessment of damages the Road Viewers shall contemplate the erection of good and sufficient gates, or such other means of protection as the petitioner, or petitioners, may propose to erect; and the final establishment of such private road shall be conditioned upon erection and keeping in repair of all such gates, or safeguards, provided for, and the payment of all such costs as may have accrued, or such damages as may have been assessed; and that part of this section having reference to labor on private roads and to record after final establishment, shall be applicable in this instance; and every order establishing a private road shall specify the width of such road, which shall not exceed thirty-three feet. If any person, or persons, claiming damages on the account of the location, or alteration, of any road under the provisions of this act, shall be dissatisfied with the award of the Road Viewers, and cannot agree with the Board of Supervisors as to the amount of damages sustained, and shall refuse to receive the same, such

Damages.

person, or persons, shall, within ten days from the time of final hearing, commence an action against the county, by name, for such damages, in a court of competent jurisdiction, which action shall be conducted in like manner as other actions in civil cases in the courts of justice of this State, except as hereinafter provided. The complaint shall be in writing, and the summons with a copy of the complaint, shall be served upon the Clerk of the Board of Supervisors, and said Clerk shall notify, in writing, the President of the Board of Supervisors and the District Attorney of the commencement of such action, which shall be sufficient notice to the county, and it shall be the duty of the District Attorney to appear on the part of the county and defend all actions commenced under the provisions of this act. The plaintiff, at the time of filing his complaint, shall also file a bond in the sum of three hundred dollars, with two, or more, sureties, who shall be residents, and house, or freeholders, of the county, and shall justify that they are each worth, over and above their debts, and liabilities, and property exempt from execution, double the sum specified in the bond. The conditions of the bond shall be to the effect that the plaintiff will pay all costs awarded to the county, not exceeding the amount of the bond.

SEC. 8. If the plaintiff in the action shall fail to recover a greater amount of damages than was awarded by the Road Viewers, or than that agreed to be allowed by the Board of Supervisors, all the costs in the case shall be taxed against him, and in favor of the county; and if the costs allowed to the county are not paid within thirty days from the time of the entry of the judgment, it shall be the duty of the District Attorney to proceed upon such bond to recover the same.

Plaintiff to pay costs, conditionally

SEC. 9. When the action provided for in this act is in a Justice's Court, it shall be before some Justice in the township wherein the county seat is located; and if there be no Justice in such township, excepting such as are disqualified to act in the case, then the action shall be transferred to the nearest Justice in an adjoining township, and the county shall have ten days in which to answer, from the time of the commencement of the action, and eight days from the time the copy of the complaint is served.

Where suit to be brought.

SEC. 10. No public, or private, road shall be opened, or any alteration thereof made until all claims for damages shall have been settled and determined; *provided*, that if any person over whose land such road shall pass, shall fail to present his claim for damages to the Board of Supervisors, or to file his, or her, complaint in the proper court, as prescribed in this act, within the time prescribed, said person shall be deemed to have dedicated the land over which such road shall pass to public use; and such person shall be forever barred from bringing, or maintaining, any action, or proceeding, for damages therefor, and the road shall be opened according to the provisions of this act.

Claims to be settled before road is opened.

SEC. 11. In all cases of an application, or action, for damages under the provisions of this act, the claimant shall be deemed the plaintiff, and the county, the defendant.

Parties to the action.

SEC. 12. Any person performing any service in this act, in reference to the view, location, or survey, of roads, shall receive, as compensation, the following per diem each, to-wit: Road Sur-

Compensa'n.

veyor, five dollars; Viewers, three dollars; Assistant Surveyor, two dollars, which sum shall be allowed by the Board of Supervisors, and paid by their order, either by the petitioners, or by warrants drawn on the County Road Fund.

To levy  
road tax.

SEC. 13. At the session of the Board of Supervisors, for levying State, county, and other, taxes, the said Board shall levy upon each able-bodied man, except Indians, between the age of twenty-one and fifty years, a road poll tax of two dollars, and upon all taxable property in the county, a tax for road purposes, of not more than twenty cents upon the hundred dollars, which sum shall be levied and collected, as all other taxes, except as hereinafter provided; and for the purposes of carrying out the provisions of this section, so far as the same relates to the levy of the taxes herein provided for, for the year beginning on the first Monday in March, eighteen hundred and sixty-one, the Board of Supervisors are hereby authorized and required to levy said taxes, which may be done at any time, either at a special meeting of the Board for that purpose, or at a regular meeting thereof, as the necessity of the case may require; and the Assessor, in cases where he has already made his assessment, shall place, in a separate column, opposite the name of the party so assessed, when liable to pay a road poll tax, the figure one, as required by this act; and all able-bodied men, except Indians, who have resided three months in the State and ten days in the road district, shall pay the road poll tax herein provided for; and all moneys received, or collected, for such taxes, or assessments, shall constitute the County Road Fund. The Board of Supervisors of any county, at their regular meeting in February, may make an order to the effect that no labor shall be received in payment of road tax in any of the road districts in said county, and may order that the road poll tax shall be collected by the same officers, in the same manner, and under the same provisions, as are now, or may be hereafter, provided in such counties for the collection of other poll tax, or of miners' license tax, which orders shall be entered upon the minutes of the Board of Supervisors and be published four successive weeks in some newspaper published in the county; in case no newspaper is published in the county, the Clerk of the Board of Supervisors shall notify each Roadmaster of such order, and it shall be the duty of such Roadmaster to post three notices of such order in public places within the road district. In order to enable the Board of Supervisors to levy the poll tax heretofore specified, and to provide for the collection of the same, the Assessor, or Assessors, in each county, shall prepare, in his tax list, or assessment roll, a separate column, headed, "Road Poll," in which he shall place, against the name of every person liable to pay a road poll tax, the figure one; *provided*, that the Board of Supervisors, in the county of Yolo, may, if they should deem it necessary so to do, levy a tax of thirty cents on each one hundred dollars' worth of taxable property in said county for such road purposes, and that no labor shall be received for road taxes in the county of Contra Costa.

Road  
districts  
defined.

SEC. 14. For all purposes of this law, the townships, as now established, shall be road districts within the meaning of the law, and they may be changed, created, or more distinctly de-

fined, by the Board of Supervisors, at any time when considered necessary; *provided*, that upon the application of ten citizens of the county, made in writing, to the Board of Supervisors, at any regular meeting of said Board, they may divide any township into two, or more, road districts, defining the same as clearly as possible, and numbering the districts from one upward; and at the election of Roadmaster, herein provided for, the citizens of each road district shall vote for some citizen within the district in which they reside as Roadmaster.

SEC. 15. At the general election in each year, the qualified electors in each road district shall elect some citizen of said road district as Roadmaster of said district for the term of one year from the date of his election, and it shall be the duty of the Clerk of the Board of Supervisors to notify the person so elected of his election, and he shall, thereupon, or within ten days thereafter, qualify, by taking an oath before some person authorized to administer oaths, that he will faithfully and impartially perform the duties devolved upon him by law as Roadmaster; *provided*, that the Board of Supervisors, at any regular meeting, shall fill any vacancy existing in the office of Roadmaster in the county. It shall be the duty of the Roadmaster to have the care and general supervision of the public roads within the district, to maintain them in as good repair and to erect such necessary bridges and culverts, as the means at his command will permit; and, he shall also, by direction of the Supervisors, cause suitable guide boards to be erected at the intersection of important roads. He shall oversee and direct the labor expended upon the roads, and see that teams, plows, scrapers, and other implements, are furnished for the road service. He shall, between the first day of October and the first day of June, in each year, give to each person in his road district, who is liable to pay road tax, at least three days' notice of the time and place at which such person shall appear for the purpose of working on the public roads. Such notice shall also specify what teams or utensils each person is expected to bring for the road service; *provided*, that the Roadmaster shall consult the private interests of taxpayers in reference to teams and implements, so far as he may do so without detriment to the public service; *provided*, that when any bridge, or culvert, shall be broken, or injured, so as to be impassable, or dangerous, or when any road, from any cause, shall be impassable, or when a new road is required to be opened, the Roadmaster may call out a sufficient number of persons living in the vicinity to repair, or open, such road, and for any service so done, shall issue to the party a receipt as hereinafter provided for labor on highways. Upon completion of the road service required of any person, the Roadmaster shall make out and deliver to such person a receipt for the labor done, at the rate of two dollars per day, of not less than eight hours, together with such sums as may be justly due for the use of teams and utensils; and all such receipts shall be received by the Collector of Taxes in payment of the road-tax of the person in whose name such receipt may be drawn; *provided*, that if such receipt shall exceed the amount of road tax due by such person, the Collector of Taxes shall give him a certificate, or receipt, for the overplus, which shall be received in payment of his road tax in any sub-

To elect  
Roadmaster.

Duties of.

Same.

sequent year. In order to carry out the intentions of this act the Roadmaster shall be authorized to take for the use of the road service any timber, earth, gravel, rock, or other material, growing, or being, in any uninclosed, or uncultivated, lands in the vicinity of a public road, except that he shall not cut down any tree which has been planted, or preserved, as a shade, or ornamental, tree, and upon application of the owner thereof, he shall make such allowance therefor as he may deem just, and shall give to such owner a certificate of the amount due for such property, and upon presentation of such certificate to the Board of Supervisors, they shall order a warrant to be drawn for the amount, payable out of the County Road Fund; *provided*, that such certificate from the Roadmaster, shall be received in payment of road tax, upon presentation. The Roadmaster may also, with the consent of the Board of Supervisors, make contracts for the purchase of lumber, or other material, for building bridges, or culverts, for grading roads, or any other necessary work, upon the highways within his district, but no such contract shall be made where the amount to be expended will probably exceed fifty dollars, without having at first given, at least, thirty days' notice of the proposed letting of such contract, by posting the notice thereof as required for the notices specified in the first section of this act, or publishing the same, four successive weeks, in some newspaper published in the county, which notice shall set forth the services, or the amount of material, required, when and where proposals will be received and opened, and where specifications, if any, may be received and examined; also, stating what particulars must enter with the proposals, and the character and time of the payments proposed to be made. Upon the day set forth in such notice for opening the proposals, all the proposals filed in reference to the matter of such notice, shall be opened by the Board of Supervisors, or their Clerk, in connection with the Roadmaster of the district within which the proposed improvements are located, and the proposals of the lowest responsible bidder shall be received; *provided*, that the Board of Supervisors may refuse all the proposals, if they deem such action advisable. All payments for the fulfillment of any contract for the purposes heretofore specified, shall be made by drafts drawn on the County Road Fund, by order of the Board of Supervisors. In case of the construction, or reparation, of a bridge crossing a stream which is the boundary of two counties, the Roadmasters and Supervisors of the several districts and counties connected by said bridge, shall have and exercise a joint duty and authority over the erection and reparation of said bridge, and the expense thereof shall be equally divided between said counties.

To prepare statement.

SEC. 16. On, or before, the first Monday in August, each Roadmaster shall prepare a statement of the amount of Road Fund paid in labor within his district, and by whom paid; the amount paid for utensils and materials, and to whom paid; the amount paid upon contracts, and to whom and for what paid, and the number of days' service by him actually and necessarily performed, in the discharge of his official duty; all of which particulars shall be verified by his oath, and he shall be allowed in payment of such services such per diem as the Board of Supervisors may deem just, not to exceed five dollars, excepting that

in the county of Contra Costa Roadmasters shall, as compensation for their services, be exempt from jury service, poll tax, and military duty.

SEC. 17. It shall be the duty of the Auditor, in preparing the duplicate assessment lists provided for in section twenty-one of An Act to provide Revenue for the support of the Government of this State, approved April thirtieth, eighteen hundred and sixty, to provide a separate column, in which shall be carried out the road tax of each person, including his road poll tax.

Duties of Auditor.

SEC. 18. It shall be the duty of each Tax Collector and Treasurer to keep their books in such manner as to show how much road tax has been received, how much paid out, and how much is on hand; and the Treasurer shall pay all road moneys out, upon warrants drawn upon the Road Fund, by order of the Board of Supervisors, and in no other manner. The Board of Supervisors shall cause to be printed and distributed, each year, to various Roadmasters, proper blank receipts for road tax paid in labor. All road taxes now levied, or due, under any other law, shall be collected and disposed of, under the provisions of this act.

Of Tax Collector and Treasurer.

SEC. 19. Any person, or persons, or body politic, or corporate, who shall obstruct any public highway, either by placing an obstruction therein, or by digging, or deepening, the waters of any stream, or in any other manner, shall be liable to a prosecution before any Justice of the Peace in the county, and it shall be the duty of the Roadmaster of any district, wherein such obstruction exists, to prosecute for such offense on behalf of the county; and the person so obstructing, shall, on conviction thereof, be punished by a fine of not less than ten, nor more than fifty, dollars, to be collected as other fines; and he shall further be liable, at the suit of the Roadmaster of the district, in the sum of five dollars, for each day that such obstruction is allowed to remain, after being notified to remove, or remedy, the same.

Persons obstructing.

SEC. 20. Any person, or persons, who shall willfully injure, or destroy, any bridge, or other portion of a public highway, in such manner as shall render the same dangerous, or impassable, or who shall cut down, or injure, any living tree planted, or preserved, as a shade, or ornamental, tree, either in, or upon, the borders of any public road, shall be guilty of malicious mischief, and upon conviction thereof before any Justice of the Peace, shall be punished by a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than thirty days, or by both fine and imprisonment; and it shall be the duty of the Roadmaster, in any district, to prosecute, in behalf of the county, any person so offending within his road district. All fines collected under the provisions of this act, shall be paid into the county treasury, and become part of the County Road Fund.

Same.

SEC. 21. The counties of Klamath, Sacramento, Sutter, Placer, San Joaquin, Humboldt, Sierra, Plumas, Nevada, Santa Barbara, Trinity, Mendocino, and Butte, and all incorporate cities and towns, are excepted from the provisions of this act; and the counties of Sonoma and Marin from the provisions of the thirteenth to the twentieth sections, inclusive. This act shall not apply to the city and county of San Francisco, except so much of it as provides for the location, alteration, or vacation, of any

Counties exempted.

road, or highway; and said portion of this act shall only apply to road districts which may be established in the eleventh and twelfth election districts in said city and county.

To take effect.

SEC. 22. This act shall take effect from and after its passage; and all acts, or parts of acts, in conflict with the provisions of this act are hereby repealed.

CHAP. CCCLXXXI.—*An Act concerning Roads and Highways in the County of Butte.*

[Approved May 16, 1861.]

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

Highways declared.

SECTION 1. All roads in the county of Butte 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 declared such hereafter by the Board of Supervisors of said county.

Same.

SEC. 2. Applications to lay out, alter, or discontinue, public, or private, roads, within the county, shall be made by petition addressed to the Board of Supervisors in writing, and shall state, with particularity, the starting point, the course and terminus thereof, if a new road; and, if an alteration, change, or discontinuance, of an established road, such proposed change shall be set forth in like manner. Due notice of the presentation of a petition for a new road shall be given by posting a notice at the court-house door of the county, and at a public place nearest the starting point of the proposed road, not less than ten days before the hearing of said petition by the Board of Supervisors: If the petition is for a change, or discontinuance of any road, then, by notifying, in writing, all parties who own, or occupy the land over which the proposed road will be located, and the parties being on the line of said road proposed to be changed or discontinued. If the owner of the land is a non-resident of the county, and his residence and name known, then, by placing a notice in the post-office, directed to such owner, twenty days before the application shall be acted upon by the Board of Supervisors. The notice, herein prescribed, shall be in writing, signed by some one of the petitioners, and a verified copy of the notice shall be evidence thereof. If no objections are made to the granting of the prayer of the petitioners, on its presentation and action had thereon by the Board of Supervisors, they shall appoint three Viewers to view out and locate the proposed road on the most practicable route, having a due regard to the quality of the ground and the intermediate points proposed to be changed by the petitioners; also, the rights of all parties interested therein. Said Viewers shall, as soon as practicable, or at such time as the Board may direct, report to the Board of Supervisors in writing, under oath, setting forth specifically the objections made by any parties affected by said alterations, and the amount

Viewers.

Duties of.



of damage that will be sustained by any person, by reason of laying out, or changing, said road. Upon such a report being made, the Board of Supervisors shall hear and determine all questions touching its location, and if decided against the party objecting to the location or change, he, or they, shall pay all costs. If against the petitioner; or petitioners, he, or they shall pay all costs. Parties aggrieved by the decision of the Board of Supervisors in the location, change, or alteration of the same, shall have the right of appeal to the County Court (within the time and manner provided for appeals from judgments rendered in the court of a Justice of the Peace), where the matter shall be heard anew and determined; *provided*, that, in all cases where a viewing and survey, or either, of a new, or old, road shall be required, the Board of Supervisors may require the party, or parties, asking the same, to pay or secure the payment of the costs thereof; and, in like manner, may require the payment, or security for payment, of all costs of opposing the establishing, alteration, or closing up, of any road; and, on a final determination of the matter, may order the defeated party, or parties, if an appeal be not taken to the County Court, to pay to the other party, or parties, all costs by him, or them, paid; and if such costs be not paid, on the order of said Board, the party, or parties, to whom the same are due, may sue for and recover the same in any court of competent jurisdiction. If an appeal be taken to the County Court, such costs shall be recovered by the prevailing party or parties in like manner as costs on appeal are recovered.

Parties  
aggrieved  
may appeal.

Appeal.

SEC. 3. The Board of Supervisors may, in their discretion, refuse to locate or change any road petitioned for, in pursuance of section two of this act, wherein damages may be claimed, or there is a probability that such may be awarded by the Supervisors of the county, or County Court, in the event that the prayer of the petitioners is granted, unless the petitioners shall execute a bond to the county of Butte, signed by two, or more, sureties, conditioned for the payment of damages and costs awarded by the Board of Supervisors, or the County Court, in said cases, which bond shall be approved by the Board of Supervisors. The foregoing bond need not be executed unless the Board of Supervisors shall cause to be entered on their journals of proceedings an order requiring the petitioners to execute the same. In case said bond is not required, and the Board of Supervisors shall become satisfied that the public good requires that the prayer of said petitioners should be granted, and that such damages are just and reasonable, and the party, or parties, claiming damages are willing to accept the same in full satisfaction of such damages, the Board may order such damage to be paid out of the County Road Fund, or Contingent Fund, or Township Road Fund, in which the improvement is sought to be made. The Board shall require the party, or parties, to give a receipt for the same, and to execute a deed, or an easement, for the land used for road purposes, to the Board of Supervisors, for the benefit of the county, on or before the payment of the damages awarded to them. In all cases arising under this act, in which damages are claimed, the Board of Supervisors shall pay no regard to any evidence elicited in such cases relative to damages,

Bond.

Payment  
of damages.

Evidence.

unless the same is given under oath. The Board of Supervisors shall always take into consideration the advantage the proposed road will be to the party, or parties, claiming damages.

**Private roads.** SEC. 4. Private roads may be laid out in the same manner as public roads, except the expenses of laying out the same, and the damages to be paid in consequence thereof, if any, shall be borne and paid by the parties petitioning for the same. The width of private roads shall not exceed forty feet; all private roads shall be opened and kept in repair by the parties for whose benefit the same were laid out, and said parties shall cause good and substantial gates to be erected and kept in repair, across said road, where it shall pass through any fence that may surround the inclosure through which such road may pass.

**Width.** SEC. 5. All public highways hereafter laid out, shall not be less than the width of sixty feet, nor more than eighty feet.

**Penalty for obstructing.** SEC. 6. Any person willfully obstructing any public, or private, road, by fencing across the same, or changing the same, in any manner, without first having proceeded to change the road in the manner hereinbefore set forth, or shall obstruct any public road by felling any tree across the same, or by placing any other obstruction therein, or shall injure any bridge, or causeway, or remove any portion thereof, or by damming, digging, or deepening a creek, or river, or its banks, so as to destroy a ford, or crossing, or dig a ditch, and not bridge the same the full width of the road, within twenty-four hours thereafter, by placing good and substantial timbers across the same, not exceeding six feet apart, and planking the same with plank, not less than three inches in thickness and twelve feet in length, unless permission shall have been granted by the Road Overseer of the district to build the bridge of a less size, but in no case to be less than fourteen feet in width; or shall ride, or drive, faster than a walk over any bridge on any public road, the length of which is over twenty-five feet, shall be guilty of a misdemeanor, and be liable to a prosecution before any Justice of the Peace, by any Supervisor of the county, or Overseer of the road district, on behalf of the people of the State of California; and on conviction thereof, shall be fined in any sum not exceeding two hundred dollars, and the judgment of the Justice may require that the person be imprisoned in the county jail until the fine be paid, at the rate of one day for every two dollars fine; after deducting the cost of prosecution, the balance of the fine shall be paid into the county treasury, to the credit of the County Road Fund.

**Same.** SEC. 7. The Board of Supervisors shall have the power to order any testimony introduced before them on the hearing of any petition for the granting of a franchise for ferries, bridges, toll-roads, or any public highway, to be taken in writing, and the petitioner, or petitioners, shall pay the cost of the same, at the rate of not less than ten cents, nor more than twenty-five cents, per folio; and on a final determination of the matter the Board may order the petitioner, or petitioners, to pay to the party taking down the testimony said costs, and if not paid on the order of the Board, the party to whom the same is due may sue for and recover the same in any court of competent jurisdiction.

**Testimony.** SEC. 8. Any member of the Board of Supervisors shall have power to administer an oath to any witness testifying in cases

pending before said Board ; they shall have power to make from time to time, such rules regulating the procedure of parties in cases contested before them that are not inconsistent with the Constitution and laws of this State. Oath.

SEC. 9. It shall be the duty of the Board of Supervisors to divide the several townships in said county, into one, or more, road districts. Road districts.

SEC. 10. The Board of Supervisors of Butte County shall have power to levy a road tax on all able-bodied men between the ages of twenty-one and fifty years, which tax shall not exceed the sum of four dollars per annum, payable in cash ; said tax shall be levied by the Board of Supervisors annually, in the month of November, for the succeeding year, which tax so levied, shall be due and payable on and after the first Monday of January thereafter. Road tax.

SEC. 11. The Board of Supervisors shall annually, in the month of November, appoint one responsible person in each township, as Road Tax Collector, who shall be a resident thereof, and shall give bonds in such sum as the Board may require, for the faithful performance of his duties. Said Collector shall collect the road tax levied in accordance with section ten of this act ; he shall enter upon the duties of his office on the first Monday of January of each year, and continue in office until the first day of December following, unless sooner removed by the Board of Supervisors, for good cause shown. Said Board shall have power to remove and fill vacancies, at any regular session. The Collector of each township shall, immediately after entering upon the duties of his office, proceed and collect said road tax from each and every person liable to pay such tax, living within his township ; and failing to perform in a proper manner the duties required by this act, he shall be deemed guilty of a misdemeanor, and be liable to a prosecution therefor, before any Justice of the Peace in said county, on complaint of any Supervisor of said county, and shall be subject to the fines and penalties as hereinafter provided for in this act, relating to Road Overseers, for non-performance of their respective duties, and the same disposition shall be made of the fines collected. Road Tax Collector.  
Duties of.

SEC. 12. The Board of Supervisors shall cause proper blank road tax receipts to be printed, of a uniform appearance, which shall be numbered consecutively, and signed in writing by the Chairman thereof. No other receipts for road tax than the above mentioned shall be used, for the payment of said tax by the Road Tax Collector. Tax receipts.

SEC. 13. The Chairman of the Board of Supervisors after having numbered and signed such receipts as shall be required by the Collectors for each township, shall deliver the same to the County Auditor, taking his receipt therefor. Same.

SEC. 14. The Auditor shall sign said road tax receipts, and issue to each of the Road Tax Collectors such number of said receipts as may be needed by him. The Auditor shall be furnished with a well bound book by the Supervisors of the county, in which he shall keep a just and true account of debit and credit with the Collector of each township. He shall draw all warrants on said funds, ordered by the Board of Supervisors. Same.

Duties of  
Road Tax  
Collector.

SEC. 15. It shall be the duty of the Collector of each township to keep a book in which he shall enter, or cause to be entered, the name of each person from whom he shall collect a road tax, the year, and date of the month, so collected, and, as minutely as possible, in what portion of the township each tax payer resides. He shall present a written statement under oath to the County Treasurer on, or before, the second Monday of April, August, November, and January, of each year, and pay over to the Treasurer all moneys collected, after deducting his per centage for the collection of the same, for which payment he shall take a receipt and a duplicate of the same from the Treasurer, and file the original with the County Auditor within five days thereafter. The Collector of each township shall, at his annual settlement in the month of December, deliver to the County Auditor all books, papers, and road tax receipts, in his possession belonging to said office, or at such other times as the Board may direct, taking the Auditor's receipt therefor; all such tax receipts shall be placed to his credit in the said Auditor's account.

Payment of.

SEC. 16. The Board of Supervisors shall, at the November term of each year, fix, by an order to be entered on their journal of proceedings, the amount of per centage that each Collector shall receive for the collection of the district road tax for the succeeding year, which per centage shall not be less than ten per cent. nor more than twenty per cent. upon each dollar collected.

Collection of  
road tax.

SEC. 17. Any person liable to pay a road tax levied in pursuance of section ten of this act, refusing to pay the same on demand being made by the Road Tax Collector of his district, shall be considered a delinquent, and the Collector is hereby empowered to seize upon any property belonging to said delinquent, and shall sell the same at public auction to the highest bidder for cash, or so much thereof as shall be necessary to satisfy said delinquent road tax, and three dollars additional as costs, to the Collector for services of making such sale, after having given one hour's notice, to sell the same, by a public proclamation; and in case no bidders are present, nor any bid offered for the property, at the hour of sale, he shall postpone the sale, from day to day, by proclamation, not to exceed five days; *provided*, that any party liable to pay a road tax, as provided in section ten of this act, shall be allowed to pay the road tax assessed against him in labor (at the rate of two dollars per day) on any road in his district, at such time and place as shall be designated by the Overseer of Roads for the district in which he resides, provided said labor is performed immediately upon being notified; otherwise he shall be compelled to pay his road tax in cash, and be proceeded against as provided in this act for the collection of road taxes. The Collector shall, immediately after the sale, execute to the purchaser, or purchasers, of the property a certificate of sale, as is required to be given by Sheriffs for sales of property under execution; and if the property so sold, shall sell for more than is required to satisfy the road tax and costs, the Collector shall pay the balance to the delinquent tax payer.

Proviso.

SEC. 18. The Board of Supervisors shall, at the regular session of said Board, commencing the first Monday of August, in each

year, appoint one, or more, Road Overseers, in each township in said county, each of whom so appointed shall hold said office for one year, unless sooner removed by the Board of Supervisors for cause, or by resignation, or death—who 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; they shall have power to make use of any gravel, or dirt, for improving the roads, which may be necessary, from any adjacent unimproved lands; and if damages be claimed by any person, or persons, the claimant, or claimants, shall present said claim to the Board of Supervisors, who shall ascertain, by evidence under oath from competent witnesses, the amount of damages, and if any be allowed by the Board, they shall order a warrant to be drawn for the amount, in favor of said claimant, or claimants, on the Township Road Tax Fund of the township from which it was taken.

Road Overseers.

Duties of.

SEC. 19. Any person appointed Road Overseer, before entering upon the duties of his office, shall execute a penal bond, in such an amount as the Supervisors of the county shall direct, to the people of the State of California, conditioned for the faithful discharge of his duties, as prescribed in this act; and failing to perform any of said duties in a proper manner, shall be deemed guilty of a misdemeanor, and be liable to a prosecution, before any Justice of the Peace of said county, by any Supervisor of said county, on behalf of the people of the State of California, and on conviction thereof, shall be fined in any sum not exceeding two hundred dollars; and in default of the payment thereof, he shall be imprisoned in the county jail until the fine be paid, at the rate of one day for every two dollars of the fine; after deducting costs of prosecution, the balance of the fine shall go to the County Road Fund.

Bond.

Misdemeanor.

Penalty.

SEC. 20. The Road Overseer shall receive, as compensation for his services while actually engaged in the performance of his duties as Overseer, such an amount per day as the Board of Supervisors shall fix, by order, at the August Session of said Board, in each year, not exceeding four dollars per day. He shall not retain, or appropriate, to his own use, as payment for his services as Overseer, any moneys appropriated and placed in his hands by the Board of Supervisors to be expended for road purposes, but shall present his account, in writing, to the Board for adjustment, which account shall specifically set forth, under oath, the number of days employed, the date of the month of each day so engaged. He shall, annually, on, or before, the second Monday in August, make final settlement for the term of his office, and pay over to the Treasurer of the county all moneys remaining in his hands, and at such other times as the Board may direct.

Pay of Road Overseer.

To make settlement.

SEC. 21. The Road Overseers shall not create any debt, or liability, against their road district, or township, for any purpose, unless directed by the Board of Supervisors of the county. They shall make quarterly reports to the Board of Supervisors, as follows: On the first Monday of February, May, August, and November; in which report they shall specifically set forth the amount of money expended during said quarter, for what pur-

Not to create debt.

pose and to whom paid, and the probable amount of money that will be required for repairs, etc. for the succeeding quarter, and the nature of the improvements; said reports shall each be signed, under oath, by the respective Overseers. Each and every Overseer shall take a receipt from all persons to whom they shall pay any portion of said Township, or Road District, Fund, and file the same with the Board of Supervisors.

Estimates  
for repairs.

SEC. 22. The Board of Supervisors of the county shall, at each regular session, order warrants drawn on the township Road Tax Fund to meet the current expenses of each road district, for disbursement by the Overseer during the next succeeding three months; *provided*, there be money in the hands of the County Treasurer belonging to said Road Fund.

Current  
expenses.

Road tax on  
property.

SEC. 23. The Board of Supervisors shall have power to levy a property tax, not exceeding ten cents on each one hundred dollars' worth of taxable property in said county, for road purposes, at the same time that the State and county taxes are levied by them, which tax so levied shall be assessed and collected by the Assessor and Collector, or Collectors, of taxes of the county, in the same manner as in the assessment and collection of State and county taxes; and all moneys so collected shall be paid by the Collector, or Collectors, to the County Treasurer, who shall keep the same in a fund by itself, which shall be known as the County Road Fund. The Board of Supervisors shall have power to appropriate said fund for the building of bridges, roads, or other incidental road expenses, in the county.

Separate  
township  
funds.

SEC. 24. The County Treasurer shall keep all moneys collected for road purposes in each township, in separate township funds, and shall pay the same out upon warrants, drawn by the County Auditor, by order of the Board of Supervisors.

Bonds to be  
renewed.

SEC. 25. The Board of Supervisors shall have power to require of any district, or township, Road Tax Collector and Road Overseer, whose bond shall have become insufficient from any cause, to execute a new bond within such time as they may prescribe.

To take  
effect.

SEC. 26. This act shall take effect and be in force, from and after the first day of May, eighteen hundred and sixty-one, and the Board of Supervisors shall have power, and they are hereby authorized, to appoint Township Road Tax Collectors and Road Overseers, for the fractional remainder of the year eighteen hundred and sixty-one. The said Tax Collectors and Road Overseers to hold and perform all the duties of said offices until the first annual appointment, as provided by this act; and said Tax Collectors, so appointed, shall have power, and are hereby authorized, to collect all road taxes due and remaining unpaid for the year eighteen hundred and sixty-one.

Acts  
repealed.

SEC. 27. All acts and parts of acts in conflict with this act, are hereby repealed, so far as the same relates to the county of Butte.

CHAP. CCCLXXXII.—*An Act authorizing the Board of Supervisors of the City and County of San Francisco to pay the Claims of George Hossefross, F. E. R. Whitney, and A. J. Gladding.*

[Approved May 16, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco is hereby authorized to allow and order paid out of the General Fund, the Auditor to audit, and the Treasurer to pay, George H. Hossefross the sum of twenty-six hundred and twenty-five dollars, or so much thereof as the said Board may deem equitable and just, which said amount shall be in full for all moneys paid by the said George H. Hossefross for extra services employed in the office of Superintendent of Streets and Highways during the continuation of his term of office as such Superintendent. And also to allow and order paid out of the Fire Department Fund, the Auditor to audit, and the Treasurer to pay, to F. E. R. Whitney the sum of one thousand three hundred dollars, or so much thereof as the said Board may deem equitable and just; which said amount shall be in full for all claims of said F. E. R. Whitney, for compensation of a Clerk in his office while Chief Engineer of the San Francisco Fire Department, the services of said Clerk having been rendered from March twenty-fifth to December fifteenth, eighteen hundred and fifty-seven. Also to allow and order paid out of the General Fund, the Auditor to audit, and the Treasurer to pay, to A. J. Gladding a sum not exceeding eight hundred dollars, said sum to be in full for all demands of the said Gladding against the city and county of San Francisco for services as Pound-Keeper, prior to the first day of May, eighteen hundred and sixty-one.

To audit  
and allow  
certain  
claims.

CHAP. CCCLXXXIII.—*An Act to authorize the Guardian of John H. M. Townsend, a Minor, to sell the Real Estate of said Minor.*

[Approved May 16, 1861.]

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

SECTION 1. The legally appointed Guardian of John H. M. Townsend, a minor, is hereby authorized and empowered to sell at public, or private, sale, as he shall deem most advantageous for the interests of said minor, to such person, or persons, and at such time, or times, and on such terms, as he shall deem most expedient and for the best interests of said minor, or of his estate, the real estate, or any interest in any real estate of, or belonging to, said minor, or claimed by him, or any part, or portion, thereof.

Power to  
sell.

SEC. 2. Such sale shall not be complete nor definitely valid, until the same be approved by the Probate Judge, or the Probate

Approval.

Court, of the county of Santa Clara. For that purpose said Guardian shall report such sale, or sales, made by him, to said court, or Judge, without unnecessary delay, who shall examine and pass upon the same; and if he shall find that such sale is for the best interests of said minor, or of the estate of said minor, either for his support, education, and maintenance, or for investment, or for the improvement, or enhancement, in value, or other advantage, of his estate, or any part thereof, or for other reason, then the said court, or Judge, shall approve and confirm said sale, or sales, by an order to be entered upon the minutes of the Probate Court; or upon such hearing and examination such other, or different, order may be made as to said court, or Judge, shall seem best and proper.

**Sales valid.** SEC. 3. Upon the confirmation of any such sale, or sales, by said court, or Judge, the same shall become complete and definitely valid, and said Guardian shall thereupon, and upon compliance by the purchaser, or purchasers, with the term of sale as confirmed, or decreed, by said order, execute and deliver to such purchaser, or purchasers, a conveyance, or conveyances, of the estate, or interest, sold, which conveyance, or conveyances, shall absolutely and forever convey to, and vest in, the grantee, or grantees, all the right, title, or interest, claim, or demand, of the said minor, in and to the estate described in the conveyance, or any part, or portion, thereof.

**Conveyances**

**Bond.** SEC. 4. Said Probate Court, or Judge, shall require of said Guardian a bond, with two, or more, sureties, making in the aggregate the penal sum of the bond, to be approved by him, in such sum as the court, or Judge, shall order, but not less than the amount to be received on such sale, or sales, in cash, or otherwise, conditioned for the faithful custody and disposition of the funds produced from said sale, or sales, for the benefit of said minor.

**To take effect.** SEC. 5. This act shall take effect immediately upon its passage.

CHAP. CCCLXXXIV.—*An Act to authorize the Commissioners of the Funded Debt of the City and County of San Francisco, to reissue certain Bonds of the City and County of San Francisco, to Noah C. Efford.*

[Approved May 16, 1861.]

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

**To issue duplicates.** SECTION 1. The Commissioners of the Funded Debt of the city and county of San Francisco, are hereby authorized and directed to issue to Noah C. Efford, duplicates for the following described bonds of the city and county of San Francisco, numbered respectively, eight hundred and eighty-nine and twelve hundred and two; which bonds were of the denomination of five hundred dollars, and were issued under the provisions of a statute of this State, entitled An Act to provide for the Funding and Payment of the Outstanding Unfunded Claims against the



City of San Francisco, and against the County of San Francisco, as they existed prior to the first day of July, A. D. eighteen hundred and fifty-six, approved April twentieth, eighteen hundred and fifty-eight, with coupons attached for the interest.

SEC. 2. The said duplicate bonds shall be signed by the present members of the Board of Fund Commissioners, and shall be equally obligatory with the original bonds. Signing of bonds.

SEC. 3. Before said duplicate bonds, or either of them, shall be delivered to said Noah C. Efford, the Board of Fund Commissioners shall demand and receive from him a bond of indemnity in the sum of two thousand dollars, said bond to be payable to the city and county of San Francisco, conditioned against the presentment for payment of the said original bonds. Bond of indemnity.

SEC. 4. The said bond shall be executed by at least two good sureties, to be approved by the said Board of Fund Commissioners. Sureties.

CHAP. CCCLXXXV.—*An Act to appropriate Money for the maintenance and support of District and County Agricultural and Mechanical Societies.*

[Approved May 16, 1861.]

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

SECTION 1. There is hereby appropriated, out of any money in the State treasury not otherwise appropriated, the sum of five thousand, three hundred dollars, to the Treasurer of the Northern District Agricultural and Mechanical Society, to the Treasurer of the San Joaquin Valley District Agricultural and Mechanical Society, to the Treasurer of the San Francisco Bay District Agricultural and Mechanical Society, and to the Treasurer of the Sonoma District Agricultural and Mechanical Society, the sum, respectively, of one thousand dollars to each; to the Treasurer of El Dorado County Agricultural Society, the sum of four hundred dollars; to the Treasurer[s] of Contra Costa, Siskiyou, and Plumas, County's Agricultural Societies, the sum respectively of three hundred dollars each, on requisitions on the Treasurer of this State, signed by the Presidents and Recording Secretaries of said societies respectively; which said sum shall be used only for the purpose of paying premiums, and for no other purpose. Appropriation  
To be used for premiums only.

CHAP. CCCLXXXVI.—*An Act to amend an Act concerning Jurors, passed May third, eighteen hundred and fifty-two.*

[Approved May 16, 1861.]

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

SECTION 1. Section fourteen of said act is hereby amended so as to read as follows :

Counties  
excepted.

Sec. 14. A trial jury shall be drawn for every general term of the District Court, and for every term of the Court of Sessions, held for criminal business; *provided*, however, that in the counties of Mendocino and San Mateo, no trial jury shall be drawn for any term of the Court of Sessions, unless it shall be deemed necessary by the County Judge of said county, in which case he shall make an order directing the drawing of said jury, and file the same with the Clerk of the Court of Sessions.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCCLXXXVII.—*An Act to authorize the Board of Supervisors of the County of Napa to levy a Tax for general Road Purposes, and to repeal certain Acts relative thereto.*

[Approved May 16, 1861.]

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

Road tax.

SECTION 1. The Board of Supervisors in and for the county of Napa, 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 exceeding twenty-five cents, and not less than five cents, upon each one hundred dollars' worth of taxable property in said county; and the revenue arising from said tax, authorized by the provisions of this act, shall constitute a Road Fund, and shall be used and employed by the Board of Supervisors for general road purposes in said county.

Repealing  
clause.

SEC. 2. The act entitled An Act to authorize the Board of Supervisors of Napa County to levy a Tax for special purposes, approved February first, eighteen hundred and fifty-eight, is hereby repealed; also, the act entitled An Act concerning Roads and Highways in the Counties of Humboldt, Napa, and Siskiyou, approved February twenty-second, eighteen hundred and sixty, is hereby repealed, so far as the same is applicable and refers to the county of Napa.

Same.

SEC. 3. All acts and parts of acts, which conflict with the provisions of this act, so far as the same relate to the county of Napa, are hereby repealed.

To take  
effect.

SEC. 4. This act shall take effect from and after its passage.

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CHAP. CCCLXXXVIII.—*An Act to authorize R. M. Williams to remove certain Human Remains.*

[Approved May 16, 1861.]

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

SECTION 1. R. M. Williams is hereby authorized to remove

human remains from his farm in Bucksport Township, Humboldt County, to the public burying grounds in said township. Removal authorized.

SEC. 2. This act shall be in force from and after its passage.

CHAP. CCCLXXXIX.—*An Act to amend an Act entitled An Act amendatory of an Act entitled An Act authorizing the Treasurer of State to issue Bonds for the payment of Expenses incurred in the suppression of Indian hostilities in certain Counties in this State, approved April twenty-fifth, eighteen hundred and fifty-seven, and an Act amendatory thereof, approved April seventh, eighteen hundred and fifty-nine, approved April twenty-seventh, eighteen hundred and sixty.*

[Approved May 16, 1861.]

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

SECTION 1. Section one of said act is hereby amended so as to read as follows :

Section 1. A sum not exceeding five hundred and ten thousand dollars is hereby appropriated and set apart as a War Fund, payable out of any moneys which may be appropriated by Congress to this State, to defray the expenses incurred in the suppression of Indian hostilities, as specified in this act. Appropriat'n

SEC. 2. Section two of said act is hereby amended so as to read as follows :

Sec. 2. The Treasurer, Controller, and Quartermaster-General, of this State are hereby constituted a Board of Examiners, and are authorized and required to examine and audit all accounts for claims which have not been audited and allowed by this State, or by the Government of the United States, for services rendered and supplies furnished for the expedition against the Indians in Siskiyou County, since the year eighteen hundred and fifty, and for property destroyed by the Indians in said county since that year; *provided*, the same do not exceed the sum of two hundred and fourteen thousand dollars. Also, for services rendered and supplies furnished for the expeditions against the Indians, in the counties of Humboldt, Klamath, and Del Norte, since the year eighteen hundred and fifty, and for property destroyed and losses sustained by Indian depredations in said counties since that year; *provided*, the same do not exceed the sum of one hundred and seventy thousand dollars. Also, for services rendered and supplies furnished for the expedition against the Indians in the county of Sutter, for the year A. D. eighteen hundred and fifty; *provided*, the same do not exceed the sum of five thousand dollars. Also, for services rendered and supplies furnished for the expedition against the Indians of the county of San Bernardino, from the year eighteen hundred and fifty-two to eighteen hundred and fifty-six; *provided*, the same do not exceed one thousand dollars. Also, for services rendered and supplies furnished for the expedition against the Indians in the county of Nevada, for the year A. D. Board of Examiners.  
Siskiyou.  
Humboldt, Klamath, and Del Norte.  
Sutter.  
San Bernardino.  
Nevada.

eighteen hundred and fifty-one, and for property destroyed and losses sustained by Indian depredations in said county, during said years; *provided*, the same do not exceed the sum of five thousand dollars. Also, for the expeditions, wars, and depredations, in Los Angeles County, from the year A. D. eighteen hundred and fifty to the year eighteen hundred and fifty-six; *provided*, the same do not exceed the sum of nine thousand dollars.

Los Angeles. Also, for the expedition, wars, and depredations, in Yuba County; also for the expeditions, wars, and depredations, in the counties of Butte and Plumas, since the first day of January, A. D. eighteen hundred and fifty; *provided*, the same do not exceed the sum of twenty thousand dollars. Also, for services rendered and supplies furnished in the expedition against the Indians in the county of Shasta, since the year A. D. eighteen hundred and fifty, and for property destroyed by the Indians in said county since that year; *provided*, the same do not exceed the sum of fifteen thousand dollars. Also, for services rendered and supplies and animals furnished the expedition against the Indians in the counties of Napa and Yolo, in the years eighteen hundred and fifty and eighteen hundred and fifty-one; *provided*, the same do not exceed the sum of eleven thousand dollars. Also, for services rendered prior to the year eighteen hundred and fifty-three, to be allowed at the rate of four dollars per day, and for supplies furnished in the expedition against the Indians in the county of El Dorado, since the year A. D. eighteen hundred and fifty; *provided*, the same do not exceed the sum of ten thousand dollars. Also, for services rendered and supplies furnished for the expedition against the Indians in the county of Tulare, since the year eighteen hundred and fifty-five; *provided*, the same do not exceed the sum of fourteen thousand dollars. Also, for services rendered and supplies furnished in the expedition against the Indians in the county of Trinity, since the year A. D. eighteen hundred and fifty, and for property destroyed and losses sustained by Indian depredations in said county, since that year; *provided*, the same do not exceed the sum of fifteen thousand dollars. Also, for services rendered and supplies furnished in the expeditions against the Indians in the county of Tehama, since the year A. D. eighteen hundred and fifty, and for property destroyed and losses sustained by Indian depredations in said county since that year; *provided*, the same do not exceed the sum of ten thousand dollars.

Yuba.  
Shasta.  
Napa and Yolo.  
El Dorado.  
Tulare.  
Trinity.  
Tehama.

Bonds payable.

SEC. 3. All claims which shall be audited and allowed, under the provisions of this amendatory act, and the bonds issued therefor, shall be payable out of any moneys which may be appropriated by Congress, subsequent to the passage of this amendatory act.

CHAP. CCCXC.—*An Act submitting to the qualified Electors of Tulare County the question of permitting Hogs to run at large in certain portions of said County.*

[Approved May 17, 1861.]

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

SECTION 1. The provisions of An Act concerning Hogs running at large in the Counties of Colusa, Tehama, Butte, Napa, and Sonoma, approved twenty-sixth March, eighteen hundred and fifty-seven, is hereby made applicable to all that portion of Tulare County, lying north of the dividing ridge between Tule River and Deer Creek, in said county; *provided*, the qualified voters of that portion of Tulare County, recited in this section, shall by a majority of said electors vote in favor thereof at the next general election for members of Assembly; *provided*, that the provisions of this act shall not be in force during the months of September, October, and November, of each year. Act made applicable.

SEC. 2. It shall be the duty of the Supervisors of Tulare County to submit said question at the next general election for members of Assembly to the qualified voters of the district to be affected by the provisions of this act. To submit to electors.

SEC. 3. Said election shall be conducted and governed by all the provisions of the general election law. Election.

SEC. 4. If a majority of the qualified electors voting on said question should decide affirmatively, then the provisions of said act of twenty-sixth March, eighteen hundred and fifty-seven, shall go into operation on the first day of March, eighteen hundred and sixty-two. To go into operation.

SEC. 5. This act to take effect from and after its passage.

CHAP. CCCXCI.—*An Act to authorize J. C. Cissna to build a Wharf in the Bay of San Luis Obispo and to construct a Road leading thereto.*

[Approved May 17, 1861.]

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

SECTION 1. The right to build and maintain a wharf in the bay of San Luis Obispo, at or near a point known as San Luis Point, is hereby granted to J. C. Cissna, and his associates, or assigns, for the term of twenty years from the passage of this act; said wharf shall be built at any place from said point, that said Cissna and his associates, or assigns, may select. Franchise granted.

SEC. 2. The overflowed and submerged land to the extent of three hundred feet on either side of the said wharf, to be erected between San Luis Point and San Luis Creek, is hereby granted to the said Cissna, and his associates, or assigns, for the said period of twenty years; *provided*, that the said Cissna, and his as-

Lands granted.

sociates, or assigns, shall construct a good and substantial wharf of sufficient length and breadth for all purposes of commerce and convenience of vessels in the said bay of San Luis Obispo within two years from the passage of this act.

**Conditions.** SEC. 3. The said Cissna, and associates, or assigns, are hereby authorized to construct a wagon road, not to exceed eighty feet in width, from San Luis Creek, at, or near, its mouth, to the head of said wharf. The act of May twelfth, eighteen hundred and fifty-three, authorizing the formation of corporations for the construction of plank, or turnpike, roads, and the act of April twenty-second, eighteen hundred and fifty-three, to provide for the incorporation of wagon road companies, are made applicable to this act so far as they do not conflict with the provisions of this act.

**Tolls.** SEC. 4. The said Cissna, and his associates, or assigns, shall have the right to receive and collect tolls, dockage, and wharfage, from vessels using the wharf, and for goods, wares, and merchandize, shipped, or landed, over said wharf. The Board of Supervisors of the county of San Luis Obispo shall, at all times have the right to fix the rate of toll, wharfage, and dockage; *provided*, the same shall not be placed below the rate of twenty per cent. per annum on the amount of capital invested in said wharf.

**To report to State.** SEC. 5. Upon the expiration of the twenty years aforesaid, the rights and privileges herein granted shall revert to the State of California.

**Forfeiture.** SEC. 6. If the provisions contained in section two of this act are not complied with by the said John C. Cissna, his associates, or assigns, within the time prescribed in said section, this act shall be null and void.

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CHAP. CCCXCII.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to regulate and license Intelligence Offices in said City and County.*

[Approved May 17, 1861.]

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

**Power of Supervisors.** SECTION 1. The Board of Supervisors of the city and county of San Francisco are hereby authorized to direct the Auditor of said city and county to issue licenses to so many and to such persons as they shall deem properly qualified to keep intelligence offices in the said city and county.

**License.** SEC. 2. Each license shall designate the house in which the person, or persons, licensed shall keep his, or their, office, and said license shall be paid for quarterly in advance, and shall continue and be in force during the current quarter, and no longer, unless revoked by order of the Board of Supervisors.

**Amount of license.** SEC. 3. Every person so licensed under and by virtue of the provisions of this act, shall pay to the Treasurer of said city and county the sum of fifty dollars per quarter, one-half for the use of said city and county, and the other half for State purposes.

SEC. 4. Each and every keeper of an intelligence office, licensed under the provisions of this act, shall keep his books in the English language, and on the receipt of any money from any person applying for a situation, or other intelligence, for which fees are demanded, shall furnish to the said applicant a statement in writing of the amount received, on what account received, and what the said Intelligence Office-Keeper agrees to do for, and on account of, said payment, with the date thereof, and to be signed by the said Intelligence Office-Keeper with his signature.

Manner  
of keeping  
books.

SEC. 5. Any person violating the provisions of this act, or keeping an intelligence office within the limits of said city and county, without being duly licensed, or after the same shall have been revoked by order of the Board of Supervisors of said city and county, or at any other house, or place, than is designated in such license, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than fifty dollars, nor more than five hundred dollars, or imprisonment in the county jail for not less than twenty days, nor more than three months.

Penalty.

SEC. 6. Any person who shall obtain information of employment from an Intelligence Office-Keeper, and who shall communicate the same to another person, or send another person in his, or her, stead, with intent, fraudulently, to obtain the return of the money paid for such information, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding one hundred dollars.

SEC. 7. This act shall take effect and be in force, on and after the first day of June, eighteen hundred and sixty-one.

To take  
effect.

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CHAP. CCCXCIII.—*An Act amendatory of An Act to amend An Act concerning the Office of Secretary of State, passed May fifteenth, eighteen hundred and fifty-four, passed March twenty-sixth, eighteen hundred and fifty-nine.*

[Approved May 17, 1861.]

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

SECTION 1. Section thirteen of said act is hereby amended so as to read as follows :

Sec. 13. The fees chargeable in the office of Secretary of State, shall be as follows :

List of fees.

*First*—For a copy of any law, joint resolution, transcript of record, or other document, or paper, on file in his office, forty cents per folio of one hundred words.

*Second*—For certificate and seal of State, five dollars.

*Third*—For filing each certificate of incorporation, five dollars.

*Fourth*—For recording each certificate of incorporation, forty cents per folio of one hundred words.

*Fifth*—For filing and recording each official bond, five dollars.

*Sixth*—For each commission, passport, or other document,

signed by the Governor, and attested by the Secretary of State, (pardons excepted,) five dollars.

*Seventh*—For each patent for land issued by the Governor, under any law of this State, one dollar for every one hundred and sixty acres; and one dollar for every town lot so conveyed.

*Eighth*—For searching records and archives of the State, he shall be allowed to charge a reasonable fee, according to circumstances; but no member of the Legislature, or State officer, shall be charged for any search relative to matters appertaining to the duties of their offices; nor shall they be charged any fee for a certified copy of any law, or resolution, passed by the Legislature of this State relative to their official duties. All fees collected in the office of the Secretary of State, shall be paid over by him into the Library Fund, and be appropriated to the use and benefit of the State Library.

CHAP. CCCXCIV.—*An Act relative to certain School Moneys in Solano County.*

[Approved May 17, 1861.]

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

To pay over  
certain  
moneys.

SECTION 1. The Superintendent of Public Instruction, in and for the county of Solano, is hereby authorized to pay over to the Trustees of School District Number One, of Tremont Township, in said county, the *pro rata* share of the State and county school moneys; and said Trustees are hereby required to pay the same to a school on the line between the counties of Yolo and Solano, the same as if the school-house of said school were in the district aforesaid.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCCXCV.—*An Act to authorize the Board of Supervisors of the County of Monterey to make Appropriations payable out of the Current Expense Fund of said County, for purposes therein named.*

[Approved May 17, 1861.]

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

Appropriations

SECTION 1. It shall be lawful for the Board of Supervisors of the county of Monterey to make appropriations payable out of the Current Expense Fund of said county for the construction, building, locating, and repairing, such bridges, roads, and public highways, as may be deemed necessary by said Board for the public good in said county. And the said Board of Supervisors are hereby authorized and empowered to provide for the build-



ing, construction, and repair, of such bridge, or bridges, road, or roads, and all public highways in said county as the public convenience may require, or that said Board may deem necessary for the public good; and said Board may make appropriations, to pay for the same, payable out of the Current Expense Fund of said county; *provided*, that nothing in this act shall be so construed as to authorize, or permit, the said Board of Supervisors to increase the present indebtedness of the said county of Monterey, or to create any debt therein. Proviso.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCXCVI.—*An Act to amend An Act concerning Crimes and Punishments, passed April sixteenth, eighteen hundred and fifty.*

[Approved May 11, 1861.]

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

SECTION 1. Section one hundred and twenty-one of said act is hereby amended so as to read as follows:

Sec. 121. Bigamy consists in the having of two wives, or two husbands, at one and the same time, knowing that the former husband, or wife, is still alive. If any person, or persons, within this State, being married, or who shall hereafter marry, do at any time marry any person, or persons, the former husband, or wife, being alive, the person so offending shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and be imprisoned in the State Prison not more than three years. Bigamy defined.

It shall not be necessary to prove either of the said marriages by the register, or certificate, thereof, or other record evidence, but the same may be proved by such evidence as is admissible to prove a marriage in other cases, and when such second marriage shall have taken place without this State, cohabitation in this State, after such second marriage, shall be deemed the commission of the crime of bigamy. Nothing herein contained shall extend to any person, or persons, whose husband, or wife, shall have been continually absent from such person, or persons, for the space of five years, together, prior to the said second marriage, and he, or she, not knowing such husband, or wife, to be living within that time. Also, nothing herein contained shall extend to any person that is, or shall be, at the time of such second marriage, divorced by lawful authority from the bonds of such former marriage, or to any person, where the former marriage hath been, by lawful authority, declared void. Penalty.

SEC. 2. Section one hundred and twenty-two is hereby amended so as to read as follows:

Sec. 122. If any man, or woman, being unmarried, shall knowingly marry the husband, or wife, of another, such man, or woman, shall, on conviction, be fined not less than two thousand dollars, or imprisoned in the State Prison not more than three years. Penalty.

CHAP. CCCXCVII.—*An Act supplementary to an Act entitled An Act to provide for the Collection of Delinquent Taxes in the County of San Bernardino, approved March twenty-seventh, eighteen hundred and sixty-one.*

[Approved May 17, 1861.]

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

May sue  
unknown  
owners.

SECTION 1. If the name of the owner of any property upon which the taxes remain unpaid be unknown, or if the same has been assessed to the husband, or agent, of the real owner, the person liable to pay the taxes thereon may be sued by a fictitious name, or the real name of the party liable to pay the same; and the fact that the property was not assessed in the name of the party liable to pay the same shall be no defense to an action brought for the recovery of the amount of the taxes due thereon, if the summons is served upon the party liable to pay the same; and the summons shall be served in such manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, and of the act to which this is supplementary, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his, or her, real name; or, as if the property had been assessed to the party liable to pay said taxes.

Suits.

SEC. 2. In case the District Attorney of said county shall have commenced a suit, or suits, under the act to which this is supplementary, he is hereby authorized and empowered to dismiss such action, without prejudice, and institute another action, under the provisions of this act, and the act to which this is supplementary.

To take  
effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

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CHAP. CCCXCVIII — *An Act to authorize Henry B. Platt and James Gallagher to construct a Wharf at the foot of Third Street in the City and County of San Francisco.*

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

Franchise  
granted

SECTION 1. That Henry B. Platt and James Gallagher are hereby authorized to construct a wharf at the southeast extremity of Third Street in the city and county and State aforesaid, which wharf shall commence at the intersection of King and Third streets in said city, and shall be the full width of Third Street, eighty-two feet and six inches, (82 6-12,) and may be extended five hundred and fifty feet, (550,) into the bay of San Francisco.

Tolls.

SEC. 2. The said parties shall have the exclusive right to collect tolls and wharfage on said wharf, for the period of fifteen,

(15) years from and after the passage of this act; ten (10) per centum of the gross receipts of said wharf shall be paid into the treasury of said city and county of San Francisco; *provided*, that the Board of Supervisors of said city and county of San Francisco shall have the right to regulate the rate of tolls and wharfage to be collected on said wharf. Per centage.

SEC. 3. No obstruction shall be placed in the waters of the bay of San Francisco, within two hundred feet of said wharf, on either side, beyond the line of the water front as established by law. Obstructions

SEC. 4. The said wharf shall be commenced within one year, and shall be completed within three years, from the passage of this act; and if not so commenced and completed as herein provided, then this franchise shall be forfeited; *provided*, at the expiration of fifteen years from the passage of this act, the said wharf shall revert to the city and county of San Francisco. When to be completed.

SEC. 5. The Board of Supervisors of the said city and county, or a committee thereof, shall, at all times, have free access to the books of said wharf company, and between the first and fifth of every month, from the time when they shall commence to use the said wharf, the said Henry B. Platt and James Gallagher, or their Administrators, or assigns, shall pay into the city and county treasury of the aforesaid city and county, the amount aforementioned in this act, duly verified before a Notary Public, or Justice of the Peace, as being the full amount due the said city and county, from the receipts, or proceeds, of said wharf. Books to be open for inspection.  
Account to be verified.

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This bill was returned to the Senate on the fourteenth of May, eighteen hundred and sixty-one, without the approval of the Governor, and passed by a constitutional majority of votes of the Senate, and on the sixteenth day of May was sent to the Assembly, and by a constitutional majority of votes passed that body, notwithstanding the objections of the Governor.

R. BURNELL,  
Speaker of the Assembly.  
RICHARD IRWIN,  
President *pro tem.* of the Senate.

Attest: DAVID J. WILLIAMSON,  
Assistant Secretary of the Senate.  
J. M. ANDERSON,  
Clerk of the Assembly.

CHAP. CCCXCIX.—*An Act to amend An Act amendatory of, and supplementary to, An Act to establish, support, and regulate, Common Schools, and to repeal former Acts concerning the same, approved May third, eighteen hundred and fifty-five, approved April twenty-eighth, eighteen hundred and sixty.*

[Approved May 17, 1861.]

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

SECTION 1. Section eleven of said act is hereby amended so as to read as follows:

Board of  
Examination

Sec. 11. The County Superintendent of Public Schools, of each county, and such of the qualified Teachers therein as he shall select for the occasion, *provided*, the number be not less than three; and, further, *provided*, that if, in his judgment, three qualified Teachers cannot be obtained in any county, by the said County Superintendent, then he may select any three competent citizens—who shall compose a County Board for the examination of those proposing to become Teachers. Said Board shall grant certificates of approbation and recommendation to such as they shall find, after a rigid and thorough examination, 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 the County Superintendent shall have power to revoke any such certificate, at pleasure, for reasons which shall appear good and sufficient to him, first giving reasonable notice and a hearing 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. No certificate granted by the Board of Examination of one county, shall be of any force, or effect, in any other county. If a majority of the Board shall agree, the applicant shall receive a certificate, but if the Board shall be equally divided upon the proposition, the certificate shall be refused. The Superintendent of Public Instruction shall be *ex officio* a member of each and every County Board of Examination.

SEC. 2. Section thirteen of said act is hereby amended so as to read as follows:

Text books.

Sec. 13. The State Board of Education shall recommend a series of text books for use in the public schools.

SEC. 3. This act shall not apply to the city and county of San Francisco.

CHAP. CCCC.—*An Act to authorize the construction and maintenance of a Wharf in Contra Costa County.*

[Approved May 17, 1861.]

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

Franchise  
granted.

SECTION 1. George McCoy, or his assigns, are hereby authorized to construct and maintain a wharf in Contra Costa County, at a point where the land of the said McCoy, purchased of the State of California, fronts upon the San Joaquin River; said land being that described in the certificate of purchase, number six hundred and forty-eight, as a fraction of the southeast quarter of section eight, in township number two, range number one, east, Mount Diablo meridian.

Lands  
granted.

SEC. 2. The said McCoy, or his assigns, are hereby authorized to use, for the purposes aforesaid, a strip of land three hundred feet along the river front, extending into the river far enough, without obstructing the navigation of the same, to accommodate

the draft of such vessels as the commerce of the district may employ.

SEC. 3. The construction of the wharf herein authorized shall be commenced within one year after the passage of this act, and the term of the privilege shall be for twenty years, the rates of wharfage and dockage being subject to regulation from time to time by the Board of Supervisors of the county of Contra Costa.

Term of franchise.

SEC. 4. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCCC1.—*An Act to provide Revenue for the support of the Government of this State.*

[Approved May 17, 1861.]

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

SECTION 1. An annual *ad valorem* tax of sixty-two cents upon each one hundred dollars value of taxable property, which shall include the tax levied by the act approved April thirtieth, eighteen hundred and sixty, to fund certain equitable indebtedness, is hereby levied and directed to be collected and paid, for State purposes, upon the assessed value of all property in this State, not by this act exempted from taxation; and upon the same property the Board of Supervisors of each county is also hereby authorized and empowered to levy and collect, annually, a tax for county expenditures, not exceeding sixty cents on each one hundred dollars; and upon the same property the Board of Supervisors of each county is also hereby authorized and empowered to levy and collect, annually, such additional and special taxes as the laws of this State may authorize, or require, them to levy and collect; *provided*, however, that whenever the Board of Supervisors levy any tax, they shall cause such levy to be entered on the record of their proceedings, and shall direct their Clerk to deliver a certified copy thereof to the Assessor, Tax Collector, Auditor, and Treasurer, each of whom shall file said copy in his office.

Ad valorem tax.

Proviso.

SEC. 2. The Board of Supervisors of each county shall, prior to the first Monday of March, unless otherwise provided by special act, annually assess the amount of taxes that shall be levied for county purposes, designating the number of cents which shall, on each one hundred dollars of taxable property, real, or personal, be levied for each purpose; and shall add thereto the amount levied by law on each one hundred dollars of taxable property, real or personal, for either State, or county, purposes; all taxes levied under the provisions of this act shall be paid in the legal coin of the United States, or in foreign coin, at the value fixed for such coin by the laws of the United States; *provided*, however, that county taxes, levied in accordance with the provisions of any special act, may be collected in such funds as in such special act may be provided; and, *provided*, further, that in the

Supervisors to assess amount of taxes.

Funds receivable for taxes.

county of Monterey all taxes and assessments required to be levied by law, shall be levied and assessed in all cases on, or before, the first Monday of March of each year, except for the present year, any special law to the contrary notwithstanding. The Board of Supervisors of the respective counties shall, prior to the first Monday in March of each year, cause to be prepared, suitable and well bound books for the use of the Assessor, in which he shall enter his tax list, or assessment rolls, as hereinafter provided; said books shall contain suitable printed heads, and be ruled to conform with the form of the assessment roll, as provided in this act.

Lien to attach.

SEC. 3. Every tax levied under the provisions, or authority, of this act is hereby made a lien against the property assessed, which lien shall attach on the first Monday in March in each year, and shall not be satisfied, or removed, until the taxes are all paid, or the property has absolutely vested in a purchaser under a sale for taxes.

SEC. 4. All property of every kind and nature whatsoever, within this State, shall be subject to taxation, except—

Property exempt from taxation.

*First*—All lands and lots of ground with buildings, improvements, and structures, thereon, belonging to the State, or any municipal corporation, or to any county of the State; and all lands belonging to the United States, or to this State; and all buildings and improvements belonging to the United States, or to this State.

Court-houses, etc.

*Second*—Court-houses, jails, town halls, council chambers, houses occupied by fire companies, and their apparatus; and other public structures and edifices; and all squares and lots kept open for health, or public use, or for ornament, belonging to any county, city, town, or village, in this State; public libraries, colleges, school-houses, and other buildings, for the purpose of education, with their furniture, libraries, and all other equipments, and the lots, or lands, thereto appurtenant and used therewith, so long as the same shall be used for that purpose; *provided*, that when any of the property mentioned in this subdivision is private property, from which a rent, or other valuable consideration is received for its use, the same shall be taxed, as other property.

Hospitals, etc.

*Third*—Public hospitals, asylums, poor-houses, and other charitable, or benevolent, institutions, for the relief of the indigent, or afflicted, and the lots, or lands, thereto appurtenant, with all their furniture and equipments; all grounds and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

Churches, etc.

*Fourth*—Churches, chapels, and other buildings, for religious worship, with their furniture and equipments, and the lots of ground appurtenant thereto and used therewith; *provided*, rent is not paid for such ground, so long as the same shall be used for such purposes only without yielding rent.

Masonic Halls, etc.

*Fifth*—The buildings and lots of ground appurtenant thereto, and used therewith, owned and used by the order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by any benevolent, or charitable, society, except such buildings and lots of ground as are owned in connection with individual owners, then only to the extent owned by such orders, or societies.

*Sixth*—The property of the society of California Pioneers, and the halls and appurtenances belonging to, and used exclusively by, Turn-Verein associations, when not rented for profit.

*Seventh*—Cemeteries and grave-yards, set apart and used for the purpose of interring the dead.

*Eighth*—The property of widows, or orphan children, not to exceed the amount of one thousand dollars to any one family.

*Ninth*—Growing crops.

Crops.

Proviso.

*Tenth*—Mining claims; *provided*, that all machinery used in mining claims, and all property and improvements appurtenant to, or upon, mining claims, which have an independent and separate value, shall be subject to taxation.

*Eleventh*—No property belonging to any person who has arrived across the plains, for the first time, after the first day of July in any year, shall be assessed in the same year, unless such property exceed one thousand dollars in value, and in case it does exceed such sum, then only the excess above that sum shall be assessed to such person.

Property of immigrants.

SEC. 5. The term "real estate," whenever used in this act, shall be deemed and taken to mean and include, and it is hereby declared to mean and include, the ownership of, or claim to, or possession of, or right of possession to, any land within the State; and the claim by, or possession of, any person, firm, corporation, association, or company, to any land, shall be listed under the head of real estate; the term "personal property," whenever used in this act, shall be deemed and taken to mean, and it is hereby declared to mean and include, all household and kitchen furniture; all law, medical, and miscellaneous, libraries; all goods, wares, and merchandise; all chattels, of every kind and description; all money on hand, or on deposit in bank, or banks, or with individuals; all money at interest, secured by mortgage, or otherwise; gold-dust, solvent debts, other than those mentioned in this section, when the amount thereof exceeds the indebtedness of the party assessed; stocks of goods on hand; horses, mules, oxen, cows, calves, beef-cattle, hogs, sheep, goats, jacks, and jennets, and cattle of every description; wagons, carriages, buggies, omnibuses, stages, stage-coaches, sulkies, carts, drays, and all other vehicles, whether for use, or pleasure, or hire; all machines and machinery; all works and improvements; all store-ships and hulks; all steamers, vessels, and watercraft, of every kind and name, either owned in whole, or in part, by a resident, or residents, of the State, or navigating the waters of any river, or bay, within the State, and having a general depot, or terminus, within the State; all capital loaned, invested, or employed, in any trade, commerce, or business, whatsoever; the capital stock of all corporations, companies, associations, firms, or individuals, doing business, or having an office in the State; the money, property, and effects, of every kind, except real estate, of all banks, banking institutions, or firms; bankers, money-lenders, and brokers; all houses, buildings, fences, ditches, structures, erections, or other improvements, built, or erected, upon any land, whether such land be private property, or the property of the State, or of the United States, or any municipal corporation, or county, in the State; and all property of what-

Real estate defined.

Personal property defined.

soever kind, or nature, not included in the term "real estate," as said term is defined in this act.

ASSESSORS AND THEIR DUTIES.

**County Assessor.** SEC. 6. At the next election held in the counties of this State, for county officers, and at such election every two years thereafter, there shall be elected by the qualified electors of each county, a County Assessor

**Bond.** SEC. 7. Each County Assessor, before entering upon the duties of his office, shall execute to the people of the State of California a bond in the penal sum of five thousand dollars, with two, or more, sufficient sureties, to be approved by the County Judge, conditioned for the faithful performance of all the duties of his office, required by law, and shall take the oath of office, as prescribed by law, which shall be indorsed on his certificate of election, or appointment

**Vacancy.** SEC. 8. In case of a vacancy in the office of the County Assessor, or failure of any County Assessor to qualify, as required in this act, the Board of Supervisors shall appoint some suitable person possessing the qualifications of an elector, residing within such county, to fill the vacancy, and the person thus appointed shall give bond, take the like oath that is required of Assessors elected by the people, and shall hold his office until the next general election, and until his successor is chosen and qualified.

**Deputies.** SEC. 9. Said Assessor shall have the power of appointing one, or more, Deputies, to aid in his official duties, for whose conduct he shall be responsible; *provided*, that the Assessor, before he shall appoint a Deputy, or Deputies, shall divide the county into convenient districts, of which division notice shall be given to the Board of Supervisors of said county; and no person shall be appointed a Deputy to assess any district unless he shall be a resident of said district; and, *provided*, further, that the Board of Supervisors may fix the number of days for which pay shall be allowed any Deputy for assessing a district.

**Penalty.** SEC. 10. If any Assessor, or Deputy Assessor, shall be guilty of neglect of any of the duties enjoined on him by law, he shall be liable to indictment in any court of competent jurisdiction, and fined in any sum not exceeding five hundred dollars.

**To commence suit.** SEC. 11. Suit may be instituted on the Assessor's bond in the manner prescribed by law, for the benefit of any person who may be aggrieved by the wrongful act, or conduct, of such Assessor, or his Deputy.

**To administer oaths.** SEC. 12. The Assessor and his Deputies are hereby authorized to administer all oaths and affirmations contemplated by law, in the discharge of their duties as such Assessors

**Assessment.** SEC. 13. Between the first Monday in March and the first Monday in August, in each year, the County Assessor, except otherwise required by special enactment, shall ascertain by diligent inquiry and examination, all property in his county, real, or personal, subject to taxation; and also the names of all persons, corporations, associations, companies, or firms, owning, claiming, or having the possession, or control, thereof; and he shall then determine the full cash value of all such property, and shall list and assess the same to the person, firm, corporation,



association, or company, owning, or having the possession, charge, or control, thereof. For the purpose of enabling the Assessor to make such assessment, he shall demand from each person and firm, and from the President, Cashier, Treasurer, or Managing Agent, of each corporation, association, or company, within his county, a statement under oath, or affirmation, of all the real estate and personal property within the county, owned, claimed by, or in the possession, or control of, such person, firm, corporation, association, or company. If any person, officer, or agent, shall neglect, or refuse, on demand of the Assessor, or his Deputy, to give, under oath, or affirmation, the statement required by this section, the Assessor shall make an estimate of the value of the taxable property which such person, officer, or agent, neglected, or refused, to render, under oath, or affirmation, and the value so fixed by the Assessor shall not be reduced by the Board of Equalization. If the owner of any property, not listed by another person, shall be absent, or unknown, the Assessor shall make an estimate of the value of such property. If the name of such absent owner is known to the Assessor, the property shall be assessed in his, her, or their, name; if unknown to the Assessor, the property shall be assessed to "Unknown Owners."

Powers of Assessor.

Unknown owners.

SEC. 14. At the same time and in the same manner, as the other lists of property herein required are given, each and every person shall deliver, under oath, or affirmation, to the Assessor a similar list of all the real estate, with the improvements thereon, if any, and other personal property which he and the firm of which he is a member, and the corporation, association, or company, of which he is President, Cashier, Treasurer, Secretary, Trustee, or Managing Agent, owns, claims, or has charge, possession, or control, of, in any other county in the State, which he does not, of his personal knowledge, know has been assessed in such other county for that year; which list shall particularly describe each tract of land, and each city, or town, lot, contained therein, so that the same may be found and known by such description; and all vessels, steamers, and other water craft; and shall also specify each and all deposits, if any, and persons with whom such deposit, or deposits, are made, and the place, or places, in which the same may be found, unless he shall have included all such money and gold dust in the list of property in his county, which it shall be lawful to do; and shall also specify the kind and nature of all other personal property, in such county, belonging to, or under the charge, control, or in the possession, of him, or them.

To deliver list of property.

SEC. 15. Every Assessor, as soon as he shall have received a list of any property in another county, under the foregoing section, shall make out from the lists delivered to him, a list for each county in which any taxable property may be, and shall transmit the same by mail, or express, to the Assessor of the proper county, who shall assess the same as other taxable property therein, if it has not been before assessed for the same year.

Property in another county.

SEC. 16. The owner, or holder, of any stock in any firm, incorporated company, or association, the entire capital of which is invested in property which is assessed, or the capital of which is assessed, shall not be assessed individually for his stock in such

company, or association; nor shall any person having an interest in any partnership, or firm, [be individually assessed for the partnership, or firm,] property, if such property is assessed to the partnership, or firm. The property of every firm, incorporated company, or association, shall be taxed in the county where the property is situate; *provided*, that whenever any portion of the property of any such company shall be assessed and taxed in the county wherein the same is located, then upon presentation at the principal office of such company of the certificate, or receipt, of the Tax Collector of said county, that such taxes have been paid in another county, the same shall be deducted at the principal office, from the aggregate amount of taxes imposed upon, or paid by, said company, for the same property in the county wherein the principal office of said company is situated. The undivided property of deceased persons may be listed to the heirs, Guardians, Executors, or Administrators, as the case may be, and a payment of taxes made by either, shall bind all the parties in the interest for their equal proportions. It is hereby made the duty of every Probate Judge, from time to time, to direct each and every Administrator and Executor, (which direction may be specially given in each case, or by general order.) to pay out of the funds of the estate, all taxes that have attached, or accrued, against such estate, after the passage of this act, and no order, or decree, for the distribution of any property of any decedent, among the heirs, or devisees, shall be made, until all taxes which have attached to, or accrued against, the estate, shall have been paid.

Stock of incorporated companies.

Taxes paid in another county.

Duty of Probate Judges.

Penalty for giving false list.

SEC. 17. If any person shall willfully make, or give, under oath, or affirmation, a false list of his, her, or their, taxable property, or a false list of taxable property under his, her, or their, control, such person shall be deemed guilty of perjury, and upon conviction thereof, shall be punished therefor as is by law provided for the punishment of perjury.

Penalty for giving false name.

SEC. 18. If any person shall give the Assessor, or his Deputy, a false name, or shall refuse to give his, or her, name, or shall refuse to give a list of property, as is by this act required, or shall refuse to swear, or affirm, to such list, he, or she, shall be guilty of misdemeanor, and shall be arrested upon complaint of the Assessor, or his Deputy, and upon conviction before a Justice of the Peace, he, or she, shall be punished by a fine of not less than ten dollars, nor more than five hundred dollars, or by imprisonment for a term of not less than two days, nor more than three months, or by both such fine and imprisonment.

Liabilities.

SEC. 19. The Assessor and his sureties shall be, and they are hereby, made liable for the taxes on all taxable property within the county, which is not assessed through his neglect; and if any non-assessment was caused by the refusal of the owner, agent, or claimant, of such property, or of the person, or persons, having it in possession, or under his, or their, control, or charge, to give a list of it to the Assessor, the Assessor shall not be liable, but the person, or persons, whose refusal to give the Assessor a list caused the omission, shall pay double the taxes imposed upon property regularly assessed.

SEC. 20. It shall be the duty of the Assessor to prepare a tax list, or assessment roll, alphabetically arranged in the book, or

books, furnished him by the Board of Supervisors for that purpose, in which book, or books, shall be listed, or assessed, all the real estate, improvements on real estate, improvements on public lands, and other personal property, within the limits of the county; and in said book, or books, he shall set down, in separate columns—

Assessment roll.

*First*—The names of the taxable inhabitants, firms, incorporated companies, or associations, in alphabetical order, if known; if unknown, the property shall be assessed to “Unknown Owners;” and if any person shall refuse to make a statement of his property, under oath, as required by this act, that fact shall be noted under his name.

Names.

*Second*—All real estate and improvements taxable to each inhabitant, firm, incorporated company, or association, described by metes and bounds, or by common designation, or name; if situate within the limits of any city, or incorporated town, describing by lots, or fractions of lots; if without said limits, giving the number of acres, as nearly as can be conveniently ascertained, and the location and township where situate; all improvements on public lands, describing as nearly as possible, the location of such improvements; *provided*, that when two, or more, parties claim, or give a description of, the same land, it shall be assessed to each party making such claim, or giving such description, according to the estimated value of the claims of each.

List of property.

Proviso.

*Third*—The cash value of real estate and the improvements thereon.

Real estate.

*Fourth*—The cash value of all improvements on real estate, where the same is assessed to a person other than the owner of said real estate.

Improvements.

*Fifth*—The cash value of all personal property, except improvements on real estate, or public lands, taxable to each.

Personal property.

*Sixth*—The total value of all property taxable to each, and no further description of personal property than that required by the foregoing provisions of this section, shall be needed, or be requisite, to render the assessment binding and effective.

Value of all property.

*Seventh*—He shall also take down, in a separate column, the names of all persons subject to perform military duty under the laws of this State.

Military duty.

*Eighth*—He shall also place in a separate column, opposite the name of each person liable to pay a road poll tax, the figure one (1).

Road poll tax.

*Ninth*—He shall also place in a separate column, opposite the name of each person liable to pay a poll tax, the figure one (1).

Poll tax.

The form of the assessment roll shall be substantially as follows:

*Assessment of Property for the Fiscal Year ending March ———, to all Owners and Claimants known and unknown.*

Form of assessment roll.

Tax-Payers' Names.	Description of Property.	Lot	Block	Range	Number of Acres	Value of Land and Improvements	Rate	Value of Personal Property	Value of Improvements on Real Estate assessed to persons other than the owners of said Real Estate	Enrollment of Militia	State Poll Tax	Road Poll Tax	Total Value
		.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
						\$	\$			\$	\$	\$	\$

Lots and blocks.

The Assessor shall also, in a book, make a map, or plan, of the various blocks within any incorporated city, or town, and shall mark thereon the various subdivisions as they are assessed, and in each subdivision he shall mark the names of the persons to whom it is assessed.

Duty of Clerk of Board of Supervisors.

Sec. 21. On, or before, the first Monday in August, in each year, the Assessor shall complete his tax list, or assessment roll, and shall attach his certificate thereto, and deliver it, and the map book, and all of the original lists of property given to him, to the Clerk of the Board of Supervisors; and as soon as he receives said assessment roll, the Clerk of the Board of Supervisors shall give notice of the fact, specifying therein the time of meeting of the Board of Equalization, by publication in one newspaper, if there be one published in the county, and if none, then in such manner as the Board of Supervisors shall direct; and he shall keep the roll open, in his office, for public inspection.

Supplementary assessments.

Sec. 22. It shall be lawful for the Assessor, at any time subsequent to the first Monday in August, and prior to the last Saturday in October, in each year, to assess any property which shall not be on the regular list; and he shall enter such assessment in a separate portion of the tax list, or assessment roll, under the head of "Subsequent Assessments," and shall deliver

a true copy of the original assessment to the County Auditor, to be by him compared with the entries on the assessment roll, and the same shall then be filed with the Clerk of the Board of Supervisors.

BOARD OF EQUALIZATION.

SEC. 23. The Supervisors of the county shall constitute a Board of Equalization, of which Board the Clerk of the Board of Supervisors shall be Clerk. The Board of Equalization shall meet on the second Monday in August, and shall continue in session from time to time, until the business of equalization presented to them is disposed of; *provided*, however, that they shall not sit after the first Monday in September, except as in this section provided. The Board of Equalization shall have power to determine all complaints made in regard to the assessed value of any property; and may change and correct any valuation, either by adding thereto, or deducting therefrom, if they deem the sum fixed in the assessment roll too small, or too great, whether said sum was fixed by the owner, or the Assessor, except that in cases where the person complaining of the assessment has refused to give the Assessor his list, under oath, as required by this act, no reduction shall be made by the Board of Equalization in the assessment made by the Assessor; and if the Board of Equalization shall find it necessary to add to the assessed valuation of any property on the assessment roll, they shall direct their Clerk to give notice to the persons interested, by letter deposited in the post-office, or express, or otherwise, naming the day when they shall act in that case, and allowing a reasonable time to appear. As soon as possible after the adjournment of the Board of Equalization in September, its Clerk shall make out a list of all persons, the valuation of whose property has been added to, with the amounts so added, on the assessment roll, who have not appeared before the Board, and a list of all property the valuation of which has been added to on the assessment roll, with the amounts so added, the owners of which have not appeared before the Board, and the Board of Supervisors shall cause the same to be published in one newspaper in the county, if there be any, and if not, then by posting one copy of the same in a public and conspicuous place in each township in the county. And any person, to the assessed value of whose property there was an amount added, not appearing before the Board of Equalization in September, may appear before the Board in November, and upon making affidavit that he had no knowledge of such increased valuation of his property, he shall have a hearing before the Board of Equalization; and the determination then had shall be final. And the Clerk of the Board of Equalization shall note all changes made, and report the same to the Auditor, who shall make the changes required, on the original assessment roll, and the Auditor shall in his next regular statement to the Controller of State, report such changes in such statement. During the session of the Board of Equalization, the Assessor shall be present, and also any Deputy whose testimony may be required by the parties appealing to the Board, and they shall have the right to make any statement touching such assessment, and producing evidence relating to questions before the Board. And the Re-

Meetings of Board of Equalization

May correct valuation.

Duty of Clerk.

To publish report.

Persons aggrieved, etc.

Assessor to be present at meetings of Board.

Duty of  
Recorder

order of the county shall also be present and attend on the Board of Equalization, with an abstract of all unsatisfied mortgages and liens, remaining on record in his office, arranged in alphabetical order; for which service he shall receive no compensation, except as provided in section fifty-two of this act, and the Board of Equalization shall make use of such abstract, and of all other information that they can gain from the records in the Recorder's office, or otherwise, in equalizing the assessment roll of the county, and may require the Assessor to enter upon such assessment roll any such mortgage, or liens, or other property, which has not been assessed; and the assessment and equalization so made, shall have the same force and effect as if made by the Assessor before the delivery of the assessment roll by him to the Clerk of the Board of Equalization. A quorum of the Board of Supervisors shall be sufficient to constitute the Board of Equalization, and a majority of the members present shall determine the action of the Board; *provided*, that in the city and county of Sacramento the President of the Board of Supervisors and two Supervisors, (to be designated by the Board,) or in the absence, or inability, of the President of the Board, three Supervisors shall constitute the Board of Equalization. On the first Monday in November, the Board of Supervisors shall meet as a Board of Equalization, to equalize the subsequent assessment roll and hear complaints, as provided for in sections twenty-two and twenty-three of this act.

Proviso.

Duty of  
Clerk.

SEC. 24. During the session, or as soon as possible after the adjournment of the Board of Equalization, its Clerk shall enter upon the assessment roll all the changes and corrections made by the Board, and thereupon deliver the assessment roll so corrected to the County Auditor, whose duty it shall be to add up the columns of valuation, and enter the total valuation of each description of property on the roll; and on, or before, the third Monday in September, as to the original assessment roll, and on, or before, the second Monday in November, as to the subsequent assessment roll, he shall deliver a true copy of the corrected roll, to be styled a "Duplicate Assessment Roll," with State, county, and other taxes, and totals of taxes, to each person, carried out in separate money columns, with his certificate thereto attached, and also the map, or plat-book, to the Tax Collector.

Duplicate  
assessment  
roll.

#### TAX COLLECTOR AND HIS DUTIES.

Election of  
Tax  
Collector.

SEC. 25. At the next election held in the counties of this State, for county officers, and at such election every two years thereafter, there shall be elected by the qualified electors of each county, a County Tax Collector; *provided*, that in the counties hereinafter enumerated, the Sheriff shall be *ex officio* Tax Collector, viz: Mariposa, Sierra, Merced, Del Norte, Fresno, San Luis Obispo, Santa Cruz, Monterey, Colusa, Alameda, Sutter, Klamath, Los Angeles, Mendocino, Marin, Sonoma, Santa Barbara, Plumas, Stanislaus, Napa, San Diego, Solano, Yolo, Trinity, Humboldt, Contra Costa, Calaveras, San Joaquin, Mono, Tulare, San Bernardino, and Sacramento except that in the city and county of Sacramento and in the county of Amador, the Assessor shall be *ex officio* Collector of poll taxes, and shall be allowed

to retain the per centage allowed in this act for such services, anything in this act to the contrary notwithstanding.

SEC. 26. The County Tax Collector, before entering upon the Bond. duties of his office, shall execute to the people of the State of California a bond, in the penal sum of twenty thousand dollars, or in a greater sum, if the Board of Supervisors of the county require it, with two, or more, sufficient sureties, to be approved by the County Judge, conditioned for the faithful performance of all the duties of his office as required by law, and shall take the oath of office as prescribed by law, which shall be indorsed on his certificate of election, or appointment; *provided*, that no bond shall be required in a greater sum than twice the amount of taxes to be collected.

SEC. 27. In case of a vacancy occurring in the office of County Tax Collector, or failure of any County Tax Collector to qualify, as required in this act, the Board of Supervisors shall appoint some suitable person, possessing the qualifications of an elector, and residing within said county, to fill the Vacancy. vacancy; and the person thus appointed shall give the same bond and take the like oath that is required of Tax Collectors elected by the people, and shall hold his office until the next general election, and until his successor is elected and qualified.

SEC. 28. The Tax Collector shall have the power of appointing one, or more, Deputies. Deputies, to aid in his official duties, for whose conduct he shall be responsible.

SEC. 29. If any Tax Collector, or his Deputy, shall willfully neglect, or refuse, to perform any of the duties enjoined on him by the provisions of this act, he shall be guilty of a misdemeanor in office, and on conviction thereof, shall be punished by imprisonment in the county jail, not more than one year, or by a fine of not less than two hundred, nor more than one thousand, dollars, or by both such fine and imprisonment, and shall be forthwith removed from office. Penalty for neglect of duty.

SEC. 30. The Tax Collector is hereby authorized and required, To accompany Assessor. (unless otherwise directed by the Board of Supervisors in the respective counties,) either in person, or by Deputy, to accompany the Assessor and his Deputies through the county; *provided*, that in counties in which the Board of Supervisors directs a Tax Collector not to accompany the Assessor, the Tax Collector shall deputize the Assessors to collect poll taxes until such time as the assessment is completed, and upon the entry of any assessment of movable personal property to any person, firm, corporation, association, or company, who does not own real estate within the county, to demand the payment of the taxes on the same; and if any such person, firm, corporation, association, or company, shall neglect, or refuse, to pay such taxes, the Tax Collector, or his Deputy, shall seize sufficient of the personal property of the party so neglecting, or refusing, to pay, to satisfy the taxes and costs, and shall post a notice of such seizure, with a description of the property and the time and place where it will be sold, in three public places in the township where it is seized, and shall, at the expiration of five days, proceed to sell, at public auction, at the time and place mentioned, to the highest bidder for cash, a sufficient quantity of said property to pay the taxes and expenses incurred; and for this service, the Tax Duties of

Collector shall be allowed from the delinquent party, a fee of three dollars and the same mileage that a Sheriff would be entitled to receive for traveling to the place to make a levy; and upon the payment of the purchase money he shall deliver to the purchaser the property sold, together with a certificate of the sale and of the amount of taxes, or assessments and expenses, thereon, for which the property was sold, whereupon the title to the property so sold shall vest absolutely in the purchaser; *provided*, that in counties where the Tax Collector is compensated for his services by a specific salary, he may appoint the Deputies required by this section, and be paid for his services for collecting revenue under this section for his own use, as in this act provided.

Proviso.

Monthly returns.

SEC 31. The Tax Collector shall, on the first Monday in each month, return to the Auditor a list of all collections made under the preceding section; and it shall be the duty of the Auditor to mark the word "paid" on the original, or subsequent, assessment roll, opposite the name of each party whose taxes are so paid, as soon as the same shall have been delivered to him.

Publication of notice.

SEC 32. Upon receiving the duplicate assessment roll from the Auditor, the Tax Collector shall proceed to collect the taxes, and shall, forthwith, give notice by publication in one newspaper, if there be any published in his county, and if none be published, then by posting notices in three public and conspicuous places in the county, that the State and county taxes are due and payable, and that the laws in regard to their collection will be strictly enforced.

Receipt for taxes.

SEC 33. Whenever any tax is paid to the Tax Collector, he shall mark the work "paid" and the date of payment in the duplicate assessment roll, opposite the name of the person on, or description of the property liable for, such tax, and shall give a receipt therefor, specifying the amount of the assessment, the amount of the tax, and a description of the property assessed; but no Tax Collector shall receive any taxes, or real estate, for any portion less than the least subdivision entered on the assessment roll; *provided*, always, that an owner of undivided real estate may pay the proportion of taxes due on his interest therein.

To verify annual statement.

SEC 34. On the third Monday of November, in each year, the Tax Collector, shall, at the close of his official business on that day, enter upon the duplicate assessment roll a statement that he has made a levy upon all the property therein assessed, the taxes upon which have not been paid; and shall immediately ascertain the total amount of taxes then delinquent, and file in the office of the Auditor, a statement of said amount, verified by the oath of himself, or Deputy; and shall proceed to make out and file in the office of the Auditor, a list of all persons and property then owing any taxes, verified by the oath of himself, or Deputy, which list shall be completed by the first Monday in December, and shall be known as the Delinquent List; and to enable the Tax Collector to make out said list, no taxes shall be received by him on the duplicate assessment roll after making the entry provided for in this section; *provided*, that in counties where the Tax Collector receives a salary, he shall be allowed for his own use the amount provided by law for making said delinquent list; *provided*, however, that in the coun-

Delinquent List.



ties of Tulare, Fresno, San Luis Obispo, Los Angeles, San Bernardino, Santa Barbara, and San Diego, the Tax Collector shall not make his levy until the third Monday in December, and that the delinquent list need not be filed with the Auditor until the first Monday in January, and that in these counties the provisions of section thirty-seven shall not apply until the third Monday of December in each year.

SEC. 35. The Tax Collector shall, on the first Monday in each month, pay to the County Treasurer all money in his hands belonging to, or collected for the use of, the State, or county; and shall, on the same day, present to the Auditor the Treasurer's receipt for said money; and shall, at the time, deliver to the Auditor, under oath, a true and correct account of all his transactions and receipts, since his last settlement as Collector of State and county taxes; and shall also state, under oath, or affirmation, that all the money collected by him as Tax Collector has been paid, which account and statement shall be filed in the office of the Auditor. On the first Monday in December, in each year, the Tax Collector shall attend at the office of the County Auditor, with his duplicate assessment roll; and the Auditor and the Tax Collector shall then carefully compare the said duplicate assessment roll with the original, marking on the original roll the word "paid" opposite the name of each person whose taxes have been paid, or opposite the description of the property upon which taxes have been paid; and the Auditor shall, then and there, administer to the Tax Collector an oath which shall be written and subscribed on the original and duplicate assessment roll, to the effect that each person and all property assessed in said roll, on which taxes have been paid, has the word "paid" marked opposite the name of such person, or the description of such property; and the Auditor shall then foot up the amount of taxes remaining unpaid, and credit the Tax Collector with the amount; and shall make a final settlement with the Tax Collector, of all taxes charged against him on account of said assessment roll. Within ten days after such final settlement, the Auditor shall transmit by mail to the Controller of State, a statement, in such form as the Controller may require, of all and of each particular kind of property assessed, and a statement of all and of each particular kind of property delinquent, and of the total amount of delinquent taxes. For the services required by this section, the Tax Collector shall receive no fee, or compensation, whatever.

Payments to  
County  
Treasurer.

To transmit  
statement  
to State  
Controller.

SEC. 36. If any Tax Collector shall refuse, for a period of five days, or willfully neglect, to make the payments and settlements with the Treasurer and Auditor of his county, as in this act specified, he and his sureties shall be held liable to pay the full amount of taxes charged upon the assessment roll; and the District Attorney, of his own volition, or on being instructed to do so by the Controller of State, or by the County Court, or Board of Supervisors of the county, shall cause suit to be brought against such Tax Collector and his sureties, for the full amount due on the Auditor's books. And if any such suit is commenced, no credit, or allowance, whatever shall be made to such refusing, or neglecting, Tax Collector for the delinquent taxes outstanding.

Penalty for  
neglect of  
duty.

SEC. 37. At any time after the third Monday of November, and before the institution of suit as herein provided, any delin-

Delinquents may pay to County Treasurer.

quent tax payer may, upon a certificate from the Auditor, [giving a description of the property and the taxes due thereon,] pay to the County Treasurer the taxes assessed against said delinquent, with five per cent. additional thereon, taking from the Treasurer duplicate receipts for the amount paid; one of which receipts shall be filed with the County Auditor, the other with the District Attorney of the county. After having been served by any person with a duplicate receipt of the County Treasurer, for the total amount of taxes due from such person, or upon a piece of property, with five per cent. thereon additional, the District Attorney shall not commence the suit authorized by this act against such person, or property; *provided*, that if any person shall fail to serve said receipts, such person shall pay all costs that may result from his, or her, negligence. The additional five per cent. provided for by this section, shall be paid into the county treasury for the use of the county.

Duties of Auditor.

SEC. 38. The Auditor shall, within three days after receiving such delinquent list, deliver the same to the District Attorney of his county, duly certified by him; and shall, at the same time, publish a notice in some newspaper printed in said county, if there be any, and if not, then by posting notices in three public places in said county, that said delinquent list has been so deposited with the District Attorney, and that unless the delinquent taxes therein specified are paid to the County Treasurer within twenty days from the publication, or posting, of such notice, action will be commenced by said Attorney for the collection of such taxes and costs. Said Auditor shall make, or procure, and file with the District Attorney immediately, an affidavit stating the contents of said notice, and the manner and time of such publication, or posting, as required in this section. The District Attorney, before receiving the delinquent list, as provided in this section, shall enter into such additional bond as may be required by the Board of Supervisors.

To give bond

Duties of District Attorneys.

SEC. 39. The District Attorneys of the several counties of this State are hereby authorized and directed immediately after the expiration of the time specified in section thirty-eight of this act, to commence actions in the name of the people of the State of California, against the person so delinquent, and against the real estate and improvements assessed so delinquent, and against all owners, or claimants, to the same known, or unknown; such action may be commenced in the county where such assessment is made, before any Justice of the Peace, or court, in said county, having jurisdiction thereof; and such jurisdiction shall be determined solely by the amount of delinquent tax sued for, not regarding the location of the land, as to the township, nor the residence of the person, as to town, township, county, or State.

SEC. 40. The complaint in said action may be as follows:

Form of complaint.

STATE OF CALIFORNIA,  
County of

The People of the State of California, v. A B & Co. and the real estate and improvements in—[describing them.]	}	[Title of the Court.]
The People of the State of California, by X Y, District Attor-		

ney of the county of ———, complain of A B, ———, and also the following real estate and improvements, [describing them with the same particularity as in actions of ejectment, or actions for the recovery of personal property,] and, for cause of action, say :

That between the first Monday in March and the first Monday of ———, A. D. 18—, in the county of ———, in the State of California, O P then and there being County Assessor of said county, did duly assess and set down upon an assessment roll all the property, real and personal, in said county, subject to taxation; and that said assessment roll was afterwards submitted to the Board of Equalization of said county, and was by said Board duly equalized, as provided by law; that said A B was then and there owner of, and that there was duly assessed to him, the above described real estate, improvements upon real estate, and certain personal property; and that upon such property there has been duly levied, for the fiscal year, A. D. 18—, a State tax of — dollars, and a county tax of — dollars, amounting in the whole to — dollars, all of which is due and unpaid, of which amount — dollars was duly assessed and levied against the real estate, and — dollars against the improvements aforesaid.

Wherefore, said plaintiffs pray judgment against said A. B for the sum of — dollars, (the whole of said tax) and separate judgment against said real estate and improvements, for the sum of — dollars, (the tax thereon,) and for such other judgment as to justice belongs, and for all costs subsequent to the assessment of said taxes, and of this action.

X Y, District Attorney,  
County of ———.

*Provided*, that if the property be assessed to an unknown owner, then any fictitious name may be inserted to represent such owner as defendant. Proviso.

SEC. 41. Upon filing the complaint in a District Court, or before a Justice of the Peace, a summons shall be issued, as is provided in civil cases, and shall be served by delivering a copy thereof to each defendant named; and as to said real estate, or improvements, by delivering a copy thereof to the person, or persons, in possession of the same; and, further, as to all real estate, by posting a like copy in some public place thereon; *provided*, that if the personal defendant cannot be found in the county in which said action is brought, then service may be made upon such defendant by posting a copy of the summons, for twenty days, at the court-house door of said county. Summons.

SEC. 42. The defendants may answer, which answer shall be verified— Proviso.

*First*—That the taxes have been paid before suit.

*Second*—That the taxes, with costs, have been paid since suit; or, that such property is exempt from taxation under the provisions of section four of this act. Answer.

*Third*—Denying all claim, title, or interest, in the property assessed, at the time of the assessment.

*Fourth*—Fraud in the assessment, or fraud in failing, or neg-

- lecting, to comply with the provisions of this act, by which fraud the party, or property, assessed, has suffered injury; *provided*, however, that the acts herein required between the assessment and the commencement of suit, shall be deemed directory, merely; and no other answer shall be permitted
- Delinquent tax list evidence.** SEC. 43. Said delinquent list, or copy thereof, certified by the County Auditor, showing unpaid taxes against any person, or property, shall be *prima facie* evidence in any court, to prove the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.
- Judgment.** SEC. 44. In case judgment is rendered for the defendant, it shall be general, without costs, and may be entered in favor of some one, or more, of them, and against others, as in other civil cases; in case judgment is for the plaintiffs, it may be entered against such defendant as is found liable to the tax, and for such amount, or portion thereof, as he, or they, shall be so adjudged liable; *provided*, that no personal judgment shall be rendered, unless the person against whom it is rendered shall have been personally served with the summons, or shall have appeared in said action. Judgment may be entered against the real estate and improvements severally for the taxes severally assessed and levied thereon; and when it shall appear upon the assessment roll and not be disproved upon trial, that the real estate and improvements belong to the same person, or persons, then judgment may be rendered against said real estate and improvements, jointly, for the whole taxes thereon, or such part thereof as may be adjudged; such judgments, rendered in the District Court, shall be docketed and become liens upon all the property against which judgment is rendered from the date of such assessment, and against all other real estate of the person assessed, subject to execution, for the amount of any judgment against him, from the time of such docketing, as in other civil cases; and the District Attorney may file transcripts of judgments rendered in Justices' Courts under this act, with the County Clerk, who shall thereupon docket such judgments, and they shall become liens from and after such docket entry, in like manner as judgments rendered in the District Court under this act; *provided*, however, that when the lien attaches against the property owing the taxes, such lien shall not be released until the delinquent taxes are paid thereon, and the County Clerk may issue execution on such Justices' judgments as on judgments rendered in the District Court. Judgment may be rendered for want of an answer, as in other civil cases. In case any person shall be sued for taxes on any land, or improvements, of which he was the owner, or in which he had a claim, or interest, at the institution of the suit, and shall be discharged from personal liability under an answer, in conformity with the third subdivision of section
- Liens.**
- Judgment by default.**
- Redemption.** forty-two, and such lands, or improvements, shall be sold under a judgment obtained against it, and shall thereafter be redeemed by such discharged defendant; or if he shall pay the taxes and costs to prevent a sale—then such personally discharged defendant shall have, and is hereby given, the right of recovery, over against the owner at the time of the assessment, for the full sum

of taxes and costs, or redemption money paid; and in every case of such recovery the judgment shall, in addition to the taxes and costs, or in addition to the redemption money paid, include twenty-five per cent. of the amount of taxes and costs, or redemption money, as liquidated damages, and the receipt of the District Attorney for taxes and costs, or of the Sheriff for the redemption money, shall be sufficient evidence of the debt, and of its amount.

SEC. 45. An Act to regulate Proceedings in Civil Cases in Courts of Justice of this State, and the several amendments thereto, so far as the same are not inconsistent with the provisions of this act, are hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act, shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes by one not a party to the action, or judgment, in, or upon, which such sale was made, and shall entitle the holder thereof to a writ of assistance from the District Court to obtain possession of such property; *provided*, that the Sheriff, in selling said property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed, to redeem said property by paying the whole amount of the judgment, and all subsequent taxes and interest, paid by, and due to, the purchaser at said sale; but this provision shall not apply when the Executor, or Administrator, of the estate, or the father, or, in case of his death, the mother, or Guardian, of such minor children, has been personally served with process; and, *provided*, further, that the real estate so sold for taxes may be redeemed from such sale, as in case of sale upon execution, as provided in other civil cases, by paying to the Sheriff the total amount of the judgment and all costs, with thirty per cent. thereon; and, *provided*, further, that if the same is paid within three months from the date of the certificate of sale, it shall be for the total amount of the judgment and all costs, with fifteen per cent. thereon. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurer of the county, to be distributed to the proper funds; and each collection and the date thereof shall be entered opposite the proper name, or property, in the delinquent tax list, which shall be open to public inspection.

SEC. 46. There shall be allowed to all officers, except District Attorneys, the fees allowed in other civil cases. The District Attorney shall be entitled to a compensation equivalent to ten per cent. on the amount of taxes due, to be added thereto if paid after suit brought and before judgment, and if not so paid, then fifteen per cent. to be taxed as other costs in the case. All officers shall perform such services as may be required of them under this act, without the payment of fees in advance; all costs shall be taxed and entered in the judgment against the person, and the real estate and improvements, when the judgment is the same against all; or if the judgments against the person and property are for different sums, then the costs may be apportioned by the court as the same may be deemed just; *provided*, that no fees, or costs, shall be paid to any officer, or District At-

Act made applicable

Proviso.

Same.

Collections to be paid to County Treasurer.

Fees.

Proviso.

torney, unless the same be collected from the defendants; *provided*, that in counties where the officers receive a specific salary, the fees provided in this section shall be received by them for their own use.

Duties of  
District  
Attorney.

Annual  
payments.

To file state-  
ment with  
Auditor

Uncollected  
delinquent  
taxes.

Duties of  
Auditor.

District  
Attorney.

SEC. 47. The District Attorney shall on the receipt of any money for taxes enter the same on his delinquent list, opposite the name of the person delinquent, or opposite the description of the property, and shall on the first Monday in each month after the time fixed in this act for the commencement of actions against delinquent tax payers, pay to the County Treasurer all moneys collected by him for taxes, taking duplicate receipts for the amount so paid; one of which receipts he shall on the same day file with the Auditor, and shall at the same time file with said Auditor a list of all judgments obtained by him up to that date, for taxes under the provisions of this act, stating therein the names of the defendants, if known, or if unknown, a description of the property, the amount of each judgment, and the name of the court, or Justice, in which, or before whom, said judgment was obtained; he shall on the Saturday next preceding the first Monday in March, in each year, pay to the County Treasurer all moneys received by him for taxes, and not previously paid over, taking duplicate receipts therefor, one of which shall in like manner be filed with the Auditor; and shall at the same time file with the Auditor a list of all judgments obtained by him and not previously filed as herein provided; he shall also, on the day last mentioned, make and file with the County Auditor an affidavit stating that he has paid to the County Treasurer all moneys collected by him for taxes prior to that date, and filed the receipts therefor, and that the several lists filed by him as herein directed contain all judgments obtained by him under the provisions of this act. On the first Monday in August in each year the District Attorney shall attend at the office of the County Auditor, with the delinquent list, or lists, and the Auditor shall then carefully compare the same with the Treasurer's receipts and statements filed by the District Attorney; and if the same shall be found to be correct, the Auditor shall give to the District Attorney a receipt specifying the same. The District Attorney shall at the same time deliver to the Auditor a written statement of all delinquent taxes upon said delinquent list, or lists, remaining uncollected, or for which suit has not been brought, with his reasons in detail for not being able to collect the same, or for not bringing suit; and the Auditor shall immediately file the said delinquent list, or lists, and statement, with the Clerk of the Board of Equalization, and the Board of Equalization shall revise the same by striking off such taxes as cannot be collected; the delinquent list, or lists, shall then be returned to the Auditor, who shall note the changes made, and shall then return the same to the District Attorney. The Auditor shall in his next report to the Controller, state the amount stricken off the delinquent list, or lists, by the Board of Equalization.

SEC. 48. If any District Attorney shall fail, or refuse, to pay to the County Treasurer, as provided in this act, any money collected by him for taxes, he shall be guilty of a misdemeanor, and upon conviction thereof, shall be forthwith removed from

office, and shall also be punished by a fine in any sum not exceeding five thousand dollars, or by imprisonment in the county jail, for a period not exceeding one year, or by both such fine and imprisonment. Penalty.

COUNTY AUDITOR AND HIS DUTIES.

SEC. 49. At the next election, held in the counties of this State for county officers, and at such election every two years thereafter, there shall be elected by the qualified electors of each county, a County Recorder, who shall be *ex officio* County Auditor; *provided*, however, that in the counties of Napa, Mendocino, San Mateo, Yolo, Stanislaus, Trinity, Humboldt, Klamath, Del Norte, Contra Costa, Sutter, Los Angeles, San Diego, Santa Barbara, San Bernardino, San Luis Obispo, Fresno, Buena Vista, Monterey, Santa Cruz, Marin, Plumas, Merced, Alameda, and Siskiyou, the County Clerk shall be *ex officio* Recorder and Auditor; *provided*, that in the County of Sacramento the County Clerk shall be *ex officio* Recorder, and the Clerk of the Board of Supervisors shall be *ex officio* Auditor; *provided*, further, that at the next general election for county officers, after the passage of this act, and at the general election every two years thereafter, there shall be elected in the county of Sierra a County Auditor. Election of County Auditor.  
Proviso.

SEC. 50. The County Auditor shall, before he enters upon the duties of his office, execute two bonds, with sufficient sureties to the people of the State of California, one for the penal sum of five thousand dollars, or such greater sum as the Board of Supervisors may require, which shall be approved by the County Judge, and filed in the office of the Controller of State; and the other for the penal sum of two thousand five hundred dollars, or such greater sum as the Board of Supervisors may require, to be approved also by the County Judge and filed in the office of the County Clerk; which bonds shall be conditioned for the faithful performance of all the duties of his office as required by law. Bond.

SEC. 51. If any County Auditor shall, by himself, or Deputy, neglect, or refuse, to perform the duties enjoined on him by the provisions of this act, he shall be guilty of misdemeanor in office, and on conviction thereof, shall be punished by imprisonment in the county jail, for not more than one year, or by a fine of not less than two hundred, or more than one thousand, dollars, or by both such fine and imprisonment, and shall be forthwith removed from office. Penalty for neglect of duty.

SEC. 52. The Auditor shall receive, in addition to the fees provided for in this act, an additional compensation, to be fixed by the Board of Supervisors, for services not otherwise provided for, not to exceed the sum of seventy-five dollars per month, payable quarterly, after having been allowed and audited as other claims; *provided*, that in those counties, or cities and counties, where the Auditor receives a salary, the compensation allowed under this section shall be received by him and paid into the county treasury, for the use of the county, or city and county, as the case may be. Compensation.

SEC. 53. On delivering the certified copy of the assessment roll to the Tax Collector, the Auditor shall charge the Tax Col-

**To charge Collector with full amount of taxes.**     lector with the full amount of the taxes levied; and shall forthwith transmit, by mail, to the Controller of State a statement of the amount so charged, and shall, also, at the same time, transmit to the Controller a statement of the number of poll tax receipts delivered to the Tax Collector, and the number of said receipts returned to him on settlement, which said returned receipts he shall forward to the Controller by such conveyance as the Controller, either by general, or special, order may direct, and shall, at the same time, make out and transmit by mail, a statement of all State and county licenses issued in the county since his last settlement in regard thereto, giving the number and aggregate amount of each kind of licenses issued.

**To verify statement.**     SEC 54 All statements which this act requires the Auditor to make shall be made under oath.

**Duty of Tax Collector.**     SEC. 55. The Auditor shall, from time to time, upon the presentation to him of the receipt from the County Treasurer for moneys collected and paid over by the Tax Collector, credit him with the amount thereof, and shall, at the time required by law for the return of the delinquent list in each year, credit him with the amount of taxes then delinquent; and in case the tax list is transferred from one Tax Collector to another, he shall credit the one and charge the other with the amount then outstanding on the tax list, which amount shall be ascertained jointly by the outgoing and incoming Tax Collectors at their own cost, without any expense to the State, or county.

**To prepare printed forms for licenses.**     SEC 56. The Auditor shall prepare printed forms (similar to those furnished by the State Controller), for all licenses the entire proceeds of which are paid into the county treasury, and each license so prepared by him shall be first numbered by the Treasurer, and by said Treasurer charged to the Auditor in a book kept for that purpose; the Auditor shall then issue said licenses to the Tax Collector from time to time, as the same may be required, and charge the Collector with the same, and upon the first Monday in each month the Collector, with the Treasurer, shall appear at the office of the Auditor and settle for all licenses by him sold.

**To report monthly.**     SEC 57 The County Auditor shall, on the Tuesday next following the first Monday in each month, report, by mail, to the Controller of State, the amount of money in the county treasury belonging to the State, stating specifically in said report the amount received from each source of revenue; prior to making which report, he shall examine the books of the County Treasurer, and shall administer to the Treasurer, an oath, declaring that said books are correct, and that all the money received by him for, or on account of, the State, has been duly entered therein. The Controller of State shall forward to the Auditor blank forms for the accounts to be rendered and for the oath to be taken under this section, and the Auditor shall, from time to time, furnish the Tax Collector with a sufficient number of foreign miners' and other licenses, taking his receipt therefor.

**Controller to forward blanks.**

#### POLL TAX.

SEC. 58. Each male inhabitant of this State, over twenty-one, and under sixty, years of age, and not by law exempt, shall pay



a poll tax for the use of the State and county, of two dollars; *provided*, the same be paid between the first Monday of March and the first Monday in August; but if said poll tax is not paid prior to the first Monday in August, it shall be three dollars; and seventy-five cents of the extra dollar shall be paid to the County Treasurer for the School Fund of the county, and twenty-five cents be retained by the Tax Collector as fees, in addition to fifteen per cent. on the first two dollars, which it shall be lawful for him to retain as compensation for the collection of said poll tax.

Poll tax.  
Proviso.

SEC. 59. The Controller of State shall, before the first Monday of March in each year, cause proper blank receipts for poll taxes to be printed by the State Printer, of a uniform appearance, changing the style thereof each year; and said Controller, after signing and numbering them, shall cause a number thereof, equal to the probable number of inhabitants in each county, liable to pay poll tax, to be immediately forwarded to the County Treasurer of each county, who shall sign them, or so many of them as may be required, and make an entry thereof in a book to be kept for that purpose, and thereupon deliver them to the Auditor, who shall likewise sign them, and make an entry of the number he receives, in a book to be kept by him for that purpose.

Controller to transmit blank poll tax receipts.

SEC. 60. The Auditor shall, from time to time, issue to the Tax Collector so many of the receipts for poll tax as he may need, taking his receipt therefor.

To issue receipts for poll tax.

SEC. 61. No receipts for poll tax other than those mentioned in the fifty-ninth section of this act, shall be used, or given, for the payment of any such tax; and any Tax Collector who shall receive any poll tax without delivering the proper receipt required by law, shall be guilty of a misdemeanor for each poll tax so received, and on conviction thereof shall be punished by imprisonment in the county jail, not less than three months, nor more than one year, and by a fine of not less than one hundred, nor more than one thousand, dollars for each offense, or by both such fine and imprisonment.

Duties of Tax Collector

SEC. 62. Upon receiving such receipts from the Auditor, the Tax Collector shall give a receipt to said Auditor for the same; and the said Auditor shall immediately charge the same to the Tax Collector so receiving them. All receipts delivered to the Tax Collector before the first Monday in August, shall be filled out with the sum of two dollars, and two dollars shall be charged to him for each one so delivered; and all such receipts delivered to the Tax Collector after the first Monday in August, in each year, shall be filled out with the sum of three dollars, and three dollars shall be charged to him for each one so delivered.

To give receipt.

Poll tax receipts.

SEC. 63. The Board of Supervisors of each county shall exact, (if they deem it desirable,) an additional bond from the Tax Collector, with additional sureties, in such penal sums as the said Board shall believe to be necessary to insure the prompt and faithful payment to the County Treasurer of all moneys received by such Tax Collector for poll tax.

Additional bond.

SEC. 64. No person shall be deemed, or held, to have paid his poll tax, unless he be able to exhibit a receipt therefor, issued from the office of the Controller of State, or otherwise prove the payment of the same.

Evidence of payment.

Forging  
receipts.

SEC 65 Any person, or persons, who shall pass, sell, or transfer, or attempt to pass, sell, or transfer, or who shall forge, or fraudulently issue, any receipt, or receipts, for poll tax, contrary to the spirit, or intention, of this act, shall be guilty of felony, and on conviction thereof, shall be punished by imprisonment in the State Prison, for not less than one year, nor more than two years.

Enforcement  
of poll tax.

SEC. 66. To enforce the collection of poll taxes, as provided in this act, the Tax Collector may seize so much of any and every species of personal property, whatever, claimed by any person liable to, and refusing, or neglecting, to pay his poll tax, or property, 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, which costs shall not exceed three dollars; 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 pay poll tax, but who has neglected, or refused, to pay the same, shall be liable to pay said tax for such other person, after service upon him by the Tax Collector, of a notice in writing, stating the name, or names, of the person, or persons, so liable and owing poll tax, and such debtor may deduct the amount thereof, with the costs of serving said notice, which shall be one dollar, (and for which he shall be equally responsible,) from such indebtedness.

Sales valid

SEC 67. The Tax Collector, 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 the proceeds to the owner of the property; a delivery of the possession of the property by the Tax Collector to any purchaser, at any such sale, shall be a sufficient title in the purchaser, without execution of a certificate of purchase thereof by the Tax Collector.

Giving false  
name a mis-  
demeanor.

SEC 68. If any person shall give to the Tax Collector, or his Deputy, a false name, or shall refuse to give his name, he shall be guilty of misdemeanor, and shall be arrested upon complaint of the Tax Collector, or his Deputy, and upon conviction, before a Justice of the Peace, he shall be punished by a fine of not less than ten dollars, or more than one hundred dollars, or by imprisonment for a term not less than two days, nor more than three months, or by both fine and imprisonment.

Persons  
exempt.

SEC. 69. Active members of fire companies shall be, and are hereby, declared exempt from paying poll tax.

Disposition  
of moneys

SEC. 70. Of the money collected as poll tax, under the provisions of this act, after all the expenses of collection are paid, forty per cent shall be paid into the county treasury, for county purposes, and the remaining sixty per cent shall be paid in for State purposes; and one-half of the money paid into the State treasury from this source shall be placed in the Common School Fund.

Monthly  
returns.

SEC. 71 On the first Monday of each month, the Tax Collector shall make oath, before the Auditor, of the total number of poll taxes collected by him during the last preceding month, and shall at the same time file the County Treasurer's receipt for the total amount of poll taxes collected, less fifteen per cent. allowed by this act for fees; and on the first Monday in August

he shall return all the two dollar poll tax receipts by him received and not used, and shall pay to the Treasurer the total amount collected and not paid in theretofore, subject to the deduction aforesaid; and he shall, at the same time, receive from the Controller of State, through the Treasurer and Auditor, a sufficient number of three dollar receipts to enable him to collect taxes from all the polls in his county, who have not then paid; and, on the Saturday next preceding the first Monday in March, of each year, the Tax Collector and the Treasurer shall attend at the office of the County Auditor, and the County Auditor shall then and there finally settle with the Tax Collector for all poll tax receipts signed by the Treasurer, and delivered to him; and the Tax Collector shall then pay over the amount of all poll tax receipts received by him, and not then, or theretofore, returned; and all the poll tax receipts returned by the Tax Collector, shall be forthwith transmitted by the County Auditor, with his annual statement, to the Controller of State; and no poll tax receipts shall be valid for any year unless issued after the first Monday of March in such year.

Yearly settlements.

To transmit returned receipts.

SEC. 72. At the settlement with the Tax Collector, required on the first Monday in December, it shall be the duty of the County Auditor, and he is hereby required, to forthwith transmit to the Controller of State a certified statement of the amount of poll taxes paid over to the County Treasurer of his county up to that time, and he shall deliver a duplicate of such statement to the County Treasurer; and on the final settlement, on the Saturday next preceding the first Monday of March in each year, the County Auditor shall, immediately upon the conclusion thereof, transmit a certified statement to the Controller of State, stating therein the number of all receipts for poll tax delivered by the County Treasurer to him, the number of such receipts issued by him to the Tax Collector, the number of such receipts returned by the Tax Collector, and the number of such receipts then transmitted to the Controller of State.

To transmit statement to Controller.

LICENSES.

SEC. 73. There shall be levied and collected by the Tax Collector, a license tax, as follows:

*First*—From each proprietor, or keeper, of a billiard table, not kept for the exclusive use of the owner, or his family, for each table, five dollars per quarter; for a nine, or ten, pin, or bowling alley, five dollars per quarter for each alley—license to be granted for a term not less than three months.

Billiard tables, etc.

*Second*—From the Manager, or Lessee, of every theater, five dollars per day, if granted for a less term than one month; if granted for one month, one hundred dollars shall be paid; if granted for three months, two hundred dollars; if granted for one year, six hundred dollars; and for each exhibition of serenaders, or opera, or concert, singers, the same payment for license as is required for theatrical performances.

Theaters.

*Third*—For each exhibition of caravan, or menagerie, the exhibition for gain 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 exhibition of circus,

Circus, etc.

rope, or wire, dancing, or sleight of hand, for reward, ten dollars per day.

Insurance companies.

*Fourth*—From each and every insurance company, incorporated in pursuance of the laws of this State, and transacting an insurance business therein, twenty-five dollars per quarter year.

Agents.

*Fifth*—From each and every insurer, or insurance company, foreign, or otherwise, not chartered by this State, and transacting an insurance business therein, or the Agent, or Agents, thereof, one hundred dollars per quarter year.

Pawn-brokers.

*Sixth*—From each pawnbroker, thirty dollars per quarter.

Intelligence offices.

*Seventh*—From each keeper of an intelligence office, fifteen dollars per quarter.

Who shall obtain licenses.

SEC 74 Licenses shall be obtained by the person, or persons, private association, or corporation, doing business in this State, engaged in one, or more, of the following occupations, to wit: In buying, or selling, foreign, or inland, bills of exchange; or in loaning moneys at interest; or in buying and selling notes, bonds, or other evidences of indebtedness, of private persons, or State, county, or city, stocks, or indebtedness, or stocks of incorporated companies; or in buying, or selling, gold dust, gold, or silver, bullion, gold, or silver, coin; keepers of savings' banks; or engaged as common carriers in transmitting, or carrying, gold dust, gold, or silver, coin, or bullion, from any place in this State to any place without this State, or from one to another place within the State, for profit; or engaged in receiving general, or special, deposits of gold dust, gold, or silver, coin, or bullion, for profit; *provided*, that checks used in the transaction of business between parties within this State, shall not be included as being liable to the provisions of this act.

Proviso.

Brokers, etc

SEC. 75. Brokers, or such persons, associations, or corporations, as are engaged in one, or more, of the following occupations, to-wit: In loaning moneys at interest, or in buying, or selling, notes, bonds, or other evidences of indebtedness, of private persons, or in buying, or selling, State, county, or city, stocks, or other evidences of State, county, or city, indebtedness, or stocks, or notes, bonds, or other evidences of indebtedness of incorporated companies, or in buying, or selling, gold dust, gold, or silver bullion, or gold, or silver, coin, or in receiving special, or general, deposits of gold dust, gold, or silver, bullion, or gold, or silver, coin, for profit; or in carrying, or transmitting, as common carriers, gold dust, or gold, or silver bullion, or gold, or silver coin, from any place within this State to any place without this State, or from one place to another within this State, for profit; or in keeping, or conducting, savings' banks, shall be divided into five classes, as follows: Those doing business in the aggregate to the amount of two hundred and fifty thousand dollars per quarter and over, shall constitute the first class; those doing business to the amount of two hundred thousand dollars, and less than two hundred and fifty thousand dollars, per quarter, shall constitute the second class; those doing business to the amount of one hundred thousand dollars, and less than two hundred thousand dollars, per quarter, shall constitute the third class; those doing business to the amount of fifty thousand dollars, and less than one hundred thousand dollars, per quarter, shall constitute the fourth class; those doing business in any

Savings banks

Licenses for the various classes.

amount under fifty thousand dollars per quarter, shall constitute the fifth class. The licenses shall be obtained from the Tax Collector, and shall be given for the first class upon the payment of one hundred dollars per quarter; for the second class, eighty dollars per quarter; for the third class, forty dollars per quarter; for the fourth class, twenty-five dollars per quarter; for the fifth class, fifteen dollars per quarter; said amounts to be paid to the collector of taxes in each county in which the party applying therefor desires to, or does, transact any, or all, of the occupations specified in section seventy-four, and a separate license shall be obtained for each branch establishment, or separate house, of such business located in the same county. Same.

SEC. 76. Bankers, or such persons, associations, or corporations, as are engaged in buying, or selling, foreign, or domestic, bills of exchange, or drafts, shall be divided into five classes, as follows: Those doing business in the aggregate to the amount of five hundred thousand dollars, or over, per month, shall constitute the first class; those doing business to the amount of three hundred thousand dollars, and less than five hundred thousand dollars, per month, shall constitute the second class; those doing business to the amount of two hundred thousand dollars, and less than three hundred thousand dollars, per month, shall constitute the third class; those doing business to the amount of one hundred thousand dollars per month, and less than two hundred thousand dollars per month, shall constitute the fourth class; those doing business in any amount less than one hundred thousand dollars per month, shall constitute the fifth class. The license for the first class shall be given upon the payment of one hundred dollars per month; for the second class, upon the payment of sixty dollars per month; for the third class, upon the payment of forty dollars per month; for the fourth class, upon the payment of twenty-five dollars per month; for the fifth class, upon the payment of fifteen dollars per month. Bankers dealing in bills of exchange. Licenses for the various classes.

SEC. 77. Each Tax Collector shall make diligent inquiry and examination as to all persons in his county liable to pay license as provided in this and foregoing sections; and the collector is hereby empowered, and it shall be his duty, to require each person to state, under oath, or affirmation, the probable amount of business which he, or the firm of which he is a member, or for which he is an Agent, or Attorney, or the association, or corporation, of which he is President, Secretary, or Managing Agent, will do in the next succeeding three months; and, also, to make a statement, under oath if required, in order to carry out the provisions of section eighty of this act, and, thereupon, such person, Agent, President, Secretary, or other officer, shall procure a license from said Tax Collector, for three months, of the class of which such party is liable to pay; and, in all cases, where an under estimate has been made by the party applying, the party making such under estimate shall be required to pay a double license for the next quarter. Licenses shall be procured immediately before the commencement of any business, or occupation, liable to license tax under this and foregoing sections. Such license shall authorize the party obtaining the same, in his town, city, or particular locality in the county, to transact business as provided in such license; *provided*, however, that nothing Duty of Tax Collector. Time for procuring licenses.

in this act, nor in any license issued under it, shall be construed to authorize any person to carry on any business within the limits of any incorporated city, or town, authorized by its charter to impose, or levy, city, or town, license taxes, unless such person shall, in addition to the license, if any, required by this act, also procure the license, or licenses, required by the ordinances, or orders, of such city, or town; and, *provided*, further, that any person, or persons, who shall commence, or continue, to carry on, or transact, any business, trade, profession, or calling, for the transaction, or carrying on, of which a license is required by this act, without procuring the proper license as herein required, such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum, not less than ten, nor more than one hundred, dollars; and, *provided*, further, that if any person, or persons, required by the provisions of this act to take out a license, shall fail, neglect, or refuse, to take out such license in the manner provided in this act, or shall carry on, or attempt to carry on, business without such license, the Collector may direct suit, in the name of the people of the State of California as plaintiffs, to be brought against him, or them, for the recovery of the license money; and in such case, either the Collector, or Attorney, may make the necessary affidavit, and a writ of attachment may issue, without any bonds being given, on behalf of the plaintiffs; and in case of a recovery by the plaintiffs, fifteen dollars liquidated damages shall be included in the judgment and costs, and be collected from the defendant, and five dollars thereof shall be paid to the Collector, and ten dollars to the Attorney prosecuting the suit. Upon the trial of any criminal action provided for by this section, the defendant shall be deemed not to have procured the proper license, unless he either produces it, or proves that he did procure it; but he may plead in bar of the criminal action a recovery against him and the payment by him, in a civil action, of the proper license money, damages, and costs.

SEC 78. Every person who has a fixed place of business, who may deal in goods, wares, or merchandise, wines, or distilled liquors, except the agricultural productions of this State, (when sold by the producers thereof,) and except such as are sold by auctioneers, or commission merchants, under license, or commission, according to law, shall pay, quarterly, an amount of money for license, as required by the class in which such person is placed by the Tax Collector of the county, under the provisions of the succeeding section; *provided*, always, that nothing herein shall be construed to extend to Physicians, Surgeons, Apothecaries, or Chemists, as to any wines, or spiritous liquors, which they may use in the preparation, or compounding, of medicines

SEC 79. Every person who shall sell, or vend, any goods, wares, or merchandise, 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 Tax Collector of the county in which such business may be transacted, for each of the branches of business in this and the preceding section enumerated, a license for the transaction of that business, at the following rates, to wit: All persons dealing as aforesaid, shall be classed according to the amount of the

Municipal licenses valid.

Penalty.

Recovery of license money.

Fees of officers.

Proof of license to be the only evidence.

Trader's license.

Liquor licenses, etc.

Livery stables, etc.

average 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 dollars, and less than fifty thousand dollars, shall constitute the fourth class; of thirty thousand dollars, and less than forty thousand dollars, shall constitute the fifth class; of twenty thousand dollars, and less than thirty thousand dollars, shall constitute the sixth class; of ten thousand dollars, and less than twenty thousand dollars, shall constitute the seventh class; of five thousand dollars, and less than ten thousand dollars, shall constitute the eighth class; of one thousand dollars, and less than five thousand dollars, shall constitute the ninth class; of all amounts under one thousand dollars, the tenth class. The licenses 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 and seventy-five cents per month; for the tenth class, two dollars and fifty cents per month; *provided*, that the sale of liquors and 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 sections of this act, shall be paid into the county treasury, one-half for State purposes, and one-half for county purposes, except classes ninth and tenth, which shall be paid into the county treasury for county purposes alone.

Class of  
licenses.Rates of  
licenses.Division  
of money.

SEC. 80. Every person who shall keep a stallion, jack, bull, or ram, and who shall permit the same to be used for the purposes of propagation, for hire, or profit, shall annually obtain a license therefor from the Tax Collector, and pay for the same as herein provided. The licenses in this section shall be divided into six classes, as follows: All animals whose services, as above specified, are charged at the sum of one hundred dollars, or over, shall constitute the first class; of eighty dollars, and less than one hundred dollars, the second class; of sixty dollars, and less than eighty dollars, the third class; of forty dollars, and less than sixty dollars, the fourth class; of twenty dollars, and less than forty dollars, the fifth class; and all under twenty dollars, the sixth class. The licenses for the first class shall be obtained by paying one hundred dollars; for the second class, eighty dollars; for the third class, sixty-five dollars; for the fourth class, forty-five dollars; for the fifth class, twenty-five dollars; and for the sixth class, fifteen dollars. The Tax Collector shall receive the blank licenses provided for in this section, from the Auditor; they shall be charged to him, and he shall account for them in the same manner as for other licenses. The Tax Collector shall be entitled to demand and receive, as a fee, the sum of one dol-

Licenses for  
stallions, etc.Rates of the  
various  
classes of  
licenses.

Compensa'n. lar, for each of the above licenses sold, (one-half of which shall go to the Auditor,) to be paid by the person applying for the same. All moneys collected under this section shall be paid into the county treasury, for county purposes.

Licenses of taverns, etc. Rates of licenses. SEC. 81. All tavern and innkeepers, and all persons who may sell and dispose of any spiritous, malt, or fermented, liquors or wines, in less quantities than one quart, shall, before the trans- action of any such business, take out a license, or licenses, from the Tax Collector, 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 dollars, 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 licenses to be paid by vendors 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, under the provisions of this section, shall be paid into the county treasury for county purposes.

Peddlers' licenses, etc. Dnty of Tax Collector, Sheriff, etc. SEC. 82. Every traveling merchant, hawker, or peddler, who shall carry a pack, and vend wares, goods, or merchandise, of any kind, shall pay, for each license, five dollars per month; and every such traveling merchant, hawker, or peddler, who shall use a wagon, or one, or more, animals, for the purpose of vend- ing any wares, or merchandise, of any kind, or wines, fermented liquors, or spiritous liquors, shall pay for each license, fifteen dollars per month; *provided*, that nothing in this section shall be so construed as to apply to the agricultural productions of this State. The Auditor shall issue to the Tax Collector the licenses contemplated in this section, which licenses so issued shall au- thorize the holders of the same to vend goods, wares, and mer- chandise, as set forth in such licenses, in the county where such licenses are obtained; and it is hereby made the duty of every Justice of the Peace, Constable, Sheriff, Tax Collector, and Peace Officer, to demand the license of any such peddler, or hawker; and if such person be found not to have a license, as directed by law, the person so offering any goods, or wares, for sale, shall be guilty of misdemeanor, and, on conviction, shall be fined in any sum of not less than fifty, nor more than one hundred, dol- lars; the moneys collected under the provisions of this section shall be paid into the county treasury for county purposes.

Term of license. SEC. 83. The licenses provided to be granted by this act, (ex- cepting foreign miners' licenses,) shall be granted for three, six, or twelve, months, at the option of the party applying for such licenses.

Blank licenses to be printed. SEC. 84. The Controller of State shall cause to be printed a sufficient number of blank licenses of all classes mentioned in this act, except where the entire amount is paid in for county pur- poses, for three, six, and twelve, months; each license shall also contain a blank receipt, to be signed by the County Tax Col- lector on delivery of said license to the purchaser thereof. He shall forward to the Treasurer of each county, a sufficient num- ber of blanks for the use of the county, which shall be charged to said Treasurer on the Controller's books. The Treasurer shall



countersign the same and deliver them to the County Auditor, taking his receipt therefor.

SEC. 85. The Auditor shall, from time to time, deliver to the Tax Collector as many of such licenses as may be required; and shall sign the same and charge them to the Tax Collector, specifying the class of licenses in the charge. Duty of Auditor.

SEC. 86. On the first Monday in each month the Tax Collector shall return to the Auditor all licenses not issued; and the Auditor shall credit him with the amount so returned, so that the account shall show the amount of money received for licenses issued, and open a new account with the Tax Collector for the next month. Licenses not issued to be returned.

SEC. 87. The Auditor and Treasurer of each county in the State shall, on the first Monday in March, June, September, and December, make a joint statement to the Board of Supervisors, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources, paid into the county treasury; the funds among which the same was distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and unpaid; and accounts, or claims, audited, or allowed, and unpaid, and the fund out of which they are to be paid; and generally make a full and specific showing of the financial condition of the county. To make statement to Board of Supervisors.

SEC. 88. Once in three months, as in the preceding section provided, the Auditor shall report to the Controller of State the number of State licenses issued by the Tax Collector, for the preceding three months, and the amount of money paid for the same; and the Controller shall hold the Treasurer responsible, on his official bond, for all licenses and receipts issued to him under this act, not accounted for, or returned, on the Saturday next preceding the first Monday in March, in each year. To report quarterly to Controller.

SEC. 89. If either the Treasurer, Auditor, Tax Collector, or any other person, shall issue, have in his possession with intent to circulate, or put in circulation, any other licenses than those forwarded to the Treasurer by the Controller, or the Auditor, of any county of this State, the person so offending shall be guilty of felony, and, on conviction, be sentenced to imprisonment in the State Prison for a term of not less than one year, nor more than four years; and any Tax Collector who shall receive the money for a license without delivering to the person paying for the same, the license paid for, or who shall insert the name of more than one person, or firm, therein, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, and by imprisonment in the county jail, not less than three months, nor more than one year. Penalties.

#### FOREIGN MINERS.

SEC. 90. No person, unless he is a citizen of the United States, or shall have declared his intention to become such, (California Indians excepted,) shall be allowed to take, or extract, gold, silver, or other metals, from the mines of this State, or hold a min- Not to mine without license.

ing claim therein, unless he shall have a license therefor, as hereinafter provided.

SEC. 91. It shall be the duty of the Controller of State, to procure a sufficient number of blank licenses, which shall be substantially in the following form; these licenses shall be numbered consecutively, and a record thereof be made and filed in his office:

Form of foreign miner's license.

	To be renewed on expiration of Term	FOREIGN MINER'S LICENSE.
No.....		No .....
.....County.		.....County, ..... 18....
..... 18....		THIS CERTIFIES that ..... has
.....		this day paid the Tax Collector of .....
Has paid four dollars, Mining		County four dollars, which entitles him to
License, which entitles him to		work in the mines of this State one month
work in the mines one month.		from date.
		..... Controller of State,
		..... Collector.

SEC. 92. The Controller of State shall, with ink, fill the blank which has been left in the printed form, with the name of the proper county, and shall sign and issue to the Treasurer of each mining county, from time to time, when required by the Treasurer, a sufficient number of licenses for the use of such county, and take a receipt therefor, and charge the Treasurer with the same; the County Treasurer shall, in a book to be by him kept for that purpose, keep an account of all foreign miners' licenses received by him, and shall from time to time deliver them to the County Auditor, taking his receipt therefor; the amount to be paid for such licenses shall be at the rate of four dollars per month; and said licenses shall in no case be transferred. The Auditor shall, on the first Monday in each month, write the name of the month, in all foreign miners' licenses issued by him for that month, and shall deliver to the Tax Collector of his county, a sufficient number of said licenses for the use of his county for that month.

Controller to issue licenses to County Treasurers.

Collector to enforce payment of license.

SEC. 93. The Collector shall collect the foreign miners' license tax provided for in this act, from all persons liable to pay the same, and may seize the property of any such person refusing to pay such tax, and sell the same at public auction, on one hour's notice by proclamation, and shall deliver the property to the purchaser, together with a bill of sale with the license attached, which shall transfer the title thereof to the person paying the highest price therefor; and after deducting the tax and necessary expenses incurred by reason of such refusal and sale of property, the Collector shall return the surplus of the proceeds of the sale, if any, to the person, or persons, whose property was sold; provided, that should any person, liable to pay such tax in any county of this State, escape into any other county with the in-

tention to evade the payment of such tax, then, and in that event, it shall be lawful for the Collector to pursue such person and enforce the payment of such tax in the same manner as if no such escape had been made. Any foreigner, representing himself to be a citizen of the United States, shall, in the absence of his certificate to that effect, satisfy the Collector of the correctness of his statement, by affidavit, or otherwise, and for that purpose the Collector is empowered to administer such oath, or affirmation. All foreigners not eligible to become citizens of the United States, residing in any mining district in this State, shall be considered miners under the provisions of this act. Every subsequent license after the first, when issued to the same person, shall be dated from the expiration of the former license.

To make oath in absence of certificate.

SEC. 94. The Collector shall receive for his services, twenty per cent. of all money collected from foreign miners' licenses; and fifty per cent. of the net proceeds of all moneys collected for foreign miners' licenses shall be paid into the county treasury for the use of the State; the remaining fifty per cent. of the net proceeds, shall be paid into the treasury for the use of the county; *provided*, that in counties where the Tax Collector receives a specific salary, he may retain for his use the fees allowed for collecting foreign miners' and other licenses under the provisions of this act, which shall be paid to the principal, or Deputy, as the case may be, who shall actually engage in the collection of such tax, or license.

Compensation.

Proviso.

SEC. 95. Any person charged with the collection of foreign miners' license tax who shall give any receipt other than the receipt prescribed in this act, or receive money for such license, without giving the necessary receipt, or who shall insert more than one name in the same receipt, shall be guilty of a felony, and upon conviction shall be fined in a sum not exceeding one thousand dollars, and be imprisoned in the State Prison not exceeding one year.

Penalty for receiving money without giving receipt.

SEC. 96. Any Tax Collector who shall sell, or cause to be sold, any foreign miners' license with the date of the sale left blank, or which shall not be dated and signed, and blanks filled with ink by the Controller, Auditor, and the Tax Collector, and any person who shall make any alteration, or cause the same to be made, in any license, shall be guilty of felony, and, upon conviction, shall be fined in a sum not exceeding one thousand dollars, and imprisoned in the State Prison not exceeding three years; and the license so sold with blank date, or which shall not be signed and dated, and blanks filled with ink, as aforesaid, or which shall have been altered, shall be received in evidence in any court of competent jurisdiction.

Penalty for selling undated licenses.

SEC. 97. Any person, or company, hiring foreigners, or interested with them as partners, or renting, or on shares, or in any manner connected with any foreigner, or foreigners, in working, or in possession of, any mining ground in this State, shall be held liable for the amount of license of each and every foreigner with whom such person, or company, is so connected, or interested. All mining ground worked, or possessed, all improvements, all tools and machinery used in working such ground by said person, or company, shall be subject to sale for the payment of said

Companies hiring foreigners liable for licenses.

license tax, in the manner provided in section ninety-three of this act. The Collector shall have power to require any person, or company, believed to be indebted to, or to have money, gold dust, or property of any kind, belonging to any foreigner, or in which any foreigner is interested, in his, or their, possession, or under his, or their, control, to answer, under oath, as to such indebtedness, or the possession of such money, gold dust, or other property. In case a party is indebted, or has possession, or control, of any moneys, gold dust, or other property, as aforesaid, of such foreigner, or foreigners, he may collect from such party the amount of such license, and may require the delivery of such money, gold dust, or other property, as aforesaid; and in all cases the receipt of the Collector to said party, shall be a complete bar to any demand made against said party, or his legal representative, for the amounts of money, gold dust, or property, embraced therein; and, *provided*, that whenever, from any cause whatever, the Collector shall be unable to collect the foreign miners' license from any person liable to pay the same, he shall certify to the Road Overseer of the district, the name, or description, of the person, and the amount due, and such person shall, upon the requisition of the Overseer, work upon the public roads of the district a sufficient number of days to exhaust said sum, by crediting against it one dollar for each day's work; and every person so liable to work, and refusing so to do, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not less than five, nor more than thirty, days.

Proviso.

Duty of Road Overseer.

SEC. 98. Any person, or company, hiring foreigners to work in the mines of this State, shall be liable for the amount of the license for each person so employed.

SEC. 99 All licenses mentioned in this act, for State and county purposes, (except where the entire amount received is paid into the county treasury for county purposes,) all poll tax receipts, and all foreign miners' licenses, shall be issued from the Controller's office, and such foreign miners' licenses, shall be numbered, consecutively, commencing with number one, on the second Monday in November of each year; and all such licenses for State and county purposes, and all foreign miners' licenses, and all poll tax receipts, shall be signed by the Controller of State, or by a Deputy, appointed by him especially for that purpose.

Controller to issue all poll taxes, etc.

To prepare printed forms.

SEC. 100. The Controller of State shall prepare printed forms of each class, kind, and description, of licenses, poll tax receipts, and foreign miners' licenses, where such forms are not herein specially provided for, upon such paper and in such manner, as he shall think advisable; and he shall, from time to time, furnish such licenses and poll tax receipts to the officers of the several counties as herein directed, when the same shall be required, and charge the respective officers therewith.

#### COUNTY TREASURER AND HIS DUTIES.

SEC. 101. Each County Treasurer shall keep all money received by virtue of his office, in his own possession, or on special deposit; and no person, except the Treasurer, or one of his Deputies, shall receive, or pay out, any money in his office; and when

Duty of County Treasurer.

any money shall be paid to the County Treasurer, he shall give to the persons paying the same, a receipt therefor, which receipt such person shall forthwith deposit with the County Auditor, who shall charge the Treasurer therewith, and give the person paying the same an acquittance.

SEC. 102. The Treasurers of the respective counties shall, at all times, hold themselves in readiness to settle and pay all moneys in their hands, whenever required so to do, by an order signed by the Controller and Treasurer of State; and the Treasurer and Controller of State are hereby authorized to draw such orders whenever they deem it proper. The Treasurers of the counties of Amador, Alameda, Contra Costa, Calaveras, El Dorado, Nevada, Placer, Sierra, Solano, Yolo, San Francisco, Sacramento, San Joaquin, Santa Clara, Tuolumne, and Yuba, respectively, shall, on the second Mondays of November, February, May, and August, of each year, and the County Treasurers of other counties of this State, shall, on the second Mondays of November, and May, in each year, proceed to the State capital, and shall settle in full with the Controller, and pay over in cash to the Treasurer of State, all funds which shall have come into their hands as County Treasurers, for the use and benefit of the State, taking therefor a receipt from the Treasurer of State, which receipt he shall forthwith file with the Controller; and any County Treasurer who shall fail, neglect, or refuse, to appear at the office of the Controller and Treasurer, on the days above specified, or within fifteen days thereafter, and then and there settle and make payment, as required by this act, shall forfeit all fees, per centage, and mileage, which would have otherwise been due him on said settlement; and the Controller is hereby authorized and required to withhold all such fees, per centage, and mileage, and require the same to be paid into the treasury, for the use and benefit of the State. Before making any settlement, each County Treasurer shall 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 of which shall be filed with the Controller of State, who shall enter upon the same, and also upon the duplicate, the cash paid to the Treasurer of State, and also the commissions and mileage allowed to the County Treasurer for his 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; and it shall be the duty of the Auditor to furnish the Treasurer with the report, which such Treasurer is required to produce in making his settlements with the State.

SEC. 103. And each County Treasurer shall, at the time of making his settlement with the Controller, produce to him statements of all transactions had in foreign miners' license, State and county licenses, and poll tax receipts, since the last settlement; which statement shall be made by the County Auditor, according to the forms which shall be furnished him by the Controller of State for that purpose; and each County Treasurer shall, at the same time, produce to the Controller of State the certified statement of the County Auditor, of the amount allowed and paid to the Assessor, Tax Collector, and Auditor, as prescribed

Treasurers to be ready to settle with Controller.

Treasurer to produce report from Auditor.

To produce statement.

by this act; and no County Treasurer shall be allowed to make any settlement with the Controller of State, or in any manner to release himself and bondsmen from liability for the full amount of money by him received, unless he produces to the Controller the statements required by this section

To draw  
warrant.

SEC 104. Whenever any allowance is made to any Assessor, Tax Collector, or Auditor, as in this act provided, the Clerk of the Board of Supervisors shall certify the account so allowed, to the Auditor, who shall draw his warrant on the county treasury for that part of the same which the county is required to pay, which shall be in proportion to the amount of taxes levied for State and county purposes, respectively; and the Auditor shall make a certified copy of the account, and indorse thereon the amount due from the State, and indorse on the account remaining in his office the same; and shall furnish such copy, with the indorsement thereon to the County Treasurer, who shall pay out of the money belonging to the State the amount indorsed on such account to the Assessor, Tax Collector, or Auditor, and take his receipt thereon; and the Treasurer, on making his quarterly, or semi-annual, settlement, shall present, with the Auditor's statement, such copy of the account allowed by the Board to the Assessor, Tax Collector, or Auditor, indorsed and receipted as herein provided, and the Controller shall allow him for the amount so paid

Indorsement

Penalty for  
using funds.

SEC. 105. If any Tax Collector, or County Treasurer, shall, either directly, or indirectly, use, loan, employ, or in any manner place out of his possession, otherwise than as on special deposit, any funds belonging to, or collected by, or paid to him, for the use and benefit of either the State, or of any county, or of the city and county of Sacramento, he shall be guilty of a misdemeanor, and upon conviction thereof shall be forthwith removed from office, and shall also be punished by a fine in any sum not exceeding five thousand dollars, or imprisonment in the county jail for any time not exceeding one year, or by both such fine and imprisonment. The Treasurer, Tax Collector, Assessor, Auditor, Clerk of the Board of Equalization, and each member of such Board, shall each separately perform the duties required of him in his office, and shall not perform the duties of any two offices under this act, except as provided by law; and any officer who shall at the same time perform the duties of any two offices in any manner connected with the public revenue, except in the manner expressly authorized by law, or any collecting, or disbursing, officer who shall refuse, or neglect, the performance of the duties required by this act, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, and by a fine of not less than two hundred, nor more than one thousand, dollars; or by both such fine and imprisonment, and shall forthwith be removed from office.

Misdemeanor

May inspect  
books, etc.  
without cost

SEC. 106. The books, papers, and accounts, of each officer, in regard to the assessment, or collection, of taxes, or to the receiving, auditing, or disbursing, moneys collected for the use, or benefit, of the State, or of any county, or of the city and county of Sacramento, shall, at all times, during office hours, when not

necessarily in use by the officers, be open for any person whomsoever to inspect, or copy, without any fee, or charge.

SEC. 107. The Collectors of Taxes in the counties of this State, shall be allowed for collecting all taxes, except poll taxes, license tax, and foreign miners' license tax, the following rates on all moneys collected and paid over by them in each fiscal year commencing on the first Monday in March: 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 sums over fifty thousand dollars. The Collector of Taxes shall also receive one dollar for each business license sold, one-half of which shall be paid to the County Auditor. The Assessor and his Deputies shall keep a correct account of the number of days they have been employed in the discharge of their official duties, and shall verify the same on oath before the Clerk of the Board of Supervisors, or other person qualified to administer oaths; and then shall present said account to the Board of Supervisors, who, if satisfied of the correctness of the same, shall allow it, and order payment to be made at the rate of six dollars per day, when employed in any city, or incorporated town, and eight dollars per day when employed without the limits of such city, or incorporated town; *provided*, that in the counties of Humboldt, Napa, Los Angeles, Santa Barbara, Monterey, San Luis Obispo, and Sacramento, the Assessors shall be allowed by the Board of Supervisors a reasonable compensation for their services, not exceeding five dollars per day; *provided*, further, that in the counties of Marin, Contra Costa, Calaveras, Mendocino, Sutter, Tulare, Sonoma, Alameda, Solano, and Santa Clara, the Assessors shall be allowed a reasonable per diem for their services, not exceeding six dollars per day; *provided*, further, that nothing in this section so far as it relates to per centage for the collection of property taxes, shall, so far as fees are concerned, be construed to alter, amend, or in anywise interfere with, the laws now regulating the like matters in counties where specific salaries are allowed by law. All county officers who are required, under this act, to copy any assessment roll, or delinquent list, shall receive, in payment for the same, an amount to be allowed by the Board of Supervisors of the respective counties, not to exceed ten cents per folio of one hundred words. The County Treasurer shall be allowed three per cent. on all money disbursed by him, but shall not be allowed any commission upon the amount retained by the Sheriff, or other Tax Collector, for his fees, or any compensation for receiving. He shall also be allowed twenty cents per mile for traveling to and from the seat of government, to make his quarterly, or semi-annual, settlement. No County Treasurer shall be entitled to any per centage, or compensation, upon school fund moneys; *provided*, that in the county of Yuba the Treasurer shall be allowed but two per cent. upon county money disbursed by him.

Per centage of Tax Collectors.

Same.

Proviso.

Compensation.

Mileage.

SEC. 108. The amount allowed and paid out of the county treasury, to the Collectors of Taxes, Assessors, and Auditors, for services under this act, shall be apportioned by the Auditor, in proportion to the amount of State tax, and charged to the State and county rateably in said proportion, and a verified statement

State and county to pay officers.

of the amount allowed by the Board of Supervisors to said officers, shall entitle the Controller to credit the County Treasurer with such amounts.

Penalty for neglect of duty.

SEC 109. Whenever any Assessor, Collector, Auditor, Treasurer, or other officer upon whom any duties devolve under this act, or under any other revenue act, of this State, shall willfully neglect, or refuse, to perform any such duties, or shall perform them in a careless, or incompetent, manner, he shall be guilty of a misdemeanor, and shall be removed from office in the manner prescribed by law; and when an issue of fact shall have been joined under any presentment made, or proceeding commenced, to remove such officer from his office, the Board of Supervisors, (and in case such officer be a Supervisor, the County Judge) shall have power to suspend such Assessor, Collector, Auditor, Treasurer, District Attorney, or other officer, from his powers and duties under this act, and under any other revenue act, and to appoint a competent person in his place, until the proper tribunal shall have either removed, or acquitted, such suspended officer; and any act on, or about, the revenue, or the assessment, or the collection of taxes, or sale of property for the non-payment of taxes, performed by any such temporary officer, shall be as valid and of the same force and effect, as if performed by the suspended officer; *provided*, however, that such appointee shall first qualify and give such bond, with sureties, for the faithful performance of the duties of such office as may be required of persons elected thereto.

Proviso.

Construction of act.

SEC. 110 Nothing contained in this act shall be construed so as to prohibit any county, city, or town, from levying and collecting general, or special, taxes, in accordance with the provisions of its charter, or of any special act

Term of office

SEC. 111. The terms of office of the Assessor, Treasurer, Tax Collector, County Recorder, District Attorney, Sheriff, County Clerk, Public Administrator, Coroner, and County Superintendent of Common Schools, of the several counties of this State, and of the Clerk of the Board of Supervisors of the city and county of Sacramento, elected at the next general election for county officers, shall be for two years, and until the first Monday in March, next succeeding the expiration of such period of two years, and until their successors are elected and qualified, and the terms of office of such officers thereafter elected, shall be for the two years, commencing on the first Monday in March after their election, and until their successors are elected and qualified. Each Assessor, Tax Collector, District Attorney, and County Treasurer, shall, on the Saturday next preceding the first Monday in March, in each year, attend at the office of the County Auditor, for the purpose of making a settlement with him on account of all transactions connected with the revenue for the year ending on that day; and each and every officer, whether Assessor, Tax Collector, District Attorney, Treasurer, or Auditor, on going out of office, shall deliver to his successor in office all the public money, books, accounts, papers, and documents, appertaining to his office and in his possession, taking a receipt therefor.

To make yearly settlements.

SEC. 112. No repealing clause in this act shall in any manner vitiate, invalidate, or affect, any levy, or levies, assessment, or



assessments, or proceedings of any kind whatever, had under the statute of this State prior to the time this act goes into effect; but all such levies, assessments, and proceedings, shall be as legal, valid, and binding, as though this act had not been passed; and after this act goes into effect all subsequent proceedings under it, upon the levies, assessments, or other proceedings, under prior laws, shall have the same force and effect as though such levies, assessments, and prior proceedings, had been under this act. Provisions of act.

SEC. 113. The provisions of this act shall not repeal, nor affect, the provisions of An Act concerning the Officers of Calaveras County, and collection of Poll Taxes, License Taxes, and Foreign Miners' License Taxes, in said County, approved February twenty-sixth, eighteen hundred and fifty-nine, nor with An Act abolishing the Office of County Assessor, and establishing the Office of Township Assessor, in said County, approved April twenty-eighth, eighteen hundred and sixty, nor shall the provisions of this act repeal, or affect, the provisions of An Act concerning the collection of Poll Taxes, License Taxes, and Foreign Miners' License Taxes, in the County of Sierra, approved April thirteenth, eighteen hundred and fifty-eight, and an act amendatory thereto, approved February fourteenth, eighteen hundred and sixty, nor shall the provisions of this act be so construed as to repeal An Act to provide Revenue for the support of the Government of this State, approved April thirteenth, eighteen hundred and sixty, so far as the same relates to the division of Tulumne and Placer counties into revenue districts, or the appointment, or election, of District Assessors and District Tax Collectors, in said counties, or the provisions of said act relating to the performance of their duties, or relating to the bonds to be given by them, in said counties. Same.

SEC. 114. All fees and per centage allowed under the provisions of this act, to any officer, or officers, in any county, or in any city and county, in this State, where, by provisions of law, such officers receive a stated salary, shall be received by such officers, and paid into the county treasury, or city and county treasury, for the use of the county, or city and county, as is now, or may hereafter be, required by law, except as in this act provided, and except the costs for collecting taxes by suit, which shall be received by the officers for their own use respectively; *provided*, that nothing in the provisions of this act shall affect, or change, the fees of office, salary, or compensation, of the present incumbents in office; *provided*, further, that whenever this act transfers to any officer the duties heretofore performed by any other officer, the officer performing the duty shall receive the fees, or salary, that such other officer would have been entitled to had he performed the duties; and, *provided*, further, that the Auditor of the city and county of Sacramento may retain, for his own use, the fees provided in this act for making the duplicate assessment roll of said city and county. Fees and per centage.

SEC. 115. The act of May fifteenth, eighteen hundred and fifty-four, entitled An Act to provide Revenue for the support of the Government of this State, and all acts amendatory thereof, or supplementary thereto; the act of April twenty-ninth, eighteen hundred and fifty-seven, entitled An Act to provide Revenue Proviso.

SEC. 115. The act of May fifteenth, eighteen hundred and fifty-four, entitled An Act to provide Revenue for the support of the Government of this State, and all acts amendatory thereof, or supplementary thereto; the act of April twenty-ninth, eighteen hundred and fifty-seven, entitled An Act to provide Revenue Acts repealed.

for the support of the Government of this State, and all acts amendatory thereof, or supplementary thereto; the act of April thirtieth, eighteen hundred and sixty, entitled An Act to provide Revenue for the support of the Government of this State, and all acts amendatory thereof, or supplementary thereto; and all laws and parts of laws in conflict with the provisions of this act, except special laws creating salaried offices in certain counties in this State, are hereby repealed; *provided*, such salaried officers shall receive such special fees for their own use, as are provided in this act; *provided*, further, that nothing in this act shall be so construed as to repeal, or affect, the laws heretofore, or now, in existence, in regard to the taxation, or collection, of taxes on consigned goods; nor to repeal, or affect, the laws heretofore, or now, in force, in regard to issuing, or collecting, licenses from passenger brokers; nor to repeal, or affect, the act entitled An Act to provide Revenue for the support of the Government of this State, from a Tax to be levied and collected from Foreign and Inland Bills, and other matters, passed April twenty-ninth, eighteen hundred and fifty-eight; and, *provided*, further, that nothing herein contained shall repeal sections twenty-six to thirty-nine, inclusive, or any subsequent amendments of said sections of the aforesaid act of May fifteenth, eighteen hundred and fifty-four; nor shall anything herein repeal sections forty-nine to fifty-two, inclusive, of the aforesaid act of April twenty-ninth, eighteen hundred and fifty-seven, or any subsequent amendments of said sections; nor shall anything herein repeal the act of April nineteenth, eighteen hundred and fifty-nine, amendatory of the aforesaid act of April twenty-ninth, eighteen hundred and fifty-seven, so far as the same applies to the city and county of San Francisco; *provided*, further, that nothing in this act contained shall apply to the city and county of San Francisco, except so much thereof as fixes the amount of State tax, the amount of poll tax, the amount of licenses for State and county purposes, and so much of this act as relates to the sale and the vending of the agricultural productions of this State, and the time and manner of reporting to, and settling with, the Controller of State, and to property exempt from taxation; but in the said city and county the revenue law, (with the above exceptions,) in force prior to and at the time of the passage of this act, shall remain in full force and effect; and this act shall not conflict with An Act to provide for the collection of Delinquent Taxes in the County of Butte, approved April fifth, eighteen hundred and sixty-one; nor affect, or in anywise impair, the full force of An Act to prescribe the Duties and provide for the Compensation of the several Officers of the County of Butte, approved May third, eighteen hundred and sixty-one; and nothing in this act contained shall be construed to alter, change, or affect, the fees of office as the same are provided for in an act entitled An Act to regulate the Fees of Office in the Counties of Los Angeles and Santa Barbara, approved April sixth, eighteen hundred and sixty-one; and nothing herein contained shall repeal the act approved April eleventh, A D eighteen hundred and fifty-nine, entitled An Act to provide for the better encouragement of the culture of the Vine and Olive; and, *provided*, further, that the provisions of the act of April twenty-sixth, eighteen hundred

and fifty-eight, entitled An Act to provide for the collection of Licenses of Billiard Tables, and Billiard and Drinking Saloons, Restaurants, and Eating Houses, so far as it makes certain property liable for the payment of licenses, is hereby made applicable to the provisions of this act. An act entitled An Act requiring the Controller of State to sign certain Blanks, and to appoint a Deputy for that purpose, approved April sixteenth, eighteen hundred and fifty-nine, is hereby repealed.

SEC. 116. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCCII.—*An Act to authorize the Mayor and Common Council of the City of Los Angeles to take and subscribe Fifty Thousand Dollars to the Capital Stock of a Railroad Company in the County of Los Angeles, and to provide for the payment of the same, and other matters relating thereto.*

[Approved May 17, 1861.]

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

SECTION 1. Whenever a petition from the Board of Directors of any railroad company, organized for the purpose of constructing a railroad by which a railroad connection shall be formed between the city of Los Angeles and the bay of San Pedro, at, or near, New San Pedro, in the county of Los Angeles, shall be presented to the Mayor and Common Council of the city of Los Angeles, petitioning the said city to take and subscribe the sum of fifty thousand dollars to the capital stock of any such railroad company, the said Mayor and Common Council shall, at the next regular meeting, or at a special meeting of said Mayor and Common Council, held for that purpose, vote upon said request, or proposition, whether, or not, said stock shall be subscribed for; and if at such meeting a majority of said Common Council shall vote in favor of said proposition, then, and in that event, the said Mayor and Common Council shall, in the name of the said city of Los Angeles, for the use, benefit, and advantage, of said city, take and subscribe to the capital stock of said railroad company stock to the said amount of fifty thousand dollars, and, therefor, to pledge the faith of the city of Los Angeles for the payment of the same in the manner hereinafter provided. May subscribe for stock.

SEC. 2. The said subscription shall be made by a committee of three members of said Common Council, to be appointed by an order of said council for that purpose, and who shall perform that duty immediately thereafter. Committee appointed.

SEC. 3. The said committee, so appointed, shall make such subscription, conditioning the same to be paid in the bonds of said city of Los Angeles, issued as hereinafter directed, and not otherwise; and, for such subscription, said bonds shall be received at par, dollar for dollar. To receive bonds at par.

SEC. 4. The said Mayor and Common Council, from time to time, as the payment of said subscription shall be required to be

Payment of subscription. made, of such capital stock so subscribed, shall, by order direct the Mayor of said city, the President of said Common Council, and the City Treasurer, who for that purpose, and their successors in office, shall constitute a Board of Commissioners, to be styled the "Loan Commissioners" of said city, as such Loan Commissioners, to issue bonds in sums of five hundred and one thousand dollars, in equal proportions, for such amount of such subscription to said capital stock as said Board of Supervisors may direct. Said bonds shall draw interest at the rate of eight per cent per annum from the date of their issue, and the principal thereof shall be made payable on a specified day to be named in said bonds, which shall be fifteen years after the date of their issues, at the office of the Treasurer of said city, or in the city of San Francisco, at the option of such railroad company; the interest accruing on said bonds shall be due and payable semi-annually, so long as such bonds are outstanding and unpaid, and shall be made payable on a specified day, to be named in coupons, at the said Treasurer's office, or in the city of San Francisco, as provided for the payment of the principal of said bonds. Said bonds shall be signed by the Mayor, President of said Common Council, and Treasurer of said city, as such officers, and *ex officio* Loan Commissioners; and when so signed, shall be presented by the President of said Common Council to the Clerk of said city, who shall countersign the same in the presence of a quorum of said Common Council, at a meeting thereof; and it shall be the duty of said Common Council to cause the fact of such countersigning of said bonds to be entered upon their journal, together with the number, date, and amount, of such bonds, so countersigned by such Clerk; and upon the countersigning of said bonds, it shall be the duty of said Common Council to cause the seal of said city to be affixed to each bond, and appoint a committee of two of their number to deliver said bonds to said railroad company, to whom the same shall be issued; and it shall be the duty of such committee to take a receipt from the Secretary of said railroad company, for the bonds so delivered by them, setting forth the number, date, and amount, of the bonds so delivered, and report the same to the Common Council.

Rate of interest.

Mayor, etc. to sign bonds.

To affix seal to bonds.

Coupons. SEC. 5. Coupons shall be attached to each bond, so that the coupons may be removed without mutilation to the bonds; said coupons shall be signed by the said Loan Commissioners. When any interest is paid upon a bond issued under the provisions of this act, the City Treasurer shall detach the coupons for the interest then due and paid, and deliver the same to the City Clerk of said city, taking his receipt therefor; whose duty it shall be to file the same in his office, and make a report thereof, at the next meeting of said Common Council.

Interest.

Duty of officers. SEC. 6. It shall be the duty of the said Mayor and Common Council of the city of Los Angeles, previous to the making out of the duplicate of the general assessment list for said city, in each year, to levy a tax to be styled an "Interest Tax," sufficient to raise the amount of interest required to be paid each year on said bonds, issued hereunder; and previous to the making out of the duplicate of the general assessment list for said city, in the year eighteen hundred and sixty-six, and for every year

thereafter, until the bonds issued under this act shall be paid and liquidated, the said Mayor and Common Council shall, should it be necessary, levy a tax, equal in amount to one-tenth part of the whole amount of said bonds, for the purpose of raising a fund for the liquidation of said bonds, which shall be styled a "Loan Fund." The said taxes shall be levied and collected in the same manner as the general taxes for city purposes, and when collected shall be paid in to the City Treasurer, who shall be paid for, and deliver the same over to the said Loan Commissioners, to be by them applied; first, the interest tax, to the payment of the interest falling due on said bonds; second, the Loan Fund, to the redemption of said bonds as hereinafter provided. To levy tax.

SEC. 7. If there should be collected as such interest tax, in any one year, a sum greater than is required to pay the annual interest on said bonds issued hereunder, then the said Loan Commissioners shall pass over such surplus to the said Loan Fund. Interest tax.

SEC. 8. It shall be the duty of the said Loan Commissioners to make arrangements for the payment of the interest on said bonds, when the same falls due, at least thirty days before the time of payment; and in the event said Interest Fund is inadequate, the said Treasurer shall draw on the Common, or General, Fund, for such purposes, and deliver the same to said Commissioners; and in the event that these funds prove insufficient, the said Commissioners are hereby authorized and directed to make such contracts and arrangements as may be necessary for the payment of the said interest, and the protection of the faith of the city of Los Angeles. Duty of Loan Commissioners.

SEC. 9. Whenever, at any time, there shall be in the said Loan Fund, a sum of money amounting to three thousand dollars, or upwards, the said Loan Commissioners shall advertise, in a public newspaper in said city of Los Angeles, or in the city of San Francisco, for the space of four weeks, for sealed proposals for the redemption of said bonds; and ten days after the expiration of the time for such publication, the Commissioners shall open the sealed proposals, and shall pay and liquidate, as far as the Loan Fund then on hand shall extend, such bonds presented under such proposals as shall have the lowest value proposed at which they may be liquidated; *provided*, the same shall not be for more than the par value thereof; and, *provided*, should there be no proposals made for less than par value, then the payment of said Loan Fund then on hand shall be made on said bonds according to the number of their issue, of which said Commissioners shall give four weeks' notice of the number of the bonds so to be paid, after which time such bonds shall cease to draw interest; and, *provided*, whenever there may be sufficient money in such Loan Fund for the extinguishment of the bonds issued under this act, it shall be the duty of said Commissioners to advertise in like manner, for the space of four weeks, for the redemption of all outstanding bonds issued under this act, after which time the said bonds shall cease to draw interest. Any money remaining in said Sinking Fund after the redemption of said bonds shall be by the said Commissioners paid over to the City Treasurer to be by him paid into the General Fund of the city of Los Angeles. To advertise for proposals.

SEC. 10. Whenever any bonds shall have been paid and re- Proviso.

Redemption of bonds.

To cancel  
bonds.

deemed by the said Commissioners, they shall mark the same "Canceled," over their own signatures as Commissioners, and immediately deliver the same to the City Clerk taking his receipt therefor; and the said Clerk, upon the receipt of such canceled bonds, shall file the same in his office.

To open  
account.

SEC. 11. The City Clerk shall open with the said Loan Commissioners, an Interest Tax Account, and a Loan Fund Account, and shall balance the same quarterly, on the first Monday of April, July, October, and January, of each year.

Liabilities.

SEC. 12. The said Commissioners, and all other officers herein specified, for the performance of their duties under the provisions of this act, shall, in all things herein required of them, be subject to all the liabilities and penalties to which they are subjected in the performance of any other of the duties of their respective offices, and they shall, when the fees, or salary, is not fixed by law for the services herein required, be allowed by the Mayor and Common Council, a reasonable compensation therefor, to be paid by said city as other fees and salaries are paid; and the said

Compensation

Mayor and Common Council of the city of Los Angeles may, and they are hereby fully authorized so to do, require of each of said Commissioners, such bonds and security for the performance of their duties herein required of them, as they, the said Mayor and Common Council, shall deem proper; *provided*, however, that the penal sum of such bonds to each of said Commissioners shall not exceed the sum of five thousand dollars. The said Commissioners shall, when so required, execute the said bonds in the same manner as other official bonds are executed, and to be approved by the said Mayor and Common Council, and filed in the office of the Clerk of said city.

To execute  
bonds.

Rights and  
powers.

SEC. 13. The Mayor and Common Council shall have all the rights and powers appertaining to any other subscriber to such capital stock, and shall receive all dividends, issues, and profits, arising from such subscription to said capital stock, and shall set apart and transfer the same, together with the taxes that may be paid by said company to said city, from time to time, to the said Loan Fund, to be applied by the said Loan Commissioners to the payment of the interest on the bonds issued as herein provided, and the redemption of the principal thereof, in the manner provided by section nine of this act; and after the full payment of said bonds and the interest on the same, the said dividends, issues, and profits, arising from such stock subscription, shall be paid into the General Fund of said city.

Power to sell  
and transfer  
stock.

SEC. 14. The said Mayor and Common Council shall have authority to authorize a committee, of any one, or more, of their number, or any other persons, to cast all votes representing the capital stock so subscribed by them, and they shall, by order made for that purpose, have full power to sell, and transfer, and assign, the said capital stock, or any portion thereof, so taken by them under the provisions of this act, whenever, upon a submission to the qualified voters of said city, at any city, or general, election, of a proposition to sell the same, a majority of the votes cast thereon shall approve of such sale.

SEC. 15. The subscription of stock, authorized by virtue of the provisions of this act, shall be made by said Mayor and Common Council, on the books of said company, upon the express

condition that the said city shall not be liable for any of the debts, or liabilities, of said company, beyond the amount so subscribed; and this provision, as to the liability of said city, shall be a part of, and so expressly stipulated in, all contracts made by said company for the construction and equipment of said road; and in case the said company fail, or refuse, to make such stipulation in all of their said contracts, then the said Mayor and Common Council shall have power to declare the said subscription void and of no effect, and may recover from said company any previous payments that may have been made thereon at the time of such failure, or refusal.

City liable for certain debts.

SEC. 16. If such railroad company shall not, within one year after the passage of this act, petition the said Mayor and Common Council of the city of Los Angeles, for the subscription contemplated by this act, then this act shall be null and void, and of no effect.

Act conditional.

CHAP. CCCCI.—*An Act in relation to the County Officers of the County of Sierra.*

[Approved May 17, 1861.]

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

SECTION 1. On and after the first Monday in October, A. D. eighteen hundred and sixty-one, the Sheriff of Sierra County shall be *ex officio* Tax Collector; the County Clerk shall be *ex officio* Clerk of the Probate Court and Recorder; and the Auditor shall be *ex officio* Clerk of the Board of Supervisors of Sierra County; and for all services required of them by law, or for duties imposed on them by virtue of their several offices, they shall receive such salary as is hereinafter prescribed, and none other.

County officers.

SEC. 2. The Sheriff shall receive for all the services required of him by law, in his said office of Sheriff, a salary at the rate of four thousand dollars per annum, and such fees as are allowed by law for collecting the property tax of said county, and such necessary mileage as is now allowed by law; *provided*, that for any service rendered the State, he shall receive the payment provided for such service from the State, for his own proper use, in full compensation for such service and expenses incurred in the performance of such service.

Salary of Sheriff.

SEC. 3. The County Clerk, for all services required of him in his office and *ex officio* offices, or by virtue of his office and *ex officio* offices, shall receive a salary at the rate, per annum, of twenty-five hundred dollars, which shall be in full for all services required of him by law; *provided*, that for any service rendered the State, he may retain the amount paid by the State for such service, for his own proper use, in full compensation for such service. Before entering upon his duties as Recorder, the County Clerk shall make and file with the Auditor, a bond, separate and distinct from his bond as County Clerk, in the sum of five

Of County Clerk.

thousand dollars, with two, or more, sufficient sureties, to be approved by the County Judge of said county, which bond shall be conditioned for the faithful performance of his duties as Recorder of said county.

Of County  
Treasurer.

SEC. 4. The County Treasurer, for all services required of him by law, or by virtue of his office, shall receive a salary at the rate per annum, of fifteen hundred dollars; *provided*, that for any service rendered the State, he may retain the amount paid by the State for such service, for his own proper use, in full compensation for such service.

Other  
officers.

SEC. 5. At the next general election for county officers, after the passage of this act, and at the general election every two years thereafter, there shall be elected in the county of Sierra, a County Auditor, who shall be *ex officio* Clerk of the Board of Supervisors, and who shall perform all the duties now required by law of the Recorder of Sierra County as *ex officio* County Auditor, and of the County Clerk as Clerk of the Board of Supervisors.

Duty of  
County  
Auditor.

SEC. 6. The County Auditor of Sierra County shall enter upon the duties of his office on the first Monday in October, subsequent to his election, and before that time shall make and file in the Recorder's office, to be approved by the County Judge, a bond, with two, or more, sufficient sureties, in a sum not over eight thousand dollars, in the discretion of the Board of Supervisors, which bond shall be conditioned for the faithful performance of all the duties of his office.

Salary of.

SEC. 7. The County Auditor of Sierra County shall receive as a compensation for all services required of him by law, a salary of one thousand two hundred dollars per annum, to be audited by the County Judge.

Sheriff  
allowed  
Deputies.

SEC. 8. The Sheriff shall be allowed the following Assistants, to be paid by the county, viz: An Under Sheriff, to be paid at the rate of one hundred and fifty dollars per month; one Deputy, at the rate of one hundred and twenty-five dollars per month, and one Deputy who shall be Keeper of the Jail, at the rate of one hundred and twenty-five dollars per month. Any other Deputies that may be required for the performance of the duties of the office of Sheriff, shall be paid by the Sheriff, from his salary herein provided.

County  
Clerk  
allowed  
Deputy.

SEC. 9. The County Clerk, and *ex officio* Clerk of the Probate Court, and Recorder, shall be allowed one Deputy, who shall be paid by the county, at the rate of one hundred and twenty-five dollars per month, and one additional Clerk, to be allowed by the Board of Supervisors, if said Board shall deem the same necessary, the salary not to exceed one hundred dollars per month, or at that rate for the time he serves. The Deputy Clerk shall be Deputy Recorder, and the County Clerk and his sureties shall be liable on his official bond as Recorder, for all acts of such Deputy.

Duties of  
cert. in  
officers.

SEC. 10. The officers named in the first section of this act shall collect and safely keep, all fees, commissions, and per centage, now allowed by law for services rendered by them in their several capacities, except for such services as the State is chargeable, and upon the first Monday of each month shall pay the same into the county treasury.



SEC. 11. The said officers, from and after the first Monday of October, A. D. one thousand eight hundred and sixty-one, shall each keep a book to be denominated the "Fee Book," which book shall be the property of the county, and which shall be open, during office hours, to public inspection. In this book shall be entered in detail all fees, or compensation, of whatever nature, or kind, collected, or chargeable; in one column the fees, or compensation, belonging to the county, and in another column the fees, or compensation, which, under this act, may be retained by the officer. On the first Monday of November, A. D. one thousand eight hundred and sixty-one, and on the first Monday of each month thereafter, the officer shall carefully add up the several columns, and set down the totals. And the compensation and fees collected, or chargeable, for the county shall be paid to the County Treasurer, accompanied by a full, accurate, and detailed, statement in duplicate, under oath, of all fees, per centage, and compensation, of whatever kind, collected for, or charged for, the county. Upon receiving the Treasurer's receipt for the payment of such fees, or compensation, said receipt, and one of the statements herein required to be made out in duplicate, shall be filed with the Auditor. And until the payment of such fees, or compensation, which, under this act, shall belong to the county, shall be paid to the Treasurer, and until said Treasurer's receipt and such officer's detailed statement have been filed with the Auditor, said Auditor is prohibited from drawing any warrant in favor of such officer, or any of such officer's Deputies. It is hereby expressly provided that any officer crediting any fee, or per centage, for any official services, which, under this act, is provided to be paid by him into the county treasury, shall do so at his own risk, and said officer shall set down the same in his fee book, and it shall be paid by him into the county treasury, as herein provided, the same as if he had collected said fee at the time, or prior to the performance, of the service for which said fee, or per centage, was chargeable. The duplicate certificates herein provided to be filed with the Treasurer and Auditor shall be sworn to as follows :

Officers to keep fee books.

Duties of certain officers.

I, \_\_\_\_\_, Sheriff [or other officer, as the case may be] of the county of Sierra, do solemnly swear that the entire fees, compensation, per centage, and payments, for official service rendered by me, or any Deputy, or person connected with my office, for me, has been entered in detail in the fee book of my office, and added up, and that the portion belonging to the county is \_\_\_\_\_ dollars; that said amount is the full amount received, or chargeable, since the last payment, and that neither myself, nor, to my knowledge, any Deputy for me, has rendered any service, except service for the county, which is not entered and added up to make the aforesaid sum.

Form of certificate.

SEC. 12. The County Treasurer of Sierra County shall, in addition to the several funds, accounts of which he is now by law required to keep, also keep in his books an account entitled the "Salary Fund."

Further duties of Treasurer.

SEC. 13. All fees, or compensation, for official service, which under this act are required to be paid into the county treasury, shall be charged to the Salary Fund of the county, and be applied to the payment of the salaries of the County Judge, County

Fees to be paid into treasury.

Treasurer, County Clerk, Sheriff, and Auditor, and the Deputies of said Sheriff and Clerk, as now provided by law. The said Sheriff, Treasurer, and Clerk, *ex officio* Recorder and Probate Clerk, as aforesaid, and Auditor, named in this act, shall perform all services required of them by law for county purposes, without fee, or compensation, other than that hereinbefore provided in this act.

Duty of  
Treasurer.

SEC. 14. All fees and commissions, of whatever nature, or description, which the Sheriff, Auditor, County Clerk, and Recorder, by law are required to collect, or are authorized to receive, except fees, or commissions, for services rendered the State, shall be by these officers paid to the Treasurer, and by him placed in the Salary Fund.

Salary Fund.

SEC. 15. All moneys paid to the Treasurer of Sierra County, under and by virtue of this act, shall constitute the Salary Fund, out of which all the salaries in this act allowed shall be paid by the Treasurer; *provided*, that if on the first Monday of any month, there shall not be money enough in the Salary Fund to pay the salaries for that month, as provided in this act, then the Treasurer shall transfer from the General Fund to the Salary Fund so much money as may be necessary to pay said salaries; *provided*, further, that the Treasurer shall, on the first Monday of July in each year, transfer to the General Fund all moneys remaining in the Salary Fund.

Further  
duty of  
Treasurer.

SEC. 16. The County Treasurer shall, on and after the first Monday of October next, in the statement of the condition of the treasury, he is now by law required to make monthly, set out the receipts and disbursements of the Salary Fund.

Penalty for  
neglect of  
duty.

SEC. 17. For a willful neglect, or refusal, to comply with the provisions of this act, or any one of them, any officer, or officers, herein named, shall, on conviction, be subject to a fine not exceeding five thousand dollars, and a forfeiture of their office, or offices, or to imprisonment in the State Prison not less than one year, or more than two years, or to one, or more, of said penalty, or penalties, in the discretion of the Court; *provided*, that nothing in this act shall release them from giving any bond required of them by law, or from any civil responsibility to any and all persons, in relation to the business of their said office, or offices, that may be by law applicable to their said several official duties.

Salaries,  
how paid.

SEC. 18. The salaries provided for in this act shall be payable in equal monthly installments, and the County Auditor shall, on the first Monday of November, A. D. 1861, and on the first Monday of each month thereafter, draw his warrant upon the County Treasurer, in favor of the respective offices, for the amount of salaries due each month; *provided*, that the said Sheriff, Clerk, and Auditor, shall have complied in every respect with the provisions of this act.

Repealing  
clause.

SEC. 19. All laws and parts of laws, which shall conflict with the provisions of this act, so far as the county of Sierra is concerned, are hereby repealed.

CHAP. CCCCIV.—*An Act supplementary to an Act entitled An Act concerning Hogs found running at large in the Counties of Marin, Sacramento, San Francisco, Alameda, Stanislaus, Yuba, and Santa Clara, passed April twenty-first, eighteen hundred and fifty-six.*

[Approved May 17, 1861.]

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

SECTION 1. The act to which this act is supplementary, shall be held, and is hereby declared, to apply to the township of Liberty, in the county of Klamath. Act construed.

SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCIV.—*An Act to authorize the Board of Supervisors of the County of Los Angeles to take and subscribe One Hundred Thousand Dollars, for the construction of a Railroad in said County, and to provide for the Payment of the same, and other matters relating thereto.*

[Approved May 17, 1861.]

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

SECTION 1. Whenever a petition shall be presented to the Board of Supervisors of Los Angeles County, from the Board of Directors of any railroad company organized for the purpose of constructing a railroad by which a railroad connection shall be formed between the city of Los Angeles and the bay of San Pedro, at, or near, New San Pedro, in said county, petitioning the said Board of Supervisors of said county to take and subscribe the sum of one hundred thousand dollars to the capital stock of any such railroad company, the said Board of Supervisors shall cause to be entered in the journal of their proceedings, a copy of such petition, and at their next regular meeting, or at a special meeting of said Board of Supervisors, held for that purpose, they shall vote upon said request, or proposition, to so take and subscribe such stock; and if a majority of said Board of Supervisors shall vote in favor thereof, then, and in that event, the Board of Supervisors of said county shall, in the name of the county of Los Angeles, immediately thereafter, take and subscribe, for the use, benefit, and advantage, of said county, to the capital stock of any railroad company organized for the purpose herein mentioned, stock to the amount of one hundred thousand dollars, and therefor to pledge the faith of said county of Los Angeles for the payment of the same in the manner hereinafter provided. May subscribe for stock.

SEC. 2. The said subscription shall be made by a committee of two members of said Board of Supervisors, to be appointed by an order of said Board for that purpose, and who shall perform that duty immediately thereafter. Committee appointed.

**To receive bonds at par.** SEC. 3. The said committee so appointed shall make such subscription on the books of such railroad company, conditioning the same to be paid in the bonds of said Los Angeles County, issued as hereinafter directed, and not otherwise; and for such subscription said bonds shall be received at par, dollar for dollar.

**Payment of subscription.** SEC. 4. The said Board of Supervisors of said Los Angeles County, from time to time, as the payment of said subscription is required to be made by the Board of Directors of said railroad company, shall by order direct the Chairman of said Board of Supervisors, the County Treasurer, and County Auditor, of said county, who for that purpose, and their successors in office, shall constitute a Board of Commissioners, to be styled the "Loan Commissioners" of said county, as such Loan Commissioners, to issue bonds in sums of five hundred, and one thousand, dollars, in equal proportions, for such amount of such subscription to said capital stock as said Board of Supervisors may direct; said bonds shall draw interest at the rate of eight per cent. per annum, from the date of their issue, and the principal thereof shall be made payable on a day specified, to be named in said bonds, which shall be fifteen years after the date of their issue, at the office of the Treasurer of said county, or in the city of San Francisco, at the option of such railroad company. The interest accruing on said bonds shall be due and payable semi-annually, so long as such bonds are outstanding and unpaid, and shall be made payable on a specified day, to be named in coupons, at the said Treasurer's office, or in the city of San Francisco, as before provided for the payment of the principal of said bonds; said bonds shall be signed by the Chairman of the Board of Supervisors, the Auditor, and Treasurer, of said county, as such officers, and *ex officio* Loan Commissioners; and when so signed, shall be presented by the Chairman of said Board of Supervisors to the Clerk of said county, who shall countersign the same as such Clerk, in the presence of a quorum of said Board, at a meeting thereof. And it shall be the duty of said Board of Supervisors to cause the fact of such countersigning of said bonds to be entered upon their journal, together with the number, date, and amount, of such bonds so countersigned by such Clerk; and upon the countersigning of said bonds it shall be the duty of said Board of Supervisors to cause the seal of said county to be affixed to each bond, and appoint a committee of two of their number to deliver said bonds to said railroad company, to whom the same shall be issued; and it shall be the duty of such committee to take a receipt from the Secretary of said railroad company, for the bonds so delivered by them, setting forth the numbers, dates, and amount, of the bonds so delivered, and report the same to the Board of Supervisors.

**Rate of interest.** SEC. 5. Coupons for the interest shall be attached to each bond, so that the coupons may be removed without mutilation to the bonds; said coupons shall be signed by the said Loan Commissioners. When any interest is paid upon a bond issued under the provisions of this act, the County Treasurer shall detach the coupons for the interest then due and paid, and deliver the same to the County Clerk of said county, taking his receipt therefor, whose duty it shall be to file the same in his office,

**Mayor, etc. to sign bonds.**

**To affix seal to bonds.**

**Coupons.**

**Interest.**

and make a report thereof at the next meeting of the Board of Supervisors.

Sec. 6. It shall be the duty of the said Board of Supervisors, previous to the making out of the duplicate of the general assessment list for said county, in each year, to levy a tax, to be styled an "Interest Tax," sufficient to raise the amount of interest required to be paid each year, on said bonds issued hereunder; and previous to the making out of the duplicate of the general assessment list for said county, in the year eighteen hundred and sixty-six, and for every year thereafter, until the said bonds issued under this act shall be paid and liquidated, the said Board of Supervisors shall, should it be necessary, levy a tax equal in amount to one-tenth part of the whole amount of said bonds, for the purpose of raising a fund for the liquidation of said bonds, which shall be styled a "Loan Fund." The said taxes shall be levied and collected in the same manner as the general taxes for county purposes, and when collected shall be paid into the county treasury, who shall account for and deliver the same over to the said Loan Commissioners, to be by them applied—

Duty of officers.

To levy tax.

*First*—The interest tax to the payment of the interest falling due on said bonds.

*Second*—The Loan Fund to the redemption of said bonds, as hereinafter provided.

Sec. 7. If there should be collected as such interest tax, in any one year, a sum greater than is required to pay the annual interest on said bonds issued hereunder, then the said Loan Commissioners shall pass over such surplus into the said Loan Fund.

Interest tax.

Sec. 8. It shall be the duty of the said Loan Commissioners to make arrangements for the payment of the interest on said bonds, when the same falls due, at least thirty days before the time of payment; and in the event said Interest Fund is inadequate, the said Treasurer shall draw on the Common, or General, Fund for such purposes, and deliver the same to the said Commissioners; and in the event that these funds prove inadequate, the said Commissioners are hereby authorized and required to make such contracts and arrangements as may be necessary for the payment of said interest, and the protection of the faith of the county of Los Angeles.

Duty of Loan Commissioners

Sec. 9. Whenever, at any time, there shall be in the said Loan Fund, a sum of money amounting to three thousand dollars, or upwards, the said Commissioners shall advertise in a public newspaper, published in said county, and also a newspaper published in San Francisco, for the space of four weeks, for sealed proposals for the redemption of said bonds, and ten days after the expiration of the time for such publication, the Commissioners shall open the sealed proposals, and shall pay and liquidate, so far as the Loan Fund then on hand shall extend, such bonds, presented under such proposals, as shall have the lowest value proposed at which they may be liquidated; *provided*, the same shall not be for more than the par value thereof; and, *provided*, should there be no proposals made for less than par value, then the payment of said Loan Fund then on hand shall be made on said bonds, according to the number of their issue, of which said Commissioners shall give four weeks' notice of the number of the bonds to

To advertise for proposals

Proviso.

be so paid, after which time such bonds shall cease to draw interest; and, *provided*, whenever there may be sufficient moneys in such Loan Fund for the extinguishment of the bonds issued under this act, it shall be the duty of said Commissioners to advertise in like manner for the space of four weeks, for the redemption of all outstanding bonds issued under this act, after which time said bonds shall cease to draw interest. Any money remaining in said Sinking Fund after the redemption of said bonds, shall be by the said Commissioners paid over to the County Treasurer, to be by him paid into the General Fund of Los Angeles County.

Redemption  
of bonds.

To cancel  
bonds.

SEC. 10. Whenever any bonds shall have been paid and redeemed by the said Commissioners, they shall mark the same "Canceled," over their own signatures as Commissioners, and immediately deliver the same to the County Clerk, taking his receipt therefor; and the County Clerk, upon the receipt of such canceled bonds, shall file the same in his office.

To open  
account.

SEC. 11. The County Clerk shall open with the said Loan Commissioners an Interest Tax Account, and a Loan Fund Account, and shall balance the same quarterly, on the first Monday of April, July, October, and January, of each year.

Liabilities.

SEC. 12. The said Commissioners, and all other officers herein specified, for the performance of their duties under the provisions of this act, shall in all things herein required of them, be subject to all the liabilities and penalties to which they are subjected in the performance of any other of the duties of their respective offices; and they shall, when the fees, or salary, is not fixed by law, for the services herein required, be allowed by the Board of Supervisors a reasonable compensation therefor, to be

Compensation

paid by said county, as other fees and salaries are paid; and the said Board of Supervisors may, and they are hereby fully authorized so to do, require of each of said Commissioners such bonds and security for the performance of their duties herein required of them, as they, the said Board of Supervisors, shall deem proper; *provided*, however, that the penal sum of such bonds to each of said Commissioners shall not exceed the sum of five thousand dollars. The said Commissioners shall, when so required, execute the said bonds in the same manner as other official bonds are executed, and to be approved by the said Board of Supervisors, and filed in the office of the Clerk of said county.

To execute  
bonds.

Rights and  
powers.

SEC. 13. The Board of Supervisors shall have all the rights and powers appertaining to any other subscriber to such capital stock, and shall receive all the dividends, issues, and profits, arising from such subscription to said capital stock, and shall set apart and transfer the same, together with the taxes that may be paid by said company to said county, from time to time, to the said Loan Fund, to be applied by the said Loan Commissioners to the payment of the interest on the bonds issued as herein provided, and the redemption of the principal thereof, in the manner provided by section nine of this act; and after the full payment of said bonds and the interest on the same, the said dividends, issues, and profits, arising from such stock subscription, shall be paid into the General Fund of said county.

SEC. 14. The said Board of Supervisors shall have authority to authorize a committee of any one, or more, of their number,

or any other persons, to cast all votes representing the capital stock so subscribed by them; and they shall, by order made for that purpose, have full power to sell, transfer, and assign, the said capital stock, or any part thereof so taken by them, under the provisions of this act, whenever, upon a submission to the qualified voters of said county, at any county, or general, election, of a proposition to sell the same, a majority of the votes cast thereon shall approve of such sale. Power to sell and transfer stock.

SEC. 15. The subscription of stock authorized by virtue of the provisions of this act, shall be made by said Board of Supervisors on the books of said company, upon the express condition that the said county shall not be liable for any of the debts, or liabilities, of said company, beyond the amount so subscribed; and this provision as to the liability of said county shall be a part of, and so expressly stipulated in, all contracts made by said company for the construction and equipment of said road; and in case the said company shall fail, or refuse, to make such stipulation in all of their said contracts, then the said Board of Supervisors shall have power to declare the said subscription void and of no effect, and may recover from said company any previous payments that may have been made thereon, at the time of such failure, or refusal. City liable for certain debts.

SEC. 16. If such railroad company shall not, within one year after the passage of this act, petition the said Board of Supervisors for the subscription contemplated by this act, then this act shall be null and void, and of no effect. Act conditional.

CHAP. CCCCVI.—*An Act declaring certain Creeks in Marin County Navigable.*

[Approved May 17, 1861.]

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

SECTION 1. The creeks situated in Marin County, known as Guyamas Creek, San Rafael Creek, Corte Medera Creek, and Saucelto Creek, are hereby declared navigable from their mouths as far as tide flows. Creeks declared navigable.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCCCVII.—*An Act amendatory of, and supplemental to, an Act entitled An Act in relation to the Militia of the State, approved May ninth, eighteen hundred and sixty-one.*

[Approved May 17, 1861.]

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

SECTION 1. Section two of said act is hereby amended so as to read as follows:

Term of  
office of  
Adjutant-  
General.

Sec. 2. The Adjutant General shall be appointed by the Commander-in-Chief, by and with the advice and consent of the Senate, and shall hold his office for the same term as the Secretary of State. He shall be *ex officio* Chief of Staff, Quartermaster-General, Commissary-General, Inspector-General, and Chief of Ordnance. He shall receive a salary of two thousand dollars annually, to be paid out of moneys appropriated for that purpose. He shall reside at the seat of government, and shall keep his office open for the transaction of business every day, (Sundays excepted,) from ten o'clock, A. M. until three o'clock, P. M.

Salary.

To take  
effect.

SEC. 2. The act entitled An Act in relation to the Militia of the State, approved May ninth, eighteen hundred and sixty-one, is hereby declared to take effect and be in force, from and after the passage of this act.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCVIII.—*An Act to authorize Davis D. Reeve, John B. Lemon, and James M. Lemon, to build a Wharf at Suisun City in Solano County.*

[Approved May 17, 1861.]

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

Franchise  
granted.

SECTION 1. The right to build and erect a suitable wharf, for the landing of vessels, at Suisun City, in the county of Solano, is hereby granted to Davis D. Reeve, John B. Lemon, and James M. Lemon, to be located on the western bank of the west branch, or arm, of Suisun Slough, near its head, and at the foot of Sacramento Street, according to the map and plan of said Suisun City, and extending north of said street one hundred and twenty-five feet, and south of said street one hundred and twenty-five feet, on the lands belonging to the said grantees, or either of them.

Rights  
granted.

SEC. 2. The State of California hereby grants to Davis D. Reeve, John B. Lemon, and James M. Lemon, the right to excavate any overflowed lands belonging to the State, or any lands belonging to either of them, so as to allow the free ingress and egress of vessels, or water craft, to and from said wharf, and are hereby granted the exclusive privilege of the use of all such portion of the western arm of said slough as they may render navigable by excavation, for twenty-five years, and they and their



heirs and assigns, shall be, and are hereby, authorized to charge <sup>Tolls.</sup> and collect such rates of wharfage and tolls, as shall be allowed them by the Board of Supervisors of Solano County, for and during said period of twenty-five years.

CHAP. CCCCIX.—*An Act to legalize and provide for the Collection of Delinquent Taxes in the Counties of this State.*

[Approved May 17, 1861.]

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

SECTION 1. The assessments of taxes upon all property, real and personal, in the several counties of this State, whether for <sup>Assessments</sup> State, or county, purposes, for the fiscal year ending on the first day of March, eighteen hundred and fifty-nine, and for the fiscal year ending on the first day of March, eighteen hundred and sixty, and for the fiscal year ending on the first day of March, eighteen hundred and sixty-one, shall be, and are hereby, legalized and confirmed, and are rendered valid and binding, both in law and equity, against the persons and property assessed.

SEC. 2. If the Tax Collector of any county shall fail to collect the delinquent taxes mentioned in the preceding section, by reason of his inability to find, seize, or sell, property belonging to the delinquent, it shall be the duty of the District Attorney of the county to commence a civil action in the name of the people of the State of California, in any of the courts in the county, whether the defendant be a resident of the township, or city, in which the court is located, or not, to recover the unpaid taxes in said county, for the fiscal years mentioned in the first section; and he shall designate in his complaint the amount of taxes due and unpaid, for State and county purposes, separately, and shall state the kind and quantity of property assessed, both real and personal, and if any real, describe the same, and the defendant shall not be allowed to set up, or show, any informality in the levy, or assessment, as a defense, such defendant being allowed only to plead—

*First*—That the taxes had been paid before suit or,

*Second*—That he had not the property mentioned in the complaint at the time of the assessment, and has never been liable to pay said taxes; and no answer shall be filed in any such case, unless the same be verified by oath.

SEC. 3. The delinquent tax lists for said fiscal years, duly certified by the proper officers, shall be delivered to the District Attorney, and the said delinquent lists, or the original, or duplicate, assessment rolls, or a copy of any entry therein, duly certified, showing unpaid taxes against any person, or property, shall be evidence in any court, to prove the delinquency, property assessed, the amount of taxes due and unpaid, and that all the forms of law in relation to the levy and assessment of such taxes, have

Assessments  
legalized.

Failure to  
collect  
delinquent  
taxes.

Duty of  
District  
Attorney.

been complied with; and neither the delinquent tax lists, nor the assessment rolls, need be filed in any case.

Judgments  
to become  
liens.

SEC. 4. Judgments rendered in such cases in the District Court shall be docketed, and become liens upon all property of the defendant's liable to taxation, and may be enforced against the same; and the District Attorney may file transcripts of judgments rendered in Justices' Courts, under this act, with the County Clerk, who shall thereupon docket such judgments, and they shall become liens, from and after such docket entry, in like manner as judgments rendered in the District Court under this act; and the County Clerk may issue execution on such docketed Justice's judgments, as on judgments rendered in the District Court.

Act made  
applicable.

SEC. 5. An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, so far as the same is not inconsistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act, shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes, and shall entitle the holder thereof to a writ of assistance from the District Court, to obtain possession of such property; *provided*, that the Sheriff in selling said property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and, *provided*, further, that when property sold belongs to minors, or persons under legal disability, they shall have until one year after said disability is removed, to redeem said property, by paying the whole bid and all subsequent taxes and interest. All moneys collected in this behalf, except costs and charges, shall, without delay, be paid to the Treasurer of the said county, to be distributed in the proper funds; and each collection and the date thereof, shall be entered opposite the proper name or property, in the delinquent tax lists, which shall be open to public inspection.

Proviso.

Unknown  
owners.

SEC. 6. If the name of the owner of any property upon which the taxes remain unpaid, be unknown, or if the same has been assessed to an unknown owner, the person liable to pay the taxes thereon may be sued by a fictitious name, and the summons be served in such a manner as the court may direct; and a deed derived from the sale of such property, under the provisions of this act, shall be equally conclusive against the true owner of such property, as if the action had been prosecuted against said owner by his real name.

Compensa-  
tion of  
District  
Attorney.

SEC. 7. For services under this act, the District Attorney shall be entitled to a compensation equivalent to fifteen per cent on the amount recovered, to be added thereto, if paid before judgment; and if not so paid, then twenty-five per cent. to be added to, and to constitute a part of, the judgment; and all officers shall perform such services as may be required of them under this act, without the payment of fees in advance, but they may charge and receive to their own use such fees as are allowed for similar services in other cases; *provided*, such fees are collected of the defendants; and in no case shall the State, or county, be liable for services rendered under this act; and, *provided*, further, that the District Attorney shall not commence the suit authorized by this act, against a person after being served with a du-

uplicate receipt of the Tax Collector, for the total amount of taxes and charges due from such person, or upon a piece of property, and ten per cent. additional thereto; and if any person shall fail to serve said receipt, he shall pay all costs that may result from his negligence; *provided*, that nothing herein contained shall be so construed as to repeal any special act heretofore passed for the collection of delinquent taxes, but the District Attorney may elect under which act he shall proceed; *provided*, further, that the special act passed for the collection of delinquent taxes in the county of Colusa, approved April twenty-first, eighteen hundred and sixty, is by this act repealed; but no proceedings taken, or had, under the said law relating to Colusa County, shall in any manner be affected, or invalidated, by the repeal of said law.

Proviso.

SEC. 8. The provisions of this act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCCCX.—*An Act amendatory of, and supplementary to, An Act to confer further powers on the Board of Supervisors of the City and County of San Francisco, and to authorize them to perform certain Acts therein mentioned, approved April eighteenth, eighteen hundred and fifty-nine.*

[Approved May 17, 1861.]

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

SECTION 1. The sixth subdivision of the act to confer further powers on the Board of Supervisors, the Auditor, and the Treasurer, of the City and County of San Francisco, and to authorize them to perform certain Acts therein mentioned, approved April eighteenth, eighteen hundred and fifty-nine, is hereby amended so as to read as follows:

Act amended.

Sub. 6. The said Board are hereby authorized and required to allow and order paid, out of the General Fund, the Auditor to audit, and the Treasurer to pay, to E. B. Vreeland, as assignee of J. H. Kent, such sum as may be legally, or equitably, due him, not to exceed the sum of two thousand one hundred and fifty-one dollars, for official services rendered by said Kent, as Coroner, from the first day of November, eighteen hundred and fifty-six, to the first day of February, eighteen hundred and fifty-seven.

To audit and pay claim.

SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCXI.—*An Act supplementary to An Act to prevent the trespassing of Animals upon private property, approved March thirty-first, A. D. eighteen hundred and fifty-five.*

[Approved May 17, 1861.]

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

**SECTION 1.** It shall not be lawful for any person, or persons, who are the owner, or owners, or managers, of any horses, mules, jacks, jennies, or cattle, and who are not the owners, or legal occupants, of sufficient grazing land to pasture and maintain the same, to turn loose, or drive, such animals upon the land of any owner, or legal occupant, without consent, to pasture and maintain the same; and the owner, owners, or managers, of such animals shall, upon due written notice being given by the owner, or occupants, of the lands so trespassed upon, remove such animals within five days after such notice; and if not so removed, then the owners, or occupants, of the land so trespassed upon, may make complaint before any Justice of the Peace of the county, who shall, upon proof being given, order such animals to be removed forthwith; and if not so removed, then such owner, owners, or managers, shall, in the discretion of the Justice, be fined in a sum, not less than ten, nor more than one hundred, dollars, and all costs; and if the trespass be repeated by the neglect of the owner, or managers, of such animals, he, or they, shall, for the second and every subsequent offense, or trespass, be subject to double such fines, all of which fines to be paid to the County Treasurer, one-half of which to be applied to the Common School Fund of the county.

**SEC. 2.** This act shall not apply to persons traveling with, or driving, animals, as provided in this act, to market, except when such owners, or managers, stop more than two days on the lands owned, or occupied, as herein mentioned, without the permission of such owner, or occupant; nor shall it apply to the owners, or legal occupants, of grazing farms, whose lands are proportionate to the number of their cattle and horses. The minimum number of large cattle and horses, shall be twelve hundred head to the square league of land of such owner, or legal occupant, or in that proportion for a greater, or less, quantity of land.

**SEC. 3.** This act shall apply to the counties of Los Angeles, San Diego, San Bernardino, and Santa Barbara.

**SEC. 4.** This act shall take effect from and after its passage.

Owners of animals not to allow them to trespass.

Penalties.

Application of act.

Counties applicable.

To take effect.

CHAP. CCCCXII.—*An Act providing for the better support of Common Schools in the County of Contra Costa.*

[Approved May 17, 1861.]

*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 Contra Costa are hereby empowered and directed to levy a special tax (in the same manner as other taxes shall be levied,) upon the real estate and personal property within the county, of twenty 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; *provided*, that for the present year, (eighteen hundred and sixty-one.) the tax to be levied shall be ten cents on the one hundred dollars' worth of property. Special tax.

SEC. 2. The Board of Supervisors of the county of Contra Costa are hereby directed to levy the special tax created by the first section of this act, on or before the first Monday of June, A. D. eighteen hundred and sixty-one, and on, or before, the first Monday of March of every subsequent year. Time of levying.

SEC. 3. 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 the act for the apportionment of the school moneys, and be drawn from the county treasury on the warrant of the County Superintendent, as by law provided. To apportion moneys.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. CCCCXIII.—*An Act to amend an Act entitled An Act concerning Roads and Highways in the Counties of Humboldt, Napa, and Siskiyou, approved February twenty-second, eighteen hundred and sixty.*

[Approved May 17, 1861.]

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

SECTION 1. Section nine of said act is hereby amended so as to read as follows :

SEC. 9. The Board of Supervisors shall have power, and it is hereby made their duty, to levy a road tax on all able-bodied men between the age of twenty-one and sixty years, which shall not exceed four dollars per annum, and a property tax of not less than ten, nor more than twenty, cents upon each one hundred dollars' value of taxable property in the county, as assessed the year preceding the levy of said tax for road purposes. Such tax shall be levied for the year eighteen hundred and sixty, within Board of Supervisors to levy a road tax.

sixty days after the passage of this act, and for every year thereafter. At the first regular meeting of the Board in each year, said Board shall cause a duplicate of such assessment and tax so levied, to be made out for each separate road district as soon thereafter as practicable, and may call to their assistance the Assessor, who made the assessment, and the Road Overseer of each district, to assist in arranging the assessment and tax within the road district where the assessed property is situated, for which assistance the Board may allow them such compensation as they may deem just and reasonable, out of the General County Fund.

SEC. 2. Section eleven of said act is hereby amended so as to read as follows:

Judgment to  
act as lien.

Sec. 11. The taxes levied under the provisions or authority of this act are hereby made a judgment against the person, and a lien against the property assessed; which lien shall attach and judgment date, as of the date of the levy by said Board, in each year; and said assessment have the full force and effect of an execution against all property of the delinquent; and it is hereby made the duty of the Road Overseer to enforce the collection of

How to en-  
force lien.

the same by seizing so much of any species of personal property, choses in action, debts, or rights, claim, or possession, whatever, claimed by any person liable to, and refusing, or neglecting, to pay any tax levied in pursuance of this act, or in possession of, or due from, any other person, and belonging to such person so refusing to pay such tax, as will be sufficient to pay such tax and costs of seizure and sale; 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 any such 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 said Road Overseer of a notice in writing, stating the name, or names, of the person, or persons, liable and owing such tax, and may deduct the amount thereof from such indebtedness. The said Road Overseer, after deducting the tax for which such property was sold, and such fees and costs of sale as would accrue to Sheriffs for like services, shall return the surplus of proceeds to the owners of the property. A delivery of the possession of the property by the Road Overseer to any purchaser, at any such sale, shall be a sufficient title to the purchaser; or, if the purchaser requires it, the said Road Overseer shall execute a bill of sale. The Overseer shall have the right

Duty of Road  
Overseer.

to demand of any employer of working men in his district a complete list of the names of the men employed by him; and any employer refusing, or neglecting, to give such list, when demanded of him by the Overseer, shall be liable to pay a fine of not less than ten, nor more than fifty, dollars, to be recovered before a Justice of the Peace in the name of the Overseer, for the use of the county; he may also demand of such employer a statement, under oath, touching his indebtedness to the laborers employed by him who are liable to pay road taxes; and if it shall appear, upon such statement being made, that such employer is indebted to any person liable to road tax an amount equal to the road tax due by them, the Overseer may demand payment of said taxes from such employer; and if such employer refuse, or neglect, to pay the same, the Overseer may proceed to collect

the amount from him by suit, in his own name, for the use of the county, before any Justice of the Peace of the township where such employer resides; and in all suits under this act, the Road Overseer shall be a competent witness.

Sec. 3. Section thirteen of said act is hereby amended so as to read as follows:

Sec. 13. Each Overseer shall, on the first Monday in August, in each year, present to the Board of Supervisors a correct account of all moneys by him collected and expended, and the amount collected from each tax payer of property tax, and a list of the names of the persons liable to pay the tax levied by the Board, other than property tax, and shall verify the same by his oath, and the Board of Supervisors shall have power to examine each Overseer, upon his oath, touching his accounts so presented. Any Overseer failing, refusing, or neglecting, to perform any of the duties prescribed by this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any Justice of the Peace in the county, shall be fined in any sum not exceeding two hundred dollars, for which fine his official bond shall be liable, and when collected shall be paid into the county treasury to the credit of the Road Fund of the county. Overseers shall receive such reasonable compensation for the time actually and necessarily employed by them in the performance of their duties, as the Board shall determine, not to exceed three dollars per day, to be paid out of the Road Fund raised by this act, or out of the General County Fund, in the discretion of the Board of Supervisors; and any sum now due and audited against the Road Fund may be paid from the General Fund, if the Board of Supervisors shall so order.

To render account to Board of Supervisors.

Compensa'n.

SEC. 4. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, so far as the county of Humboldt is concerned. This act to take effect and be in force, from and after its passage.

Acts repealed.

CHAP. CCCCXIV.—*An Act concerning Fees in certain Counties.*

[Approved May 17, 1861.]

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

SECTION 1. The Sheriff, Clerk, Recorder, and Treasurer, of the counties of Santa Clara and Alameda shall, each, from and after the first day of June, A. D. eighteen hundred and sixty-one, keep in his office, and at all times open for inspection by any one, a Fee Book, in which he shall keep a true account of all services rendered either by himself, or his Deputies, in their official capacity, to any person, or persons, the names of the parties for whom such service was rendered, and of all fees, dues, per centages, mileage, or compensation, of any character, either collected, due, or chargeable, for such service.

Certain officers to keep fee books.

SEC. 2. On the first Monday in August, A. D. eighteen hundred and sixty-one, and at every regular meeting of the Board of Su-

Supervisors thereafter, each of the officers named in the first section of this act shall file with the Board of Supervisors an abstract of the Fee Book of his office, in which abstract shall be shown the entire amount of the earnings of his office during the preceding quarter, which abstract shall be verified by the oath of the officer making the same, to the effect that such abstract shows the entire amount collected, due, or chargeable, for services rendered, either by himself, or any of his Deputies, in their official capacity, during the preceding quarter.

Refusal to  
file abstract.

SEC. 3. Any officer specified in this act who shall neglect, or refuse, to file the abstract provided for in section two of this act, or who shall willfully make, in said abstract, a false, or incorrect, statement of the earnings of his office, shall be liable to all the pains and penalties provided in the revenue law now, or hereafter, in force, for the punishment of similar offenses.

CHAP. CCCCXV.—*An Act supplementary to an Act approved April twenty-seventh, eighteen hundred and sixty, entitled An Act supplementary to an Act entitled An Act to confer further Powers upon the Board of Supervisors, and Auditor, and Treasurer, of the City and County of San Francisco, and to authorize them to perform certain Acts therein mentioned, approved April twenty-third, eighteen hundred and fifty-eight.*

[Approved May 17, 1861.]

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

Powers of  
Board.

SECTION 1. The Board of Supervisors of the city and county of San Francisco have hereby further powers conferred upon them, as follows :

Redemption  
of property.

*First*—To allow and order paid out of the General Fund, not exceeding the sum of ten thousand dollars, in any one fiscal year, for the redemption of such property belonging to the city and county of San Francisco as may have been, or may hereafter be, sold for taxes, or judgments.

Almshouse.

SEC. 2. To allow and order paid out of the General Fund, not exceeding the sum of six thousand dollars, in any one fiscal year, for the maintenance of an almshouse.

Compiling  
laws and  
ordinances.

SEC. 3. To allow and order paid out of the General Fund, for the fiscal year of eighteen hundred and sixty and eighteen hundred and sixty-one, not exceeding the sum of ten hundred dollars, for compiling and publishing the laws and ordinances relating to the city and county of San Francisco; and for any fiscal year thereafter a further sum, not exceeding three hundred dollars, for the same purpose.

For repair  
of hospital,  
jail, etc.

SEC. 4. To allow and order paid out of the General Fund, not exceeding the sum of five thousand dollars, for the completion of the repairs to the city and county hospital, and not exceeding the further sum of five thousand dollars, for the fiscal year of eighteen hundred and sixty and eighteen hundred and sixty-



one, for such repairs as the Board of Supervisors may deem necessary to the county jail and other public buildings of the city and county of San Francisco.

SEC. 5. To allow and order paid out of the General Fund, not exceeding the sum of five thousand dollars, in any one fiscal year, for the employment of special counsel. For pay of counsel.

SEC. 6. To allow and order paid out of the General Fund, a sum, not exceeding two thousand dollars, for the purpose of repairing the draw on Brannan Street Bridge. For repair of draw.

CHAP. CCCCXVI.—*An Act amendatory of An Act to provide for the construction of a Railroad from a Point on Petaluma Creek into the City of Petaluma, and for a Right of Way for the same.*

[Approved May 17, 1861.]

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

SECTION 1. Section one of an act entitled An Act to provide for the construction of a Railroad from a Point on the Petaluma Creek into the City of Petaluma, and for the Right of Way for the same, approved April twenty-fifth, eighteen hundred and sixty, is hereby amended so as to read as follows:

Section 1. The right to lay out, construct, and run, a line of railroad with single, or double, tracks of iron; to keep in repair and use the same, by running thereon cars propelled by steam, or other motive power; and to construct, use, and keep in repair, all necessary viaducts, dams, bridges, culverts, stations, depots, turnouts, and other appurtenances, for the convenience and profitable use thereof, between such point on Petaluma Creek, above Eagle Point, and into the town, or city, of Petaluma, and by such route as may be deemed most advantageous and convenient, and as may be selected, with the right of way over any land belonging to this State, and on, or across, any road, street, or highway, or across any streams, together with ownership and control of the said railroad so selected, in the width of one hundred feet, where necessary for the construction of the road, where the same may be located on land belonging to this State—is hereby granted to Joseph Nougues and associates; *provided*, the said grantees shall, within two years after the passage of this act, expend, in cash, in the actual construction of said road, an amount equal to, or more than, twenty-five thousand dollars; and shall, within three years after the passage of this act, construct and complete, in a substantial manner, as provided under the general laws of this State relative to the construction of railroads, and put in operation, said railroad from the point of commencement on Petaluma Creek into the town, or city, of Petaluma.

Franchise granted.

Proviso.

CHAP. CCCCXVII.—*An Act to authorize the Guardian of Jonathan P Williams and Isaac B. Williams, minor heirs of James Williams, deceased, to sell Real Estate of said Minors.*

[Approved May 17, 1861.]

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

**To sell real estate.** SECTION 1. The legally appointed Guardian of Jonathan P. Williams and Isaac B. Williams, minor heirs of James Williams, deceased, is hereby authorized and empowered, and it shall be lawful for him to bargain, sell, and convey, either at public, or private, sale, so much of the real estate, lands, tenements, and appurtenances, of said minors, in the county of Santa Cruz and State of California, as may be necessary to pay off, discharge, and fully satisfy, all judgments, mortgages, and incumbrances, now existing upon the real estate of said minors.

**To report sale to Probate Judge.** SEC. 2. Before any such sale shall be valid, it shall be reported to the Probate Judge of the county of Santa Cruz, and shall in no case be valid, or have any effect, until first confirmed and approved by the Probate Court of said county of Santa Cruz; and when any sale, made under the provisions of this, shall have been properly confirmed and approved by the said Probate Court, the Guardian of such minors shall make, execute, and deliver, to the purchaser, or purchasers, good and sufficient deed, or deeds, of conveyance for the real estate sold by him as such Guardian, which conveyance shall pass to, and vest in, such purchaser all the estate, right, title, and interest, of the said minors, or either of them of, in, and to, the real estate and property described therein.

**To execute conveyance.** SEC. 3. This act shall take effect from and after its passage.

**To take effect.**

CHAP. CCCCXVIII.—*An Act defining the mode of serving Civil Process in the County of San Bernardino.*

[Approved May 17, 1861.]

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

**Service of civil process.** SECTION 1. The Sheriff of San Bernardino County, or his Deputies, or some person specially appointed by him, shall serve all civil process emanating from the District Court, County Court, and Probate Court, in said county; and it shall not be lawful for any other person to serve any civil process emanating from said courts within said county; *provided*, that the Judge of either of the said courts, may, in case of disability on the part of the Sheriff, appoint some suitable person to serve process.

**Repealing clause.** SEC. 2. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed.

CHAP. CCCCXIX.—*An Act to authorize the Guardian of George Horton and Marshall Horton to sell certain of their Real Estate at private sale.*

[Approved May 17, 1861.]

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

SECTION 1. The Guardian of George Horton and Marshall Horton is hereby authorized to sell at private sale the real estate belonging to said infant heirs. To sell real estate.

SEC. 2. After such sale the Guardian shall report the same to the Probate Court, and if the Judge thereof shall be of opinion that the real estate has been sold for a fair compensation, he shall make an order confirming such sale, or sales, and directing the Guardian to execute deeds for the property sold. To make report.

SEC. 3. The deed or deeds made under this act shall convey to the purchaser, or purchasers, such title as the heirs and each of them, have now, or may hereafter, have in and to the land described by such deeds. No sale under this act shall be valid, until the same be approved by the Probate Court of Tulare county, and the Guardian shall be liable, on his official bond, for the faithful application of all money received from any sale authorized by this act. Conveyances

CHAP. CCCCXX.—*An Act to amend Section Two of An Act concerning the Office of Public Administrator, passed April fifteenth, eighteen hundred and fifty-one.*

[Approved May 17, 1861.]

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

SECTION 1. Section two of said act is hereby amended so as to read as follows :

Sec. 2. 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 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 reasons shown, fix the amount of the bond to be given by the Public Administrator, at any sum not less than fifteen thousand dollars; and, *provided*, further, that the amount of the bond to be given by the Public Administrator of the county of Marin shall be determined by the Board of Supervisors of said county. Bond.

Proviso.

CHAP. CCCCXXI.—*An Act concerning Roads and Highways in the County of Mendocino.*

[Approved May 17, 1861.]

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

Powers of Supervisors.

SECTION 1. The Board of Supervisors of the county of Mendocino shall have full power to order the laying out of public and of private roads, when necessary, and to vacate, or alter, any public, or private, road, whenever they shall deem it expedient. All public roads shall be laid out to the width of sixty-six feet, and all private roads to the width of thirty-three feet; *provided*, however, that the streets of any town, or village, not incorporated, are declared public roads to the width laid out.

Locating and changing roads.

SEC. 2. For the purpose of locating a new road, or of altering an old one, the Board of Supervisors of said county may, upon a petition being presented to them to that effect, appoint two Viewers to view out and locate, or alter, such road. Such Viewers shall receive the same compensation as Road Overseers for the time actually employed, to be paid out of the County Road Fund. Such Viewers shall, when viewing any road, give notice of the proposed route to all parties owning, or occupying, lands, through which the proposed route, or of the portion of the old road to be changed, shall pass. The Viewers shall make a sworn report to the Board of Supervisors at their next regular meeting, in which report they shall also embody the names of all the parties notified by them, as above provided; also the names of the persons owning lands over which the new road is proposed to be run, and the quantity of land owned by each person, that will be appropriated for the road. It shall then be at the option of the Board of Supervisors to order the laying out, or altering, of the road, in accordance with the report of the Viewers, or not, as they may deem most expedient. Parties feeling themselves aggrieved by the location, or altering, of the road, shall make complaint to the Board of Supervisors at their next regular meeting, after being notified. When damages are demanded, the Board of Supervisors shall order a jury of twelve, (or less if the claimant consent,) to be summoned by the Sheriff of the county, returnable at a time named in said order. On the return day of the jury a trial shall be had, in like manner as is now provided by law for the recovery of damages in any civil proceeding. The Board of Supervisors shall preside as the court, and decide all questions of law arising in any trial as aforesaid. The verdict of the jury shall contain a description of the land appropriated for the road, the quantity and the value thereof, deducting the benefit the location of the road will be to the claimant; and when the amount assessed by the jury shall have been tendered, or paid, to the claimant, the title of the land described in the verdict shall be vested in the county. Any person, over whose lands any public road now passes, may, by filing a complaint with the Board of Supervisors, showing that fact, receive the value of the land so used for a public road, in the same manner as above provided for, any time within six months

Viewers.

Parties aggrieved.

Damages.

after the passage of this act. The District Attorney shall defend the county in such suits for damages. If the claimant should fail to recover damages, he shall pay the costs of the suit.

SEC. 3. No roads shall be opened through any inclosed grounds having any growing, or unharvested, crops thereon, until such crop, or crops, shall be harvested, and the owners have had a sufficient time for the removal thereof.

Opening roads.

SEC. 4. The Board of Supervisors shall divide the county into convenient road districts, and may from time to time alter the same, or create new road districts, as they may deem expedient. For each road district there shall be elected a Road Overseer by the qualified electors of the district, (who shall be a resident of the district,) at such place as the Board of Supervisors may select and at the time township officers are elected, who shall hold his office for one year, and he shall give bond in such sum as the Board of Supervisors may direct; and the Board of Supervisors shall have power to fill any vacancy occurring by death, resignation, or otherwise, until the next election. The County Clerk of said county shall notify all persons elected Road Overseers, within ten days after such election has been held, informing the person elected of his election, and describing the boundaries of his district. If the person elected, or appointed, fail to qualify within ten days after receiving his certificate of election, or appointment, the office shall be vacant.

Road Districts and Road Overseers.

Vacancy.

SEC. 5. The Overseers shall cause the roads and bridges in their respective districts to be kept free from obstructions and in good repair, and shall have power to cause banks to be graded, bridges and causeways to be made, whenever the public convenience shall demand it. They shall for that purpose have power to use any suitable raw materials found on any adjacent unimproved lands. If the owner, or occupier, of the land objects to such material being taken, the same shall not be used until a disinterested person shall have been appointed by the Board of Supervisors, who shall examine into the matter and report the facts connected therewith, and the Board shall award such compensation as they may deem just.

Duty of Overseers.

SEC. 6. All able-bodied men, between the ages of twenty-one and fifty years, in said county, are hereby made liable to work the roads in their respective districts, not less than two, nor more than four, days, at the option of the Board of Supervisors, or may commute by paying to the Overseer one dollar and a half for each day liable to work the road. A person furnishing, at the request of the Overseer, a team to work the road, shall be allowed a just credit for such service in lieu of personal labor. The Overseer shall have the right to demand of any employer of working men in his district a complete and correct list of the names of the men employed by him, and any such employer refusing, or neglecting, to give such list, when demanded of him by the Overseer, shall be liable to pay a fine, of not less than ten, nor more than fifty, dollars, to be recovered by action before a Justice of the Peace in the name of the Overseer. Before proceeding to work the road, the Overseer shall notify the road hands verbally, or in writing, three days, or more, before the day fixed for working the road. In his notice he shall distinctly state the proper time and place for the road hands to assemble, and may also

Persons liable to work on roads.

List of names.

Notification.

state the kind of work to be done, and shall require them to bring the tools, or implements, to be used in working the road. If, on the day appointed to work the road, any person having been notified by the Overseer, or by some person for him, shall fail to appear at a reasonable hour in the morning, or appearing shall fail, or refuse, to work in a diligent manner, such person shall forfeit and pay the sum of three dollars for every day so failing, or refusing, to work, such sum to be recovered by action before a Justice of the Peace in the name of the Overseer. And in suits to recover such amounts, or to recover any fine, or forfeit, under this act, the Overseer shall be a competent witness. A reasonable excuse may exempt any road hand from the liability to pay for failing to appear, or work when appearing, but such person shall be required to work the full time herein prescribed.

Penalty for refusing to work.

Recovery of penalty.

SEC. 7. Any person willfully obstructing any public road, shall be liable to pay a fine not exceeding fifty dollars, and shall forfeit five dollars for every day he shall suffer such obstruction to remain, after he shall have been ordered to remove the same by the Overseer, said fine and forfeit to be recovered by action before a Justice of the Peace in the name of the Overseer.

Application of moneys.

SEC. 8. All moneys collected by the Overseer as road taxes, fines, or forfeits, shall be by him applied in working and improving the roads and building, or repairing bridges, in his district. The Road Overseer shall keep a correct account of all moneys by him collected and expended, and shall return a written statement thereof to the Board of Supervisors, and also a list of the delinquents, under oath, at the end of the year. Any Road Overseer failing to perform the duties, herein prescribed, in a proper manner, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding two hundred dollars. Overseers shall receive such reasonable compensation, for the time actually employed, as the Board shall determine, not to exceed four dollars per day, to be paid out of the County Road Fund.

Road Overseers.

Road tax.

SEC. 9. The Board of Supervisors of said county shall cause a tax to be collected, of not less than five, nor more than ten, cents on each one hundred dollars' worth of property, to be levied and collected at the same time and in the same manner, as other property taxes are collected, to be paid into the county treasury and set apart as a County Road Fund, to be paid out under the direction of the Board of Supervisors. Any surplus in said fund may be applied by the Board of Supervisors in aiding in the construction and repairing of roads and bridges, where the funds of the road district and the ordinary labor of the hands are not sufficient.

Surplus.

Repealing clause.

SEC. 10. All acts and parts of acts inconsistent with the provisions of this act, so far as they apply to the county herein mentioned, are hereby repealed.

CHAP. CCCCXXII.—*An Act to amend an Act entitled An Act concerning the Officers of Calaveras County, and the collection of Poll Taxes, License Taxes, and Foreign Miners' License Taxes, in said County, approved February twenty-sixth, eighteen hundred and fifty-nine.*

[Approved May 17, 1861.]

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

SECTION 1. Section three of said act is amended so as to read as follows :

SEC. 3. There shall be elected, at the next general election, and every two years thereafter, in the county of Calaveras, a Collector for each township in said county, by the qualified electors of each township, to be voted for as other township officers, who shall be collector of foreign miners' license taxes, poll taxes for State and county purposes, or for county purposes alone, and State and county licenses, in his township; and who shall enter upon the duties of his office on the first Monday of March next succeeding his said election, and shall hold his office for two years, and until his successor is elected and qualified, unless sooner removed in pursuance of law; and any vacancy occurring in said office, by death, resignation, removal, or otherwise, shall be filled by appointment of the Board of Supervisors of said county.

Duties of  
Tax  
Collector.

SEC. 2. This act shall take effect and be in force, from and after its passage.

To take  
effect.

CHAP. CCCCXXIII.—*An Act authorizing Rachel Bonds, Administratrix of the Estate of George M. Bonds, deceased, to sell the Real Estate of the late George M. Bonds, at public, or private, sale.*

[Approved May 17, 1861.]

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

SECTION 1. That Rachel Bonds, Administratrix of the estate of George M. Bonds, late of the county of Stanislaus be, and is hereby, empowered and authorized, to sell and convey any portion, or portions, of the real estate and appurtenances, of which the said George M. Bonds died, seized, or possessed, in the State of California, or any right, or title, which the said George M. Bonds had thereto in his lifetime, as to her may seem proper and necessary for the final settlement of such said estate, either at public, or private, sale, as she shall deem most advantageous to the final settlement of said estate.

To sell real  
estate.

SEC. 2. The said Administratrix shall make a full report of any and all such sales as shall be made by her, to the Probate Court of Stanislaus County; and the Judge of said court may, either in term time, or in vacation, in open court, or at cham-

To make  
report.

bers, examine the same, and confirm, or reject, such sale, or sales, as to him shall seem proper.

SEC. 3. The said Administratrix is hereby authorized and empowered, upon the confirmation of any such sale, or sales, as is hereinbefore provided, to execute, acknowledge, and deliver, **Conveyances** to any purchaser, or purchasers, a good and sufficient deed, or conveyance, of the premises sold, which shall be as valid and binding as if the same had been made by the said George M. Bonds, in his lifetime.

SEC. 4. Prior to the making of any such sale, under and by virtue of the power herein conferred, the said Rachel Bonds, Administratrix, as aforesaid, may be required, in the discretion of the Probate Court of said Stanislaus County, to make and execute a good and sufficient bond, conditioned as now provided for by law in such cases, with two, or more, sureties, that the proceeds of any sale shall be duly applied to the use and benefit of such estate, as contemplated by law. **To give bond**

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CHAP. CCCCXXIV.—*An Act to authorize the Board of Supervisors of the City and County of San Francisco to pay a certain Judgment.*

[Approved May 17, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco is hereby authorized to pay, out of the General Fund of said city and county, a certain judgment against said city and county, in favor of James Lang, which judgment was rendered in the District Court, of the Fourth Judicial District, on the second day of August, A. D. eighteen hundred and fifty-nine, for the sum of five hundred and fifty-four dollars, with interest, at ten per cent. per annum, from July ninth, A. D. eighteen hundred and fifty-nine, with thirty-five dollars and twenty-five cents, costs of suit. **Payment of judgment.**

SEC. 2. This act shall be in force from and after its passage. **To take effect.**



CHAP. CCCCXXV.—*An Act to amend an Act entitled An Act to authorize the President of the Board of Supervisors, the Auditor, and the Treasurer, of the City and County of San Francisco, to provide for the actual and prospective deficiency in the Corporation Debt Fund of said City and County, for the fiscal years eighteen hundred and fifty-nine and eighteen hundred and sixty, approved April six, eighteen hundred and sixty.*

[Approved May 17, 1861.]

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

SECTION 1. Section two of the said act is hereby amended so as to read as follows :

Sec. 2. The Treasurer of the city and county of San Francisco is hereby authorized and empowered to transfer to the General Fund, from the moneys collected for taxes of the fiscal year, eighteen hundred and sixty, and eighteen hundred and sixty-one, and the fiscal year eighteen hundred and sixty-one, and eighteen hundred and sixty-two, applicable to the Corporation Debt Fund, the amount drawn from the said General Fund, to meet the demands referred to in the preceding section ; and, also, an amount, not exceeding eighteen thousand dollars, for the purpose of meeting the deficiency in the said General Fund, caused by payment therefrom of balance due Commissioners of the Funded Debt of eighteen hundred and fifty-seven, on requisition of the fiscal year last passed, properly payable out of the Corporation Debt Fund ; and, furthermore, to the Fire Bond Sinking Fund, from the same source, the sum of sixteen thousand six hundred and sixty-six dollars and sixty-seven cents, corresponding thereto, for the fiscal years eighteen hundred and fifty-nine, and eighteen hundred and sixty, and the further sum of sixteen thousand six hundred and sixty-six dollars and sixty-seven cents, for the current fiscal year.

To transfer moneys to General Fund.

Same.

CHAP. CCCCXXVI.—*An Act to grant the right to construct a Bridge across the Noyo River, near its mouth, to certain Parties therein named.*

[Approved May 17, 1861.]

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

SECTION 1. John Burns and John Warrington, together with such associates as they may admit, shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, hereinafter mentioned, upon condition that they and their associates shall incorporate themselves under the general laws of the State regulating corporations, and providing for the incorporation of bridge companies, and shall adopt the name

Franchise granted.

of Noyo Bridge Company, and shall abide by, and fulfill, the further conditions hereinafter mentioned.

Rights and  
privileges.

SEC. 2. Said company, when incorporated as aforesaid, shall have full power to build, erect, construct, and maintain, a public toll-bridge across the Noyo River, at, or near, its mouth, in the county of Mendocino, and have and enjoy all rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for that purpose, which is hereby granted and ceded to said company for the term of fifteen years; *provided*, within one year from the date of the passage of this act, the said company shall commence the construction of said bridge, and within two years from the date of passage, shall build and fully complete the same, otherwise the right to construct the same shall be forfeited and this act become null and void. Said company shall, at all times, after its completion, keep said bridge in good order and condition, and shall be responsible for any and all damages arising to persons, or property, crossing said bridge, caused by neglect to keep said bridge in proper repair and condition. After the expiration of ten years from the completion of said bridge, the county of Mendocino shall have the right to purchase the said bridge, together with the franchise and right of way at an appraised value, to be determined by three Appraisers, one to be selected by the bridge company, one by the Board of Supervisors of the county of Mendocino, and one to be selected by the two Appraisers hereinbefore provided for, and such value shall be estimated to be the value of the bridge, not including the franchise, or right of way; and, *provided*, further, that if the said bridge be purchased by the county of Mendocino, then the right to levy and collect tolls shall cease.

Proviso.

Manner of  
construction

SEC. 3. The said bridge shall be constructed in a good and substantial manner, and of the most durable materials. Whenever the public convenience shall demand it, the said company shall construct a draw, or opening, in said bridge, of sufficient dimensions to admit the passage of the largest class vessels plying in, or upon, the said Noyo River, and shall then keep the said draw, or opening, in good working condition, so that the free navigation of said river shall not be interfered with thereby, or by reason thereof, and said company shall keep said draw open at any and all times required for the purpose of navigation of the river, and any and all damages that shall accrue by reason of any inattention to the duties, as prescribed, shall be at the cost of said bridge owners, to be recovered by an action in any court of competent jurisdiction.

Duties of  
company.

Tolls.

SEC. 4. The said bridge company, upon the erection and completion of said bridge, shall be authorized and empowered to charge and collect such rates of toll as the Board of Supervisors of Mendocino County may fix annually; *provided*, that the Legislature may, at all times, modify, or change, the rates so fixed by said Board of Supervisors.

Speed of  
travel.

SEC. 5. Said company may regulate and determine the speed of travel, riding, or driving, upon said bridge.

Penalty for  
fast driving.

SEC. 6. Any person riding, or driving, over said bridge faster than the speed allowed by said bridge company, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any

Justice of the Peace, shall be fined in any sum not less than one dollar, nor more than ten dollars, and costs of prosecution.

SEC. 7. Said company shall keep in some conspicuous place, <sup>Bulletin board.</sup> at each end of the bridge, a bulletin board, which shall contain the scale of prices and notice of speed allowed on said bridge by said company.

CHAP. CCCCXXVII.—*An Act to provide for the payment of the Claim of W. W. Upton, for certain services therein mentioned.*

[Approved May 17, 1861.]

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

SECTION 1. The sum of five hundred dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, and allowed to W. W. Upton, for services rendered by him in defending the interests of the State, in the case of T. W. F. Price against the Controller, Treasurer, and Secretary, of State. <sup>Appropriation</sup>

SEC. 2. The sum hereby allowed shall be in full satisfaction and payment for all services rendered in said case.

CHAP. CCCCXXVIII.—*An Act to grant the Right to construct a Bridge across the Albion River, near its mouth, to certain persons therein named.*

[Approved May 17, 1861.]

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

SECTION 1. James Townshend, together with such associates as he may admit, shall take, have, possess, and enjoy, all the rights, privileges, rights of way, franchises, and immunities, hereinafter mentioned, upon condition that he and his associates shall incorporate themselves under the general laws of the State, regulating corporations, and providing for the incorporation of bridge companies, and shall adopt the name of Albion Bridge Company, and shall abide by, and fulfill, the further conditions hereinafter mentioned. <sup>Franchise granted.</sup>

SEC. 2. Said company, when incorporated as aforesaid, shall have full power to build, erect, construct, and maintain, a public toll-bridge, across the Albion River, at, or near, its mouth, in the county of Mendocino, and have and enjoy all rights, privileges, and immunities, thereunto appertaining, and shall have the right of way across said river, and the privilege of using the same for the purpose which is hereby granted and ceded to said company, for the term of fifteen years; *provided*, within one year from the date of the passage of this act, the said company <sup>Powers of company.</sup>

shall commence the construction of said bridge, and within two years from date, shall build, and fully complete, the same; otherwise, the right to construct the same shall be forfeited, and this act become null and void. Said company shall, at all times after its completion, keep said bridge in good order and condition, and shall be responsible for any and all damages arising to persons, or property, crossing said bridge, caused by neglect to keep said bridge in proper repair and condition. After the expiration of ten years from the completion of said bridge, the county of Mendocino shall have the right to purchase the said bridge, together with the franchise and right of way, at an appraised value, to be determined by three Appraisers, one to be selected by the bridge company, one by the Board of Supervisors of the county of Mendocino, and one to be selected by the two Appraisers hereinbefore provided for, and such value shall be estimated to be the value of the bridge, not including the franchise, or right of way; and, *provided*, further, that if the said bridge be purchased by the county of Mendocino, then the right to levy and collect tolls shall cease.

Responsibilities of company.

County may purchase.

Proviso.

SEC. 3. The said bridge shall be constructed in a good and substantial manner, and of the most durable materials. Whenever the public convenience shall demand it, the said company shall construct a draw, or opening, in the said bridge, of sufficient dimensions to admit the passage of the largest class vessels plying in and upon the Albion River, and shall then keep the said draw, or opening, in good working condition, so that the free navigation of said river shall not be interfered with thereby, or by reason thereof; and said company shall keep said draw open at any and all times required for the purpose of navigation of the river, and any and all damage that shall accrue by reason of any inattention to the duties, as prescribed, shall be at the cost of said bridge owners, to be recovered by an action in any court of competent jurisdiction.

Construction of bridge.

Damages.

Tolls.

SEC. 4. The said bridge company, upon the erection and completion of said bridge, shall be authorized and empowered to charge and collect such rates of toll as the Board of Supervisors of Mendocino County may fix annually; *provided*, that the Legislature may, at all times, modify, or change, the rates so fixed by said Board of Supervisors.

SEC. 5. Said company may regulate and determine the speed of travel, riding, or driving, upon said bridge.

Penalty for fast driving.

SEC. 6. Any person riding, or driving, over said bridge faster than the speed allowed by said bridge company, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any Justice of the Peace, shall be fined in any sum not less than one dollar, nor more than ten dollars, and costs of prosecution.

Scale of tolls

SEC. 7. Said company shall keep in a conspicuous place, at each end of the bridge, a bulletin board, which shall contain the scale of prices and notice of speed allowed on said bridge by said company.

CHAP. CCCCXXIX.—*An Act to authorize the County of Santa Clara to issue Bonds for the erection of a Court-House.*

[Approved May 17, 1861.]

*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 Santa Clara may at any general, or special, election, submit to the vote of the qualified electors of said county the proposition, to cause to be issued, as in this act provided, county bonds, not to exceed in amount the sum of forty thousand dollars; and for that purpose the said Board shall cause the notice of the election for the vote on said proposition to be given in the same manner and for twice the length of time, required by law for the election of county officers.

SEC. 2. The persons voting at such election upon said proposition, shall have written or printed on their ballots the words "For the Court-House Debt," or, the words "Against the Court-House Debt," or words equivalent thereto; but the ballots having the words "County Court-House Debt," without the word "for," or "against," written, or printed, thereon, shall not be counted as a vote on said proposition; and the votes shall be counted and returned, and the result of the election shall be estimated, declared, and recorded, in the same manner as prescribed by law, in case of the election of county officers.

SEC. 3. If a majority of the votes cast upon said proposition shall be in favor of the same, then the said Board may cause bonds, not to exceed the sum above mentioned, to be issued in the manner and for the purposes hereinafter prescribed.

SEC. 4. If the said Board of Supervisors shall have determined to erect a court-house, not to exceed in cost the sum of forty thousand dollars in the city of San José, and shall have acquired for said county and in its name, the full and complete title to the lands upon which such court-house is proposed to be erected, and shall have advertised for, and accepted proposals for, the erection thereof in the manner prescribed by law, then the said Board, by orders entered in their records, may direct the Fund Commissioners, hereinafter mentioned, to issue from time to time the bonds as the same shall be required, under the contract for the erection of such court-house.

SEC. 5. The County Auditor, County Clerk, and Chairman of the Board of Supervisors, of said county, shall constitute a Board, to be styled "The Fund Commissioners," and they shall, when ordered by the Board of Supervisors as aforesaid, cause to be prepared bonds not exceeding the amount in this act mentioned, of the denominations of one hundred, and five hundred dollars, each, payable to the payee therein named, or to bearer, on, or before, twenty years from the date thereof, bearing interest at the rate of ten per cent. per annum, payable annually at the office of said Treasurer, and having attached to each of the said bonds twenty coupons for the payment of said interest. Each of said bonds and coupons shall, before they are issued, be signed by the said Fund Commissioners, and the bonds shall be attested by the

seal of the County Court of said county, and shall purport that the county of Santa Clara owes, and will pay, the sum of money and the interest thereon, as specified in such bond to the payee therein named, or the bearer, at the office of the County Treasurer of said county.

Duties of  
Commissioners.

SEC. 6. It shall be the duty of the Fund Commissioners, from time to time, to sign said bonds and coupons, when the same may be required by the said Board of Supervisors to be issued for the payment on the contract for the erection of the courthouse. The said Auditor shall keep an account of the same in his records, and shall deliver the same to the said Treasurer, who shall also keep an account of the same in his records, and shall enter a receipt therefor in the records of the Fund Commissioners, and he shall pay and deliver the same to the person, or persons, entitled thereto, upon warrants drawn in the same name as other warrants are drawn for the current county expenses.

Auditor.

Records to be  
deposited.

SEC. 7. At the first meeting of the Board of Supervisors, after the expiration of the time for the completion of the contract for the erection of said court house, or of the further time, if any, that may be granted therefor, the said Fund Commissioners shall deposit in the office of the Clerk of said Board of Supervisors, all their books, accounts, and papers, pertaining to the issuance of said bonds, and they shall constitute a part of the records and papers of his office; and they shall, at the same time, destroy all the blank bonds and coupons, and all of those which have not been delivered to the Treasurer, as aforesaid, and the plates upon which the same were printed.

To levy tax.

SEC. 8. It shall be the duty of the said Board of Supervisors, after the said Fund Commissioners shall be ordered to prepare and issue the bonds, as provided for in this act, to levy, annually, upon the taxable property in said county, a tax, in addition to all other county taxes, sufficient to produce the amount of money necessary to pay the annual interest on all the bonds which may be required to be issued under the provisions of this act and one-twentieth part of the principal of said bonds, until all of said principal and interest shall be paid. Said taxes shall be levied and collected, and shall be paid into the county treasury in the same manner as other county taxes, and when paid into the treasury, shall constitute a Sinking Fund for the payment of the principal and interest of said bonds. If there shall not be sufficient in the Sinking Fund, in any year, to pay the annual interest due, or falling due, on said bonds, during such year, the said Board of Supervisors shall order sufficient money for that purpose to be transferred from the Current Expense, or General, Fund, into the Sinking Fund; and if any portion of said Sinking Fund shall remain, after said bonds and interest have been fully paid, it shall be transferred to the Current Expense Fund of said county.

Collection.

Payment  
of interest.

Duties of  
Treasurer  
and Auditor.

SEC. 9. It shall be the duty of the County Treasurer to pay the interest on said bonds out of the said Sinking Fund, upon the presentation to him, at his office, of the said coupons as they shall become due, and he shall keep an account thereof in his records, and shall write across the face thereof, "Satisfied," and shall sign his name officially thereto, and at each regular meeting of the Board of Supervisors he shall deliver such coupons to

the County Auditor, who shall keep an account thereof in his records, and shall, in the presence of said Board, destroy said coupons, and the Treasurer shall be credited with the amount paid thereon, in the same manner as for other county funds disbursed by him. Surplus to be advertised.

SEC. 10. Whenever there shall be, in the said Sinking Fund, the sum of fifteen hundred dollars, exclusive of the amount that is then due, and will fall due, previous to the next regular meeting of the Board of Supervisors for interest on said bonds, the said Treasurer shall advertise, in some newspaper published in said county, for two weeks, for sealed proposals for the redemption of said bonds; and at the time and place specified in such publication, he shall, in the presence of the County Auditor and such other persons as may choose to be present, open the said proposals, and he shall accept the proposals offered for the redemption of such bonds at the lowest terms, not exceeding the par value thereof, or any part of such proposals, not to exceed, in amount, the sum of money applicable to such redemption. The said Treasurer and Auditor shall each keep an account in their records of the proposals, or part thereof, accepted by the Treasurer. Proposals.

SEC. 11. The said Treasurer shall redeem the said bonds according to the terms of the said accepted proposals, upon the presentation thereof to him, and when redeemed, he shall write across the face thereof the word "Canceled;" also the amount paid thereon, the time of the payment, and the person to whom paid, and shall sign the same officially. Redemption.

SEC. 12. If no proposals for redemption shall be received after the publication of such notice, as aforesaid, the said Treasurer may pay the amount due upon any of said bonds that may be presented to him, he giving preference to the oldest outstanding bonds, and if no bond shall be presented for payment, or if, after the payment of those that may be presented, there shall remain the sum of two thousand dollars in said Sinking Fund, applicable to the payment of the principal of said bonds, then he shall give notice by publication in some newspaper published in said county, for the period of four weeks, of his readiness to pay so many of the oldest outstanding bonds as he may have funds therefor, describing in said notice the said bonds by their numbers, dates, amounts, and the payees therein named, and at the expiration of two months from and after the last publication of such notice, each of said bonds therein named shall cease to bear interest. No bond shall be redeemed, or paid, until the coupons belonging thereto, which are not then due, have been surrendered to the Treasurer, unless the destruction thereof shall be satisfactorily shown to the said Board of Supervisors. Payment in case no proposals are received.

SEC. 13. All bonds that shall be paid shall be canceled, and the payment certified thereon by the Treasurer in the same manner as those that may be redeemed, and an account of all the bonds redeemed, or paid, shall be kept by the Auditor and Treasurer; the amounts paid thereon shall be credited to the Treasurer, and said bonds shall be destroyed by the Auditor in the manner prescribed in this act, in relation to coupons that have been paid. All coupons belonging to the bonds that have been redeemed, or paid, which were not due at the time of the re- To surrender coupons.

Cancellation

To destroy bonds and coupons.

demption, or payment, of their respective bonds, shall be destroyed by the Auditor at the same time as the said bonds, and the account thereof shall be kept by said Auditor and Treasurer in their respective records.

To take effect.

SEC. 14. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCXXX.—An Act to amend an 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, and other Acts amendatory thereof.

[Approved May 17, 1861.]

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

SECTION 1. Section sixty-five of said act is hereby amended so as to read as follows :

Allegations of complaint.

Sec. 65. Every material allegation of the complaint, or answer, when verified, not specifically controverted by the answer, or replication, shall, for the purposes of the action, be taken as true. The allegation of new matter, in the replication, shall, on the trial, be deemed controverted by the adverse party.

SEC. 2. Section eighteen of said act is hereby amended so as to read as follows :

Place of trial

Sec. 18. Actions for the following causes shall be tried in the county in which the subject of the action, or some part thereof, is situated, subject to the power of the court to change the place of trial, as provided in this act :

Certain causes.

First—For the recovery of real property, or of an estate, or interest, therein, or for the determination, in any form, of such right, or interest, and for injuries to real property.

Second—For the partition of real property.

Third—For the foreclosure of a mortgage of real property.

Proviso.

Provided, that where such real property is situate partly in one county and partly in another, the plaintiff may select either of said counties, and the county so selected shall be the proper county for the trial of any, or all, of such actions as are mentioned in the first, second, and third, subdivisions of this section.

SEC. 3. Section five hundred and eleven of said act is hereby amended so as to read as follows :

Judgment.

Sec. 511. The Clerk shall include in the judgment entered up by him, any interest on the verdict, or decision, of the court, from the time it was rendered, or made, and the costs, if the same have been taxed, or ascertained ; and he shall, within two days after the same shall be taxed, or ascertained, if not included in the judgment, insert the same in a blank, left in the judgment for that purpose, and shall make a similar insertion of the costs in the copies and docket of the judgment.

To take effect.

SEC. 4. This act shall take effect and be in force, from and after its passage.



CHAP. CCCCXXXI.—*An Act to amend an Act entitled An Act for securing the liens of Mechanics and others, passed April nineteenth, eighteen hundred and fifty-six.*

[Approved May 17, 1861.]

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

SECTION 1. The seventh section of the Act of April nineteenth, eighteen hundred and fifty-six, entitled An Act for securing the Liens of Mechanics and others, amended on the twenty-second of April, eighteen hundred and fifty-eight, is hereby further amended so as to read as follows :

Sec. 7. Said liens may be enforced in the County Court by any lienholder, upon his filing a petition setting forth a description of the premises, the name of the owner, or reported owner thereof, and the amount of such petitioner's lien, together with the name of each other lienholder that appears of record, and the amount claimed by each of them, and prayer that the true amount of all liens against the premises may be ascertained, and a sale of the property be decreed to discharge them. Upon the filing of such petition, the Clerk of the court shall issue a notice which shall be published at least twenty days, by insertion once a week, or oftener, in some newspaper published in the county, if there be one, and if not, then in such mode as the court may direct, notifying all persons holding, or claiming to hold, any lien on the premises under the provisions of this act, to be and appear in the court on a day, and at an hour, therein specified; which day shall be during a regular term of said court, and not less than twenty days from the first publication of the notice, and then and there to exhibit proof of their respective liens; and on the appointed day, or on such day thereafter, as the matter may be continued to, the court, after the proof of the publication of the notice as herein required, shall proceed to hear said claims and determine them in a summary way, or it may refer them to a referee to ascertain and report; and all liens not then exhibited and proved, shall be deemed to have been, and they are, hereby, declared to be waived and discharged. After determining the whole amount of liens exhibited and proved, that are legally chargeable against the premises, the court shall make a decree ordering a sale of the property to satisfy said liens and costs, and directing that if the net proceeds of such sale shall not be sufficient to satisfy the whole of said liens, the money shall be apportioned according to the rights of the respective lienholders; *provided*, however, that the filing of a lien in the Recorder's office, or a petition, for a foreclosure thereof, in the County Court, shall in no manner affect the lienholder's right to bring a personal action in a court of competent jurisdiction, to recover the debt for which the lien is security; but, in case of such suit being brought, all payments, if any made thereon, on account of the debt, shall be deducted from the amount of the lien in the County Court; and all moneys accruing to plaintiff, from the distribution in the County Court of the proceeds of the sale of the premises, shall be deducted from the

To enforce liens.

Publication of notice.

Proviso.

**Proviso.** judgment obtained in another court; and, *provided*, further, that no mechanic's, or other, lien, under this act, shall attach against any property which by the ninth subdivision of section two hundred and nineteen of An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, are exempt from execution; but any material man, sub-contractor, journeyman, or laborer, furnishing material, or labor, on any property herein excepted from lien, may, within five days after filing his account with the Recorder, as is provided in section two, serve a copy thereof upon the President of the Board of Supervisors, Mayor, or other executive head of the county, or municipal corporation, owning the premises, and such service shall operate as a garnishment on the county, or municipal corporation, for the amount claimed on such lien, if that much be due from such county, or municipal corporation, to the principal Contractor; and said money shall be retained by such county, or corporation, until the matter has been amicably settled between the parties, or finally adjudicated; and such sum, within the amount of the garnishment as the claimant finally obtains judgment for, shall be paid to him and deducted from the claim of the Contractor.

**Sub-contractors, etc.**

CHAP. CCCCXXXII.—*An Act to amend an Act entitled An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April twenty-ninth, eighteen hundred and fifty-one.*

[Approved May 17, 1861.]

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

SECTION 1. Section twenty-nine of the act entitled An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April twenty-ninth, eighteen hundred and fifty-one, is hereby amended so as to read as follows:

Sec. 29. The summons shall be served by delivering a copy thereof, as follows:

**Service of summons.**

*First*—If the suit be against a corporation, to the President, or other head of the corporation, Secretary, Cashier, or Managing Agent, thereof.

**Same.**

*Second*—If the suit be against a foreign corporation, or a non-resident joint stock company, or association, doing business within this State, to an Agent, Cashier, or Secretary, thereof.

*Third*—If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, Guardian; or if there be none within the State, then to any person having the care, or control, of such minor, or with whom he resides, or in whose service he is employed.

**Persons of unsound**

*Fourth*—If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a Guardian has been appointed, to such Guardian.

*Fifth*—In all other cases, to the defendant personally.

SEC. 2. Section five hundred and twenty-two of said act is hereby amended so as to read as follows :

Sec. 522. In case of service by mail, the notice, or other paper, shall be deposited in the post-office, addressed to the person on whom it is to be served, at his place of residence, and the postage paid. And in such case, the time of service shall be increased one day for every twenty-five miles distance, between the place of deposit and the place of address; *provided*, that service in any case shall be deemed complete at the end of ninety days from the date of its deposit in the post-office.

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CHAP. CCCCXXXIII.—*An Act supplemental to An Act concerning Notaries Public, passed April thirtieth, eighteen hundred and fifty-seven, and An Act amendatory thereof, approved March sixteenth, eighteen hundred and fifty-nine.*

[Approved May 17, 1861.]

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

SECTION 1. The Governor is hereby authorized to appoint two Notaries Public for the county of San Joaquin, one of which shall reside at the town of Liberty, and the other at Mokelumne City, in said county. He shall also appoint one additional Notary for the county of Contra Costa, who shall reside at the town of Pacheco, in said county.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. CCCCXXXIV.—*An Act concerning District Court Reporters for the Fourth, Sixth, Seventh, Tenth, Twelfth, and Fifteenth, Judicial Districts.*

[Approved May 17, 1861.]

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

SECTION 1. The District Judge of each of the Fourth, Sixth, Seventh, Tenth, Twelfth, and Fifteenth, Judicial Districts, is hereby authorized to appoint a competent Short Hand Reporter, who shall, at the request of either party in a civil case, or in criminal cases, triable in the District Court, at the request of the court, take down in short hand, the rulings of the court, the exceptions taken, and the testimony, and shall within five days after the trial of such case, write out the same in plain, legible, long, handwriting, and file it, together with the original short handwriting, with the Clerk of the court in which the cause was tried.

**To be deemed evidence.** SEC. 2. Such report, written out in long handwriting, as aforesaid, shall be deemed *prima facie* a correct statement of the evidence and proceedings therein contained.

**Compensation.** SEC. 3. Such Reporter shall receive such compensation for his services as may be agreed upon between the said Reporter and the parties, or counsel, in the cause, and in case of failure to agree, between the said parties, then the amount may be fixed by the court; *provided*, that when so fixed, it shall not exceed fifteen dollars per day, which amount shall be paid by the party requiring the services of such Reporter, and be taxed up by the Clerk of the court as costs against the party against whom judgment is rendered, unless he shall have already paid such Reporter's fees; *provided*, that in criminal cases, or capital offenses, when the testimony has been taken down by order of the court, the compensation of the Reporter shall be fixed by the court, and paid out of the treasury of the county in which the cause is tried, in the same manner as the fees of trial jurors are paid in such cases.

**Proviso.**

CHAP. CCCCXXXV — *An Act to audit and allow a Claim of John F. McCauley, against the State.*

[Approved May 17, 1861.]

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

**Claim allowed.** SECTION 1. The claim of John F. McCauley against the State of California, for nineteen thousand three hundred and seventy-five dollars and eighty-one cents, for cattle and beef furnished by him to the State, for the use of the State Prison during the years eighteen hundred and fifty-five and eighteen hundred and fifty-six, which claim has been approved by the Board of Examiners, is hereby allowed and audited, and it is hereby made the duty of the Treasurer of State to pay said claim in bonds of the State of California, and a certificate for the fractional part of said claim, issued under the act approved April thirtieth, eighteen hundred and sixty, entitled An Act to provide for paying certain Equitable Claims against the State of California, and to contract a Funded Debt for that purpose; *provided*, that before said payment shall be made to the said J. F. McCauley, as provided for under this act, the said J. F. McCauley shall deliver to the Controller of State a receipt in full of all demands against the State of California, arising out of contracts for supplies furnished by the said McCauley to the State Prison. This act takes effect from and after its passage.

**Proviso.**

CHAP. CCCCXXXVI.—*An Act to provide for the Pay of Troops called out by the Governor of this State, to quell Insurrection, in the year eighteen hundred and fifty-six.*

[Approved May 18, 1861.]

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

SECTION 1. There shall be paid to the persons who rendered military service to the State of California, in compliance with the proclamation of the Governor, dated June third, A. D. eighteen hundred and fifty-six, or to their assigns, the compensation which is provided by an act entitled An Act concerning the Organization of the Militia, approved April twenty-fifth, A. D. eighteen hundred and fifty-five; *provided*, no allowance shall be made for rations, clothing, servants, or forage. Compensa'tn.

SEC. 2. It shall be the duty of the Board of Examiners to audit and allow the claims of such persons, pursuant to the provisions of this act; *provided*, no pay shall be allowed to any officer, or private, for more than three months' service; and, *provided*, further, that no allowance shall be made to any person, or company, except such as shall have performed actual service; and nothing herein contained shall be so construed as to allow compensation to those who only held themselves in readiness for service. But the Board of Examiners shall not be governed by the muster-rolls in determining who performed such actual service. To audit and allow claims.

SEC. 3. Eighteen thousand three hundred and seventy seven dollars and eighty-two cents, or so much thereof as may be necessary to pay said claims, is hereby appropriated out of any money in the treasury not otherwise appropriated, and the Controller of State is hereby directed to draw his warrants upon said fund for all claims allowed by the Board of Examiners in pursuance of the provisions of this act. Appropriat'n.

CHAP. CCCCXXXVII.—*An Act to give immediate effect to certain Acts therein named.*

[Approved May 18, 1861.]

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

SECTION 1. An act entitled An Act to audit and allow the Claim of Wm. S. Botts, approved May third, eighteen hundred and sixty-one, shall take effect from and after the passage of this act. Claim allowed.

SEC. 2. An Act to audit and allow the Claim of G. D. Bliss & Co. approved May fourteenth, eighteen hundred and sixty-one, shall take effect from and after the passage of this act. Same.

SEC. 3. An act entitled An Act to audit and allow the Claim of Peyton, Duer, Lake, and Rose, or their Assigns, shall take effect from and after the passage of this act. Same.

Same.

SEC. 4. An act entitled An Act to audit and allow certain Claims therein mentioned, as the claim of the *Alta California*, John Norris, Jonathan Barclay, A. R. Feldt, and Jacob Fletcher, shall take effect from and after the passage of this act.

Same.

SEC. 5. An Act to allow the Claim of Daniel McLaren, shall take effect from and after the passage of this act.

To take effect.

SEC. 6. This act shall take effect from and after its passage.

CHAP. CCCCXXXVIII.—*An Act to allow the Claim of Daniel McLaren.*

[Approved May 18, 1861.]

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

Claim allowed.

SECTION 1. The claim of Daniel McLaren, for services as draughtsman in the Surveyor-General's office, from the seventeenth day of January, eighteen hundred and fifty-six, to the first day of January, eighteen hundred and fifty-seven, for the sum of four hundred and twenty-seven dollars is hereby audited and allowed.

CHAP. CCCCXXXIX.—*An Act conferring additional Powers on the Board of Supervisors of the City and County of Sacramento, and supplementary to an Act entitled An Act conferring further Powers on the Board of Supervisors of the City and County of Sacramento, approved May second, eighteen hundred and sixty-one.*

[Approved May 18, 1861.]

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

Additional pay.

SECTION 1. The Board of Supervisors of the city and county of Sacramento is hereby authorized to allow and order paid out of the County Salary Fund, the Auditor required to audit, and the Treasurer to pay, the additional amount of twenty-five dollars per month, from and after the first day of May, A. D. eighteen hundred and sixty, to each of the five Deputies in the Sheriff's office of the city and county of Sacramento, to one Deputy in the Clerk's office of the said city and county of Sacramento, to one Deputy in the County Recorder's office of said city and county.

Act made applicable.

SEC. 2. The provisions of the first section of the act approved May second, eighteen hundred and sixty-one, entitled An Act conferring further Powers on the Board of Supervisors of the City and County of Sacramento, were intended to apply to, and they are hereby made to apply to and to mean, a sum in addition to the amount heretofore allowed by the provisions of any previous law, and to all services rendered, or to be rendered, by

the officers designated, from and after the first day of May, eighteen hundred and sixty.

SEC. 3. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCCXL.—*An Act to protect Sheep and Lambs in this State.*

[Approved May 18, 1861.]

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

SECTION 1. The owner, possessor, or harbinger, of any dog, or other animal, that shall kill, or wound, any sheep, or lambs, shall be liable to the owner, or owners, of the same for their value, and may be prosecuted therefor before any court of competent jurisdiction. Liabilities of owners of dogs.

SEC. 2. In prosecutions under the provisions of this act, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger, of the dog, or other animal, as the case may be, had knowledge of the fact that such dog, or animal would kill sheep. Prosecutions

SEC. 3. Any person may kill any dog which he may find chasing, worrying, or wounding, sheep, and shall not be liable therefor.

CHAP. CCCCXLI.—*An Act to provide for Printing the Report of the State Agricultural Society.*

[Approved May 18, 1861.]

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

SECTION 1. The sum of thirty-four hundred dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to provide for the expense of printing three thousand copies of the report of the State Agricultural Society; *provided*, the original copy of said report shall be sent to the printer, and no expense shall be incurred by the State for copying the same, nor shall the said report be copied into the journal, or appendix, of either the Senate, or Assembly; and the Controller of State is hereby forbidden to draw his warrant on the treasury in payment of any demand for copying said report, or for printing, except as herein provided. Appropriation  
Proviso.

SEC. 2. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCCXLII.—*An Act amendatory of An Act granting to Thomas Harrigan and his Assigns, the right to lay a Railroad Track along a certain Road in the City and County of Sacramento, approved May fourteenth, eighteen hundred and sixty-one.*

[Approved May 18, 1861.]

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

SECTION 1. Section one is hereby amended, so as to read as follows :

Franchise  
grant.d.

Section 1. It shall be lawful for Thomas Harrigan and others whom he may associate with him, to construct a single track iron railroad, commencing at the intersection of Thirty-First Street and the Upper Stockton Road, in the city of Sacramento, and thence running along said Upper Stockton Road to a point known as the Centerville Race Track ; and said parties shall have the right of running cars upon said road, and levying and collecting tolls for the transportation of passengers and freight. Said party, or his assigns, shall have the right to cross upon a level with, and at right angles, any track now laid down upon the route of the within mentioned road, and the said crossing shall be made in a substantial and workmanlike manner, without obstruction to, or altering, the grade of such tracks, and without causing any injury to the same ; and said crossings shall be made at the expense of the person, or persons, desiring to cross the said track, or tracks. No car propelled by steam shall ever be used upon said road.

Tolls.

Motive  
power.

To take  
effect.

SEC. 2. This act shall be in force immediately after its passage.

CHAP. CCCCXLIII.—*An Act to incorporate the City of Santa Barbara.*

[Approved May 18, 1861.]

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

Town incor-  
porated.

SECTION 1. The town of Santa Barbara in the county of Santa Barbara, is hereby declared to be incorporated according to the provisions of the act entitled An Act to provide for the incorporation of Cities, approved March eighteenth, eighteen hundred and fifty, so far as said provisions do not conflict with this act.

Boundaries.

SEC. 2. The boundaries of the city of Santa Barbara shall be as follows : Beginning at the old presa of the mission of Santa Barbara, on Piedregoso Creek, continuing in a line with said creek, to its intersection with the cart-road which leads to the Cieneguitas, from said intersection running in a direct line to the easterly corner of the rancho of Las Positas ; thence to the sea coast, or shore ; thence following the beach to the Salinitas ; and thence in a northeasterly direction, including in Santa Barbara the lands of Montecito, to the mountain range ; and thence,



following said range, to the place of beginning; *provided*, nothing in this act contained shall impair the rights of the pueblo of Santa Barbara to other lands claimed by the said pueblo, not contained within the above mentioned limits. Proviso.

SEC. 3. Antonio M. de la Guerra is hereby appointed to act as Mayor of the city of Santa Barbara, and James Ord, Pedro Carrillo, and Victor Mondram, to act as Councilmen, of said city, and the first of said Councilmen shall have the power to act as President of the Common Council, the second as Secretary, and the third as Treasurer, of the city of Santa Barbara, who shall also have the power to act as Collector of Licenses of said city. The above named officers shall hold their respective offices until their successors are elected and qualified. The said Treasurer and Collector, and his successor in office, before entering into the discharge of his various duties, shall give a bond to the said city of Santa Barbara in the penal sum of one thousand dollars, for the faithful performance of said duties, in the same manner and form as is prescribed by law to be given by county officers. Officers.  
Term of office.  
Bond of Treasurer.

SEC. 4. The election of city officers, as hereinbefore provided for the city of Santa Barbara, shall take place on the first Monday of March, eighteen hundred and sixty-two, and every two years thereafter an election shall be held in said city of Santa Barbara to fill said offices. The electors at the time of casting their votes, at such an election, shall designate, in their tickets, the person for whom they vote for Mayor, for President, for Secretary, and for Treasurer, of said city. Election.

SEC. 5. In case of a vacancy in any of the offices as hereinbefore provided, the Board of Supervisors of Santa Barbara County are hereby authorized and empowered to fill the same by appointing a suitable person, or persons, as the case may be, at one of their regular, or special, meetings, held by said Board. There shall be no Recorder in said city, but the Mayor, so appointed, or his successor in office, shall have the power and perform the duties of Justice of the Peace, as prescribed by law. Vacancy.

SEC. 6. The corporation created by this act shall succeed to all the rights, claims, and powers, of the pueblo of Santa Barbara, in regard to property, and shall be subject to all the liabilities incurred and obligations created by the Ayuntamiento of said pueblo. Rights and powers.

SEC. 7. Neither the Mayor, nor any member of the Common Council, shall receive any salary, fees, or emoluments, for his services as city officer, except that the Mayor, when acting as a judicial officer, may receive the fees allowed by the laws of this State to Justices of the Peace, and also the member of said Common Council, who may act as Treasurer and Collector of said city, shall receive five per cent. on all moneys collected and received by him on account of the city of Santa Barbara, and the member of said Common Council who may act as Secretary, shall receive one dollar for every day that the said Common Council meet in session, and also two dollars for every deed, or conveyance, authorized by the Common Council to be drawn by him, in which the city may be a party. Neither the Mayor, nor a member of the Common Council, or any other city officer, shall be, directly, or indirectly, interested, adversely to the city, in any contract, grant, or transaction, to which the city may be a No fees allowed.  
Not to be interested.

party, and if any of said officers shall violate this provision, he shall be deemed guilty of a misdemeanor, and such contract, grant, or transaction, adverse to the city shall be deemed null and void.

**Limit of powers.** SEC. 8. The Mayor and Common Council of said city shall have no power to borrow money, nor shall have power to contract, or create, any debts, or liabilities, which shall, in the aggregate, exceed the sum of five hundred dollars, unless it shall first appear by the sworn statement, in writing, of the said Treasurer, that there is actually in the treasury money not otherwise appropriated to meet and pay such liabilities.

**Payment of moneys.** SEC. 9. No warrant drawn on the treasury shall be paid, unless countersigned by the Mayor, nor shall any contract be entered into, nor property, franchise, or privilege, be granted by the Common Council, without the written consent of the Mayor.

**Proviso.** SEC. 10. The Mayor and Common Council of said city are hereby empowered to issue a license to all persons licensed by the county of Santa Barbara, and within said city; *provided*, the same shall not exceed one-half of the amount paid for county licenses.

**May appoint certain officers.** SEC. 11. The Common Council of said city, with the approval of the Mayor, shall have the power, at their discretion, for the period of time they might deem necessary, not to exceed one year, to appoint an Attorney, Assessor, Surveyor, Marshal, and Street Commissioner, for said city, and to prescribe their respective duties, and fix the salaries of the three first mentioned officers in this section, at a rate not to exceed the sum of thirty dollars per month, and that of the latter not to exceed fifteen dollars per month.

**Salaries.** SEC. 12. The city licenses, shall be issued by the Secretary of the Common Council and countersigned by the Mayor of said city.

**Licenses.** SEC. 13. Neither the Mayor, nor the Common Council, appointed by this act, or their successors in office, shall impose any tax upon the real and personal property within the limits of said city of Santa Barbara, without first submitting the same to the vote of the electors of said city, but they shall have the power to impose a tax not to exceed fifty cents per year on every head of all cattle, horses, mules, asses, jennets, hogs, sheep, and goats, running at large within the city limits, or on the lands belonging to said city.

**Powers of council.** SEC. 14. An act entitled An Act to incorporate the City of Santa Barbara, passed April eighteenth, eighteen hundred and sixty, and an act entitled An Act supplementary to An Act to incorporate the City of Santa Barbara, passed April ninth, eighteen hundred and fifty, approved April fifteenth, eighteen hundred and fifty-eight, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

**Acts repealed.** SEC. 15. This act shall take effect from and after its passage.

**To take effect.**

CHAP. CCCCXLIV.—*An Act to provide for the payment of certain Outstanding Indebtedness of the County of Sierra.*

[Approved May 18, 1861.]

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

SECTION 1. It shall be lawful for the Treasurer of Sierra County to receive and redeem, in like manner as it is provided that bonds and coupons shall be redeemed, in an act entitled *An Act to fund the Debt of Sierra County and to provide for the payment of the same*, approved May twenty-ninth, eighteen hundred and fifty-six, all of the bonds and certificates issued under and by virtue of said act, though signed by only two of the Commissioners. Redemption  
of bonds.

CHAP. CCCCXLV.—*An Act to audit and allow certain Claims.*

[Approved May 18, 1861.]

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

SECTION 1. The claim of Edward Conner, proprietor of the *Alta California*, or his assigns, for printing notices of sale of the Government Reserve, in the city of San Francisco, in the month of January, eighteen hundred and fifty-five, amounting to the sum of one thousand and seventy-three dollars and seventy-five cents, (\$1073 75.) Claim of  
E. Conner.

The claim of John M. Morris, or his assigns, for labor performed and materials furnished the Assembly in the year eight hundred and fifty-five, amounting to the sum of four hundred and forty-seven dollars, (\$447.) J. M. Morris

The claim of A. R. Feldt, or his assigns, for repairs to the Assembly Chamber, in the year eighteen hundred and fifty-five, amounting to the sum of two hundred and ninety-eight dollars and fifty-cents, (\$298 50.) A. R. Feldt.

The claim of Jonathan Barclay, or his assigns, for labor performed and material furnished the Assembly in the year eighteen hundred and fifty-five, amounting to the sum of three hundred and eighty-nine dollars and seventy-five cents, (\$389 75.) J. Barclay.

The claim of Jacob Fletcher, or his assigns, for labor performed and material furnished the Assembly in the year eighteen hundred and fifty-five, amounting to the sum of three hundred and eighty-seven dollars, (\$387,) are hereby audited and allowed. J Fletcher.

SEC. 2. The Treasurer is hereby required to write "Surrendered" across the face of the skeleton scrip accompanying the claims of John N. Morris, A. R. Feldt, Jonathan Barclay, and Jacob Fletcher. Surrendered.

CHAP. CCCCXLVI.—*An Act appropriating Money to pay the Claim of the Sacramento Gas Company.*

[Approved May 18, 1861.]

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

Appropriation

SECTION 1. The sum of ninety-five dollars and thirty cents is hereby appropriated out of any money in the General Fund, not otherwise appropriated, to pay the claim of the Sacramento Gas Company for gas furnished the State Capitol, Supreme Court rooms, State Library, and Governor's office, from April fifteenth, eighteen hundred and sixty, to June thirtieth, eighteen hundred and sixty.

CHAP. CCCCXLVII.—*An Act to procure a conveyance by John Center to the State of certain Real and Personal Property at and near the State Prison.*

[Approved May 18, 1861.]

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

Attorney-General to receive deed.

SECTION 1. That the Attorney-General of the State be, and he is hereby, authorized to receive from John Center, a warranty deed to the State of California, of all that real and personal property, at and near the State Prison, in the county of Marin, particularly described in a certain deed executed to said John Center by James P. Stocker, Sheriff of the county of Marin, under and by virtue of Sheriff's sale, on an execution issued on a judgment rendered in the case of Thomas Young against the San Francisco Manufacturing Company, in the District Court of the Twelfth Judicial District, which deed is recorded in the office of the County Recorder of Marin County, in book B of deeds, page one hundred and sixty-four, and bears date February eleventh, eighteen hundred and fifty-six, and upon being satisfied that said deed is in due and legal form, and properly executed and acknowledged, and that the same conveys to the State all the right, title, and interest, that the said Center now has and holds, or has heretofore had and held, in and to the real estate and personal property, the Attorney-General shall accept the same on behalf of the State, and cause the same to be duly recorded at the Recorder's office of Marin County.

To draw warrant.

SEC. 2. Upon the receipt of the State Controller of the certificate of the Attorney-General, that he has accepted the deed mentioned in section one of this act, and has a release from said Center of all claims and demands of whatever nature, or kind, growing out of said claims to real, or personal property, in, or about, the State Prison, it shall be the duty of the Controller of State to draw his warrant upon the State Treasurer, in favor of said John Center, or his assigns, for the sum of twelve thousand dollars,

which sum shall be specified in said deed as the consideration therefor.

SEC. 3. The sum of twelve thousand dollars is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, for the payment of the said warrant mentioned in section two of this act. Appropriat'n

SEC. 4. Before any warrant shall issue for the payment of the sum mentioned in this act, the said Center shall produce and file in the office of the Controller a certificate of the Attorney-General, that he has examined the title of said Center to the land, and that the same is good and valid as against all persons whatsoever. To file certificate.

SEC. 5. This act shall take effect in ninety days after its passage. To take effect.

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CHAP. CCCCXLVIII.—*An Act to legalize certain Records in the Recorder's Office of the County of Santa Clara.*

[Approved May 18, 1861.]

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

SECTION 1. That the six books of record, labeled and numbered respectively, Number One, Number Two, Number Three, Number Four, Number Five, and Number Six, which were formerly of the records of the office of the Alcalde, and other officers of the late Pueblo de San José de Guadalupe, and which are now kept as a part of the records of the County Recorder's office of the county of Santa Clara, shall continue to be, and form a part of, the legal records of the said Recorder's office. Records legalized.

SEC. 2. That any of the original deeds, conveyances, or other instruments in writing, whereby any real estate, or any right, title, or interest, therein, situated within the present limits of the city of San José, is conveyed, or may be affected, which are of record in said books of record, may be offered in evidence, in the same manner and with the same force and effect, in all cases, as if they had been produced from the custody of the person claiming under, or through, such deed, conveyance, or other instrument in writing. To be valid.

SEC. 3. That the record, or a transcript of the record, certified by the Recorder under his seal of office, of any of the deeds, conveyances, or other instruments in writing, whereby any real estate, or any right, title, or interest, therein, situated within the limits of the city of San José, is conveyed, or may be affected, which appears of record in either of said books of record, shall have the same force and effect as evidence as a duly certified transcript of the record of a deed duly recorded by the County Recorder. Same.

SEC. 4. That the record of every such deed, conveyance, or other instrument in writing, as aforesaid, shall impart notice to all persons of the contents thereof, and subsequent purchasers To impart notice.

and mortgagees, shall be deemed to purchase and take with notice.

To take effect.

SEC. 5. This act shall take effect and be in force, from and after its passage.

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CHAP. CCCCXLIX.—*An Act for the relief of Jerome Madden.*

[Approved May 18, 1861.]

*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 Treasurer of State, payable out of the General Fund, in favor of Jerome Madden, for the sum of seven hundred and fifty dollars, and the said Treasurer is hereby authorized and required to pay the said sum on presentation of such warrant.

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CHAP. CCCCL.—*An Act to repeal an Act entitled An Act to authorize the Incorporation of the City of San Bernardino, passed April thirteenth, eighteen hundred and fifty-four.*

[Approved May 18, 1861.]

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

Act repealed.

SECTION 1. An Act entitled An Act to authorize the Incorporation of the City of San Bernardino, passed April thirteenth, eighteen hundred and fifty-four, is hereby repealed; *provided*, that at a special election to be held on the third Saturday of July, eighteen hundred and sixty-one, which said election shall be called, held, and conducted, in the same manner as other special municipal elections of said city are, a majority of the qualified voters of said city shall vote against a city, this law shall take effect immediately; but if a majority of the qualified voters thereof vote for a city, this act shall be null and void.

Form of ballots.

SEC. 2. The ballot of each voter shall have upon it the words, "for a city," or "against a city," or words which distinctly convey the intentions of the voter; and if, when said votes have been returned and canvassed, it is found that a majority is against a city, the Common Council of said city shall file the election returns in the Recorder's office in the county of San Bernardino, and shall declare the charter of the city of San Bernardino abolished, and shall order the City Treasurer, after paying all audited demands and accounts against the city, to transfer and deliver to the County Treasurer all the funds remaining, which shall be applied, on order of the Superintendent of Public Schools, to common school purposes, within the present incorporated limits of said city.

Election returns.

CHAP. CCCCLI.—*An Act to provide for the Engraving and Printing of State Controller's Warrants.*

[Approved May 18, 1861.]

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

SECTION 1. The Controller of State shall, with the advice of the Governor and State Treasurer, cause to be prepared a drawing of a State Controller's Warrant, the design and tenor of which shall be in accordance with the law prescribing the form thereof, and shall cause such drawing to be skillfully engraved upon a plate of steel, or other metal suitable for the purpose; said engraved plate of steel, or other metal, shall be carefully preserved by the Controller of State, who shall cause to be printed thereon all warrants required by law to be drawn by him upon the State Treasurer.

Controller's warrants.

To preserve plate.

SEC. 2. The sum of one thousand dollars, or so much thereof as may be necessary to carry into effect the provisions of this act, is hereby appropriated for that purpose, out of any moneys in the General Fund not otherwise appropriated, to be expended under the direction of the Governor, Controller of State, and State Treasurer.

Appropriation

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

To take effect.

CHAP. CCCCLII.—*An Act in relation to the Probate Court in the City and County of San Francisco.*

[Approved May 18, 1861.]

*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 San Francisco, acting as Probate Judge, shall hold a term of the Probate Court in the city and county of San Francisco, on the first Monday of January, March, May, July, September, and November, of each year; *provided*, that each term of said court shall, either with, or without, intermediate adjournments, continue to the commencement of the next term.

Terms of court.

SEC. 2. Monday in each week is hereby set apart for the special transaction of business in said court, which day shall be known as the general probate day of said court. But nothing herein shall prevent the transaction of business in said court upon other days.

Order of business.

SEC. 3. In case of the absence of the said Judge from said court, upon any day upon which any order, notice, process, matter, or business whatever, shall be made returnable to said court, or may come on, or be set for hearing, examination, or determination thereon, or be pending on said court, no such order, notice, process, matter, or business, shall fail, by reason of such absence, but the same shall be continued to the next general

Business not to fail in absence of Judge.

probate day of said court; and, in case of the further continuation of such absence, shall be continued from one general probate day to another, until the said Judge shall be present in said court upon a general probate day. The Clerk of said court shall make an entry in the minutes of said court of every such absence, and such entry shall be conclusive evidence of the fact of such absence, and of any and every continuance provided for by this section.

Duty of Clerk.

Repealing clause.  
To take effect.

SEC. 4. All acts and parts of acts, so far as the same conflict with this act, are hereby repealed.

SEC. 5. This act shall take effect from and after its passage.

CHAP. CCCCLIII.—*An Act amendatory of, and supplementary to, An Act concerning Lawful Fences, approved April twenty-seventh, eighteen hundred and fifty-five.*

[Approved May 18, 1861.]

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

SECTION 1. Section nine of said act is hereby amended so as to read as follows:

Counties excepted.

SEC. 9. Nothing in this act shall be so construed as to apply to the counties of Amador, Tuolumne, Calaveras, San Diego, Nevada, San Bernardino, Colusa, Placer, Santa Barbara, Yuba, Trinity, Shasta, Klamath, and Siskiyou; and said counties are hereby excepted and excluded from the provisions of this act.

Act made applicable.

SEC. 2. An Act amendatory of, and supplementary to, An Act concerning Lawful Fences, approved April third, eighteen hundred and sixty, is hereby made applicable to the county of Butte.

SEC. 3. This act shall be in force, from and after its passage.

CHAP. CCCCLIV.—*An Act to amend an Act entitled An Act to regulate Fees of Office, approved April tenth, eighteen hundred and fifty-five.*

[Approved May 18, 1861.]

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

SECTION 1. Section two of said act is hereby amended so as to read as follows:

Fees of Clerk of Supreme Court.

SEC. 2. Fees of Clerk of the Supreme Court:

For filing each transcript of record from an inferior 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 Same.

For copy of record, or opinion, of court, or other papers, for each folio, fifteen cents.

For entering each cause on calendar, and making copy for bar, one dollar.

For every *remittitur*, or mandate, for each folio, fifteen 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.

For filing each paper, fifty cents.

For certificate of admission as Attorney, or Counselor, 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, for each folio, fifteen cents.

For issuing any process of court, including seal, two dollars.

CHAP. CCCCLV.—*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 twentieth, eighteen hundred and fifty-five.*

[Approved May 18, 1861.]

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

SECTION 1. Section fourth of said act is hereby amended so as to read as follows:

Sec. 4. The regular meeting of the Boards of Supervisors shall be held at the county seats of their respective counties, on the first Monday of May, August, November, and February, of each year, and shall continue from time to time, until all the business before them is disposed of; and meetings shall also be held by them to canvass the election returns in their respective counties, at such times as are, or may be, prescribed by the laws regulating elections. Meeting of Board.

SEC. 2. Section tenth of said act is hereby amended so as to read as follows:

Sec. 10. The Board of Supervisors shall also act as a Board of Canvassers, and declare the results of the elections held in their county, and cause a certificate of election to be given by their Clerk to any person who shall be elected to any county, or township, office within the county, except that of County Clerk. Board of Canvassers.

CHAP. CCCCLVI.—*An Act for the relief of James C. Pennie.*

[Approved May 18, 1861.]

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

Appropriat'n SECTION 1. The sum of twenty-five hundred dollars is hereby appropriated, out of any moneys in the treasury, not otherwise appropriated, and the Controller of State is hereby authorized and directed to draw his warrant therefor in favor of James C. Pennie, who has been disabled for life by a wound received at the State Prison on the sixteenth day of January, eighteen hundred and sixty-one, whilst in the service of the State, and endeavoring to suppress a revolt of the convicts in the State Prison.

To take effect. SEC. 2. This act shall take effect on the first day of November, A. D. eighteen hundred and sixty-one.

CHAP. CCCCLVII.—*An Act to provide for the payment of the Claim of Gen. A. M. Winn.*

[Approved May 18, 1861.]

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

Claim allowed. SECTION 1. The claim of Gen. A. M. Winn, for military services rendered the State in the year A. D. eighteen hundred and fifty-one, as Brigadier-General in the Second El Dorado Expedition against the hostile Indians on the eastern frontier of this State, for the sum of one thousand and eighty dollars, is hereby audited and allowed.

To take effect. SEC. 2. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCLVIII.—*An Act to amend An Act supplementary to An Act concerning the Courts of Justice of this State and Judicial Officers, passed May nineteenth, eighteen hundred and fifty-three.*

[Approved May 18, 1861.]

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

SECTION 1. Section twenty-five of said act is amended so as to read as follows :

Business at chambers. SEC. 25. The District Judges shall, at all reasonable times, when not engaged in holding courts, transact such business at their chambers as may be done out of court. At chambers they may try and determine writs of *mandamus*, *certiorari*, and *quo warranto* ; hear and dispose of all applications for orders and

writs, which are usually granted in the first instance, upon an *ex parte* application, and may, in their discretion, also hear applications to discharge such orders and writs; they may also hear and determine applications for writs of assistance at chambers.

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CHAP. CCCCLIX.—*An Act to audit the claim of P. Della Torre.*

[Approved May 18, 1861.]

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

SECTION 1. The claim of P. Della Torre, for services of Elec-<sup>Claim</sup>tor, in the year eighteen hundred and fifty-six, for the sum of <sup>allowed.</sup>sixty-six dollars, is hereby audited and allowed.

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CHAP. CCCCLX.—*An Act amendatory of An Act concerning Lawful Fences, approved April twenty-seventh, A. D. eighteen hundred and fifty-five.*

[Approved May 18, 1861.]

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

SECTION 1. Section two of an act entitled An Act concerning Lawful Fences, approved April twenty-seventh, eighteen hundred and fifty-five, is hereby amended so as to read as follows :

Sec. 2. Any fence which, by reliable evidence, shall be de-<sup>Lawful</sup>clared as strong, substantial, and as well suited to the protection fences. of inclosures as either of the above described, shall be a lawful fence in all the counties of this State, except Sonoma, Napa, El Dorado, Yuba, and Marin.

SEC. 2. Section nine of said act is hereby amended so as to read as follows :

Sec. 9. Nothing in this act shall be so construed as to apply to<sup>Counties</sup> the counties of Butte, Amador, Tuolumne, Calaveras, San Diego, excepted. Nevada, San Bernardino, Colusa, Placer, Santa Barbara, Trinity, Shasta, Klamath, and Siskiyou.

CHAP. CCCCLXI.—*An Act to authorize John F. Pope to sell certain Real Estate.*

[Approved May 18, 1861.]

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

To sell  
real estate.

SECTION 1. John F. Pope, father and natural Guardian of Overton Charles Pope, a minor, is hereby authorized to sell the real estate of said minor, or any right, title, or interest, in any real estate, in the State of California belonging to, or claimed by, said minor, on such terms and in such manner, at public, or private, sale, as may be deemed best for the interest of said minor.

Report of  
sales.

SEC. 2. The said Guardian shall make a full report of any and all such sales as shall be made by him to the Probate Court of the county of San Francisco, and the Judge of said court shall, either in term time, or vacation, in open court, or at chambers, examine the report, and confirm, or set aside, said sale, as in other cases of sales of real estate, by Guardians, Executors, or Administrators.

To execute  
conveyance.

SEC. 3. The said Guardian is hereby authorized, upon the confirmation of any such sale, as hereinbefore provided, to execute, acknowledge, and deliver, to said purchasers, a legal conveyance of the premises sold, which shall be a good and valid title.

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CHAP. CCCCLXII.—*An Act relating to the Rights and Duties of Landlords and Tenants.*

[Approved May 18, 1861.]

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

Landlord to  
give notice.

SECTION 1. Wherever there is a tenancy at will, or by sufferance, created by the tenant's holding over his term, or otherwise, the same may be terminated by the landlord's giving one month's notice in writing, to the tenant, requiring him to remove from the premises.

Service of.

SEC. 2. Such notice shall be served by delivering the same to such tenant, or to some person of proper age residing on the premises; or, if the tenant cannot be found, and there be no such person residing on the premises, such notice may be served by affixing the same on a conspicuous part of the premises, where it may be conveniently read.

Landlord  
may re-enter.

SEC. 3. At the expiration of one month from the service of such notice, the landlord may re-enter, or maintain ejectment, or proceed in the manner prescribed by law to remove such tenant, without any other or further notice to quit.

SEC. 4. If any tenant shall give notice of his intention to quit the premises by him holden, and shall not accordingly de-

liver up the possession thereof, at the time in such notice specified, such tenant, his Executors, or Administrators, shall, from thenceforward, pay to the landlord, his heirs, or assigns, double the rent which he should otherwise have paid, to be sued for and recovered, at the same time and in the same manner, as the single rent; and such double rent shall be continued to be paid during all the time such tenant shall continue in possession, as aforesaid.

Notice by tenant.

SEC. 5. If any tenant, or any other person, who may have come into the possession of lands, or tenements, under, or by collusion with, such tenant, shall willfully hold over any lands, or tenements, after the termination of such term, and after demand made, and one month's notice in writing, given in the manner hereinbefore prescribed, requiring the possession thereof by the person entitled thereto, such person holding over shall pay to the person so kept out of possession, or his representatives, at the rate of double the monthly value of the lands, or tenements, so detained, for so long a time as he shall so hold over, or keep the person entitled out of possession; and shall also pay and remunerate all special damages whatever to which the person so kept out of possession may be subjected by reason of such holding over; and there shall be no relief in equity against any recovery had at law under this section.

Double rent may be collected.

CHAP. CCCCLXIII.—*An Act to authorize the Administratrix of the Estate of Julius Lyons, deceased, to sell the Real and Personal Property belonging to said Estate, either at public, or private, sale.*

[Approved May 18, 1861.]

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

SECTION 1. That Adelia Lyons, Administratrix of the estate of Julius Lyons, deceased, is hereby authorized to sell the real and personal property, or any portion, or portions, thereof, of which the said Julius Lyons, died seized and possessed, wherever situated in the State of California, as she may deem proper and necessary for the payment of the debts and liabilities outstanding against the estate of the deceased, the allowance to the family of the deceased, the expenses and charges of administration, and of the final distribution of the estate, at such time, or times, on such terms and in such manner, either at public, or private, sale, as shall, in her opinion, be most advantageous to said estate.

To sell real estate.

SEC. 2. The said Administratrix shall make a full report of any and all such sales as shall be made by her, to the Probate Court, or the Probate Judge, of the city and county of Sacramento, within a reasonable time thereafter, who, after a proper examination thereof, shall confirm, or reject, such sale, or sales, as in other cases of sales of real and personal estate by Executors and Administrators; and no such sale, or sales, shall be definitely valid and binding, unless so confirmed, or approved, by

To report sales.

the said Judge, or court, by order duly made and entered of record in said court.

**Conveyances** SEC. 3. The said Administratrix is hereby empowered, upon such confirmation of any such sale, or sales, of real, or personal, estate, as hereinbefore provided, and the compliance on the part of the purchaser, or purchasers, with the terms of such sale, or sales, to execute, acknowledge, and deliver, to said purchaser, or purchasers, all necessary and proper conveyances and bills of sale of the property sold.

**To take effect.**

SEC. 4. This act shall take effect from and after its passage.

CHAP. CCCCLXIV.—*An Act relating to the Sureties on the Official Bond of Thomas J. Miner, late County Treasurer of Plumas County.*

[Approved May 18, 1861.]

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

**Sureties released.**

SECTION 1. The sureties (D. R. Cate and J. C. Church,) upon the official bond of Thomas J. Miner, late Treasurer of Plumas County, executed and approved on the first day of December, A. D. eighteen hundred and fifty-six, are hereby released and discharged from all demands on the part of the State of California, on any liability arising as well on account of said bond as the judgment thereon rendered and entered, in the District Court of the Seventeenth Judicial District, in and for the county of Plumas, on the twenty-third day of October, A. D. eighteen hundred and sixty, for the sum of two thousand six hundred and seventy dollars and eighteen cents, with interest on the same from the date thereof, at the rate of ten per cent. per year, together with costs of suits, amounting to the sum of two hundred and nine dollars and ninety cents, and also from all demand, or liability, of whatsoever nature, arising, or accruing, to the State of California by reason of said bond.

**Att'y-Gen'l to discontinue suits.**

SEC. 2. The Attorney-General is hereby authorized and directed to discontinue any and all suits now pending in any of the courts of this State, against the said sureties upon said bond, by reason thereof.

**To take effect.**

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

CHAP. CCCCLXV.—*An Act concerning Roads and Highways in the County of Sacramento.*

[Approved May 18, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of Sacramento shall have power to alter and discontinue any public highway now in use, or to lay out any new road, or public highway, in the county of Sacramento, outside of the limits of the city of Sacramento, and may take and appropriate the lands and improvements of private persons for that purpose upon making just compensation therefor, in the manner hereinafter provided.

Powers of Supervisors.

SEC. 2. Applications for the laying out of a new road, or for the alteration of a road already established, shall be made by petition of at least five residents of the county, in writing, to the Board of Supervisors, at their regular meetings, and shall plainly designate the beginning, general route, and termination, thereof, but no petition shall be considered unless it be accompanied by an affidavit of one, or more, of the petitioners interested, stating that all the parties occupying, and all the parties owning, land, along the line of the proposed road, have been duly notified, by a written notice served on them personally, or left at their place of residence, of the time when such petition will be presented to the Board of Supervisors, and further stating that said notice had been served at least ten days before the meeting of said Board, at which said petition is to be presented; *provided*, that when the owners of any land over which it is proposed to locate a road are unknown, it shall be sufficient that the affidavit state the parties occupying the same have been duly notified.

Applications for laying out roads.

Proviso.

SEC. 3. At the meeting designated in the notice referred to in the preceding section, the Board of Supervisors may proceed to hear all objections to the proposed road, or alterations of roads, or they may, in their discretion, defer action upon the petition to such time as they may appoint. After having heard and considered the objections to the proposed road, or alterations, the Board of Supervisors shall, if they deem the proposed road necessary, appoint two disinterested persons to act as Viewers, and may, in their discretion, direct the County Surveyor to make an accurate survey thereof with the said Viewers, who shall report the proposed alteration, or location, of road, a correct plat and description of which, together with a report in writing of character and quality of land taken by the proposed road from the different owners, or occupants, on the route thereof, and shall be returned to the Board of Supervisors within a time specified in the order of location.

Proceedings of Board.

Viewers.

SEC. 4. At any time within ten days after the return of the report of the Viewers to the Board of Supervisors, any person through whose land the said road is proposed to be located, may, by a note in writing filed with the Clerk of the Board of Supervisors, demand an assessment of his damages by a jury. After the expiration of said ten days, if any such demand shall have

Assessment of damages.

- Same. been made, as aforesaid, the Board of Supervisors shall designate some Justice of the Peace, of any township in which said road is proposed to be located, before whom said assessment shall be made, and shall immediately cause said Justice to be notified thereof; said Justice shall, upon receiving said notice, fix a day not less than five, nor more than ten, days thereafter, for the assessment of said damages, and shall summon a jury of twelve persons competent to sit as Jurors in the trial of a civil action. The District Attorney of the county, or any Attorney appointed by any of the persons petitioning for the road, may appear for the county. The proceedings shall be conducted in manner and form as the trial of a civil action before a Justice of the Peace, in the name of the county as complainant, and the said persons demanding a jury as aforesaid, as defendants; on the part of the county, evidence may be introduced tending to show the benefits and advantages of said road to the defendants. The jury shall, by their verdict, assess the damages to which each defendant shall be entitled, and the Justice shall certify the same to the Board of Supervisors. The damages of such persons who shall not demand a jury, as before mentioned, may be assessed by the Board of Supervisors, after hearing such evidence as either the petitioners, or the persons claiming damages, may offer. The Board of Supervisors may then, or thereafter, upon satisfactory proof being shown that the full amount of damages assessed has been tendered to the parties to whom the same is due, declare the same a public highway, in accordance with the report of the Viewers, and order the same opened immediately, or at such time as they may direct. If in the opinion of the Board of Supervisors a deviation from the route proposed in the petition for a road be expedient, they shall direct the Viewers to make such deviation; and said view, or survey, of said road, as changed by order of said Board of Supervisors, shall be returned to them within a given time specified in said order of change, or alteration; and the Board of Supervisors may, immediately upon the return of said view, or survey, or at such time thereafter as they may deem proper, declare the route as viewed, or surveyed, in accordance with the petition, or the route, as changed under their direction, to be a public highway; *provided*, that when any proposed deviation from the route set forth in the petition shall place the road upon lands occupied, or owned, by persons who have not been notified thereof, no action shall be taken by the said Board until at least ten days after the proper notification has been served upon such persons.
- Verdict of jury. Sec. 5. The breadth of a public road, laid out as aforesaid, shall not exceed eighty feet, and the width of a private road shall not exceed forty feet.
- General proceedings. Sec. 6. Private roads may be established by the Board of Supervisors, in the manner herein set forth, for the establishment and location of public roads; *provided*, that all damages assessed for the opening of said private roads shall be paid by the party petitioning for the same.
- Private roads. Sec. 7. The Board of Supervisors shall have authority to vacate, or change, the whole, or any part, of any public, or private, road, whenever the same shall have become useless, inconvenient, or burdensome:
- Proviso.
- Width of roads.
- Board may vacate roads.



SEC. 8. The Board of Supervisors shall levy a road tax on each able-bodied man between the ages of twenty-one and fifty years, residing outside of the limits of the city of Sacramento, which tax shall not exceed four dollars per annum. Said Board shall also levy an additional road tax at the rate of two dollars on each five hundred dollars upon the assessed value of all property outside of the limits of the city of Sacramento, to be ascertained by the assessment made for State and county purposes. For the purpose of ascertaining the amount of road tax due from each person, the Road Overseer of each road district shall, in the month of December, eighteen hundred and sixty-one, and in the month of December of each year thereafter, procure a transcript of the assessment made of each person's property in his road district; *provided*, further, that any person liable to pay road tax as herein provided, may, at his option, pay the same in labor on the road under the Road Overseer, at the rate of two dollars per day; *provided*, further, there shall be a property tax for road purposes, which shall not exceed five cents on each one hundred dollars on all property outside of the limits of the city of Sacramento, to be levied and collected at the same time and in the same manner as other property for taxes are collected.

Road tax.

Duty of Overseers.

Proviso.

SEC. 9. All acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

Acts repealed.

SEC. 10. This act shall take effect on and after its passage.

To take effect.

CHAP. CCCCLXVI.—*An Act in relation to Public Roads in the County of El Dorado and to the Road Fund of said County.*

[Approved May 18, 1861.]

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

SECTION 1. The provisions of an act entitled An Act to provide for the establishment, maintenance, and protection, of Public Roads, approved May sixteenth, eighteen hundred and sixty-one, are hereby made applicable to the county of El Dorado, except as in this act provided.

Act made applicable.

SEC. 2. At the next general election, and at the general election every two years thereafter, there shall be elected, in each township in the county of El Dorado, a Road Overseer, who shall qualify and enter upon the duties of his office on the first Monday of October subsequent to his election.

Election of Overseers.

SEC. 3. Before qualifying and entering upon the duties of his office, each Road Overseer shall give a bond in the sum of two thousand dollars, conditioned for the faithful performance of the duties of his office, with two or more sureties, which bond shall be approved by the County Judge and be filed with the County Clerk.

Bond.

SEC. 4. Any vacancy in the office of Road Overseer, shall be filled by the Supervisors.

Vacancy.

SEC. 5. The County Auditor shall cause to be printed, each

**Blank tax receipts.** year, as many road tax receipts as may be necessary for the use of his county. Each receipt shall be for the sum of two dollars and shall be signed by the Auditor, and shall contain a blank for the name of the person to whom it is sold, and a blank for the signature of the Road Overseer. The receipts shall be numbered consecutively. The County Auditor shall open an account with each Road Overseer, charging him with such receipts as he shall receive and crediting him with the money paid into the county treasury and with the blank receipts returned.

**Road Tax Fund.** SEC. 6. The County Treasurer shall keep a separate account of the Road Tax Fund of each township, crediting the moneys received and charging the warrants paid.

**Duty of Overseers.** SEC. 7. It shall be the duty of each Road Overseer to procure from the Auditor as many road tax receipts as there are inhabitants in his township liable to perform road work, and he shall visit all such persons during the months of October, November, and December, and collect from each of them the sum of two dollars; upon the payment of this sum he shall give such person a road tax receipt, writing thereon, with ink, the date and name of the person paying, and signing thereto his name. If any person refuses to pay said sum, the Road Overseer may make the same from the personal property of any person so refusing by distress and sale, in the same manner as personal property tax is authorized to be collected under the Act to provide Revenue for the support of the Government of this State, and the provisions of said act relating to the collection of personal property tax are hereby made applicable to the collection of road tax under this act.

**Overseers to pay over moneys.** SEC. 8. The Road Overseers shall pay to the County Treasurer the total amount collected, on the first Monday of each month, and take a receipt for the amount paid, which receipt shall be filed with the Auditor. He shall make a final settlement on the second Monday of January, and return all receipts unsold. Upon making a final settlement, and upon the return of all unsold tax receipts, he shall receive a certificate from the Auditor, that he has settled in full, and that all road tax receipts issued to him have been accounted for, whereupon the Auditor shall draw his warrant in favor of the Road Overseer, upon the Treasurer, payable out of the Road Tax Fund of the township, for ten per cent. of the amount collected and paid over by said Road Overseer.

**Final settlement.** SEC. 9. The roads and bridges in each township shall be under the supervision of the Road Overseer of the township. All works for the repair of roads and bridges in the township shall be let by contract, by the Overseer, to the lowest responsible bidder, after notice for proposals have been posted in, at least, three public places in the township for the term of ten days, and for this purpose he shall divide his township into road districts. **Repairs, etc. by contract.** All contracts shall include the keeping in good condition and repair, for the term of one year from their date, the public roads and bridges in the district in which such contracts are let. The contract to be binding, shall be confirmed by one of the Justices of the Peace of the township, who shall receive the bids, and before whom they shall be opened. Upon the completion of a contract, and the approval of the work by the Road Overseer, he

shall certify the account of the Contractor to the Board of Supervisors, and upon their approval, the Auditor shall draw his warrant for the amount on the Treasurer, payable out of the Road Fund of the township; *provided*, that the Road Overseer shall have no power to enter into any contract, or contracts, which, in the aggregate, shall exceed the amount in the treasury to the credit of the Road Tax Fund of his township.

SEC. 10. On the day subsequent to the day provided in this act for the final settlement of the Road Overseer for tax receipts sold, the County Treasurer shall apportion among the several township funds, the money in the treasury derived from the tax levied upon property and received from road purposes, and such apportionment shall be made upon the basis and ratio of the tax receipts sold in each township.

SEC. 11. The Road Overseer shall be entitled to an amount equal to five per cent. from the Road Tax Fund of the township, on all sums expended under contract for work on the roads and bridges in his township, which work was performed under his direction; said five per cent. to be paid on approval of the account by the Board of Supervisors.

SEC. 12. It shall be the duty of the Road Overseer to take charge and direct the work on the roads, of all foreigners refusing to pay the foreign miner's license tax, who may be reported to him by the Collector of Foreign Miners' Licenses. Upon the certificate of the Collector that said person was placed in his charge for refusal to pay said foreign miner's license tax, and upon his own affidavit that said person performed the work, as is provided by law, the Board of Supervisors may audit his account for overseeing such work, at the rate of twenty-five cents for each day's work performed by such person, or persons, payable from the Road Tax Fund of the township.

SEC. 13. No warrant shall be drawn on the County Road Fund after the passage of this act, and all warrants heretofore drawn on said fund, and now outstanding and unpaid, shall be surrendered by the holders thereof to the County Auditor, and the Auditor shall, in lieu thereof, issue to the owners of such warrants, others in a like sum, drawn upon the General Fund of the county.

SEC. 14. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 15. This act shall take effect on and after the first day of September next.

CHAP. CCCCLXVII.—*An Act to amend an 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.*

[Approved May 18, 1861.]

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

SECTION 1. Section four hundred and twenty-two of an act entitled An Act to regulate proceedings in Civil Cases in the

Courts of this State, passed April twenty-ninth, eighteen hundred and fifty-one, is hereby amended so as to read as follows:

Interested parties may be witnesses.

Sec. 422. A person for whose immediate benefit the action is prosecuted, or defended, though not a party to the action, may be examined as a witness, in the same manner and subject to the same rules of examination as if he were named as a party. And a party to an action, or proceeding, may be examined as a witness in his own behalf, the same as any other witness; but such examination shall not be had, nor shall any other person for whose immediate benefit the same is prosecuted, or defended, be so examined, unless the the adverse party, or persons, in interest, is living, nor when the opposite party shall be the assignee, Administrator, Executor, or legal representative of a deceased person, nor unless ten days' notice of such intended examination of the party, or person, interested, specifying the points upon which such party, or person, is intended to be examined, shall be given in writing to the adverse party, except that in special proceedings of a summary nature, such reasonable notice of such intended examination shall be given as shall be prescribed by the court, or Judge. And when notice of such intended examination shall be given in an action, or proceeding, in which the opposite party shall reside out of the jurisdiction of the court, such party may be examined by commission, issued and executed as now provided by law; and whenever a party, or person, in interest, has been examined under the provisions of this section, the other party, or person, in interest may offer himself as a witness in his own behalf, and shall be so received. When an assignor in a thing in action, or contract, is examined as a witness on behalf of any person deriving title through, or from, him, the adverse party may offer himself as a witness to the same matter in his own behalf, and shall be so received, and to any matter that will discharge him from any liability that the testimony of the assignor tends to render him liable for. But such assignor shall not be permitted to be examined on behalf of any person deriving title through, or from, him, against an assignee, or an Executor, or Administrator, unless the other party to such contract, or thing in action, whom the defendant, or plaintiff, represents is living, and his testimony can be procured for such examination; nor at least ten days' notice of such intended examination of the assignor, specifying the points upon which he is intended to be examined, shall be given in writing to the adverse party. This section shall not be held to impair, or in any way affect, the existing provisions of law by which persons of Indian, or Negro, blood, are excluded from being witnesses.

Same.

Same.

CHAP. CCCCLXVIII.—*An Act to restrict the Herding of Sheep.*

[Approved May 18, 1861.]

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

SECTION 1. It shall not be lawful for any person, or persons, owning, or having charge of, any sheep, to herd the same, or permit them to be herded, on the land, or possessory claims, of other than the land, or possessory claims, of the owners of such sheep. Restriction.

SEC. 2. The owner, or owners, or the agents of such owners, of sheep, violating the provisions of section one of this act, on complaint of the party, or parties, injured, and on conviction thereof, before any Justice of the Peace for the township where either of the interested parties may reside, shall be deemed guilty of a trespass, and shall be liable to the party injured for all damages sustained by such trespass; and if the trespass be repeated by the neglect of the owner, or owners, or the agent, or agents, of such owners of sheep, he, or they, shall be liable to the party injured, for the second and every subsequent offense, or trespass, for double the amount of damages of such trespass. Trespass.  
Damages.

SEC. 3. When the owner, or owners, or the agents of such owners, of sheep, found trespassing upon the lands, or possessory claim, of another, shall be unknown to the party, or parties, injured by such trespass, then all sheep so trespassing, may be treated as estrays, according to the provisions of an act entitled An Act concerning Estray Animals, approved April nineteenth, eighteen hundred and fifty-six. Unknown parties.

SEC. 4. Nothing in this act shall be construed to prohibit, or prevent, the herding of sheep upon any unoccupied public lands of this State, or of the United States. U. S. lands.

SEC. 5. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SEC. 6. This act shall take effect from and after its passage. To take effect.

CHAP. CCCCLXIX.—*An Act appropriating Money for the payment of John B. Brady, for services rendered as Assistant Engrossing Clerk of the Assembly during the Eleventh Session of the Legislature.*

[Approved May 18, 1861.]

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

SECTION 1. The sum of one hundred and fifty-two dollars is hereby appropriated out of any money in the General Fund, not otherwise appropriated, to John B. Brady, for services rendered as Assistant Engrossing Clerk of the Assembly, during the eleventh session of the Legislature, and the Controller of State is hereby directed to draw his warrant in favor of said Brady for the same. Appropriation

CHAP. CCCCLXX — *An Act to authorize the Board of Supervisors of San Bernardino County to grant to John J. Warner, J. G. Tomlinson, and Frank Mellus, the right to construct a Wagon Road from the City of San Bernardino, in the County aforesaid, to Holcomb and Bear Valley, in said County.*

[Approved May 18, 1861.]

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

Franchise. SECTION 1. The Board of Supervisors of the county of San Bernardino are hereby authorized to grant unto John J. Warner, J. G. Tomlinson, and Frank Mellus, their assigns, or legal representatives, the franchise to construct a wagon road from the city of San Bernardino unto Holcomb and Bear valleys, in the county of San Bernardino.

Term of. SEC. 2. The said franchise, herein authorized to be granted, shall not extend beyond the period of twenty years from the date thereof.

Supervisors to contract. SEC. 3. The said Board of Supervisors shall have power under this act to contract with said Warner, Tomlinson, and Mellus, the kind of road to be built; the location thereof; the rates of tolls which said grantees shall be authorized to charge and collect, and everything necessary to the construction and keeping in repair of said road; *provided*, that the contract, herein authorized, shall be made within six months from the passage of this act, and the road completed within one year from the time of said contract.

Recording of contract. SEC. 4. The said contract, made under the provisions of this act, shall be recorded in the Recorder's office of San Bernardino County; and a failure of the grantees to comply with the provisions of this act, and the contract made by virtue thereof with the said Board of Supervisors, shall work an entire forfeiture of the rights thereby granted.

SEC. 5. This act shall not interfere with vested rights.

To take effect. SEC. 6. This act shall be in force immediately after its passage.

CHAP. CCCCLXXI.—*An Act to authorize the Administrator of the Estate of Joseph K. Irving, deceased, to sell the Real Estate of said deceased, at public, or private, sale.*

[Approved May 18, 1861.]

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

To sell real estate. SECTION 1. The Administrator of the estate of Joseph K. Irving, deceased, is hereby authorized to sell the real estate of said deceased, or any part, or portion, thereof, or any right, title, or interest, in real property, belonging to, or claimed by, said deceased, in his lifetime, on such terms and in such manner, at public, or private, sale, as may be most advantageous to said

estate. Such sales shall not be definite until reported to, and approved by, the Probate Court of the city and county of San Francisco. To make report.

SEC. 2. After the approval of the sale by the said Probate Court, said Administrator shall make to the purchasers a conveyance of the lands, rights, titles, or interest, sold, which conveyance shall be valid and binding. Conveyances

SEC. 3. If the Judge of the Probate Court aforesaid, be satisfied that the price is disproportionate to the value of the property sold, and that a price can be obtained at least ten per cent. higher, he shall not approve, or confirm, the sale, but shall order a new sale of the property. Approval.

SEC. 4. This act shall take effect and be in force, from and after its passage. To take effect.

CHAP. CCCCLXXII.—*An Act to repeal an Act entitled An Act to confer further powers upon the Board of Education and the Treasurer of the City and County of San Francisco, approved April eighteenth, eighteen hundred and fifty-nine.*

[Approved May 18, 1861.]

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

SECTION 1. An Act to confer further powers upon the Board of Education and the Treasurer of the City and County of San Francisco, approved April eighteenth, eighteen hundred and fifty-nine, is hereby repealed. Acts repealed.

CHAP. CCCCLXXIII.—*An Act to give effect to an Act therein named.*

[Approved May 18, 1861.]

*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 appointment of Commissioners in Equity, approved April seventeenth, eighteen hundred and sixty-one, shall take effect and be in force, from and after the passage of this act. To take effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCCCLXXIV.—*An Act for the Relief of Thomas R. Eldridge, Assignee of Miguel Smith.*

[Approved May 18, 1861.]

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

Appropriat'n SECTION 1. The sum of one hundred and thirty dollars and fifty cents is hereby appropriated out of any money in the treasury not otherwise appropriated, for the payment of Thomas R. Eldridge, assignee of Miguel Smith, for translating into Spanish, indexing, and correcting, proof-sheets of certain laws of eighteen hundred and fifty and eighteen hundred and fifty-one, under an act of the Legislature, passed April second, eighteen hundred and fifty-nine; and the Controller of State is hereby directed to draw his warrant for that sum on the General Fund, in favor of the said Thomas R. Eldridge, and the Treasurer of State is required to pay the same.

CHAP. CCCCLXXV.—*An Act to appropriate Money to pay the Claim of J. C. Pelton.*

[Approved May 18, 1861.]

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

Appropriat'n SECTION 1. There is hereby appropriated out of any money in the State treasury not otherwise appropriated, the sum of twelve hundred dollars, to pay J. C. Pelton for materials furnished and services rendered to the State, as Superintendent of the State Reform School; *provided*, the amount above allowed shall be in full for all claims, or demands, against the State by reason of the visit of the said J. C. Pelton to the Atlantic States, in connection with the State Reform School.

CHAP. CCCCLXXVI.—*An Act to authorize Caroline Buterfield, Widow of David Buterfield, late of Siskiyou County, deceased, to convey certain Property therein stated.*

[Approved May 18, 1861.]

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

To execute conveyance. SECTION 1. Caroline Buterfield, widow of David Buterfield, late of Siskiyou County, deceased, is hereby authorized and empowered to convey, by quitclaim deed, all the estate, right, title, and interest, the said Buterfield had at the time of his



death of, in, and to, that certain premises situated in Yreka City, Siskiyou County, California, and lying on the east side of Main Street, and bounded on the west by Main Street; on the north by the lot known as the "Pierson Lot;" on the east by the hill, and on the south by the Boles & Dain Lot, to David Lewis and his representatives and assigns, in consideration of five hundred dollars received by the said Buterfield, in his lifetime, therefor.

SEC. 2. The conveyance so executed, shall release all the right, title, and interest, the said David Buterfield and Caroline, his wife, had in and to the premises at the death of said Buterfield, and no other. And the said conveyance shall not be valid unless it be approved by the Probate Court of Siskiyou County. Release of title.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. CCCCLXXVII.—*An Act to amend An Act to separate the Offices of County Recorder, County Auditor, Clerk of the Board of Supervisors, and Clerk of the Board of Equalization, from the Office of County Clerk in the County of Placer.*

[Approved May 18, 1861.]

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

SECTION 1. Section five of said act is hereby amended so as to read as follows :

Sec. 5. The County Recorder of said county shall receive from and after the second day of June, in the year eighteen hundred and fifty-nine, for his services as County Recorder and his services in said *ex officio* offices, a salary at the rate of three thousand dollars per annum, which salary shall be in full for all services required of him by law, and shall be collected and retained in the manner hereinafter provided; but the Supervisors of said county of Placer shall have power to authorize the Recorder, whenever in their opinion the duties of his office shall make it necessary, to employ a competent Deputy, who shall be paid (in the same manner as is by this act provided for the payment of the salary of the Recorder) at a rate not to exceed eight hundred dollars per annum. Salary of Recorder.  
Deputy.

SEC. 2. This act shall take effect from and after its passage. To take effect.

CHAP. CCCCLXXVIII.—*An Act concerning certain Trade-Marks.*

[Approved May 18, 1861.]

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

SECTION 1. Every person engaged in manufacturing, or bottling, foreign, or native California, wine, cider, porter, ale, beer, soda water, or mineral water, may have such trade-mark, or name, as he deems proper, stamped on, or blown in, the bottle, or bottles, in which such wine, cider, porter, ale, beer, soda water, or mineral water, are bottled; and every person wishing a trade-mark, under the provisions of this act, shall file his claim and a description of the mark, with the County Clerk of his county, and a duplicate thereof with the Secretary of State, and shall cause a copy thereof to be published at least one month in a newspaper published in his county.

SEC. 2. It shall be, and it is hereby made, unlawful for any person, or persons, other than the owner, or such persons as are by him authorized, to use, sell, or have in his, or their, possession, any bottle, a trade-mark, for which has been acquired under the provisions of section one of this act; and each and every person using, selling, or having in his, or her, possession, (without authority,) any bottle having upon it any trade-mark, registered in accordance with the provisions of section one, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment for not less than five days, nor more than thirty days, or by both such fine and imprisonment.

SEC. 3. This act shall take effect immediately.

CHAP. CCCCLXXIX.—*An Act to amend an Act entitled An Act to provide for the Funding and Payment of the Outstanding Unfunded Claims against the City of San Francisco as they existed prior to the first day of July, A. D. one thousand eight hundred and fifty-six, approved April twentieth, eighteen hundred and fifty-eight.*

[Approved May 18, 1861.]

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

SECTION 1. The President of the Board of Supervisors, the Auditor, and the Treasurer, of the city and county of San Francisco, constituting the Board of Fund Commissioners, under the act approved April twentieth, eighteen hundred and fifty-eight, to provide for the funding and payment of the outstanding claims against the city of San Francisco, are hereby authorized and empowered to receive and cancel the following claims, and issue, in liquidation thereof, the bonds of the city and county of

San Francisco, in accordance with the provisions of the said act, to-wit :

*First*—All outstanding receipts of said Board of Commissioners for warrants approved by the Board of Examiners created under the said act, to the extent of, in all, one hundred and fifty-seven dollars and thirty-three cents. Description of claims.

*Second*—All outstanding certificates of balances of claims approved by said Board of Examiners, due and unfunded, to the extent of, in all, four hundred and sixteen dollars and thirty-five cents. Same.

*Third*—A certain duly audited demand on the city treasury of the class known as the "Red Backs," Number Two Hundred and Seventy-Seven, dated June first, eighteen hundred and fifty-six, in favor of the Trustees of the Young America Engine Company, for two hundred and fifty-six dollars and fifty cents, allowed by said Board of Examiners for said amount, but not presented for funding within the period of time specified in the said act. Same.

SEC. 2. All the unfunded balance certificates signed by the said Commissioners, amounting, in the aggregate, to a less sum than five hundred dollars, remaining after the issue of all the bonds provided for in this act, and in all acts amendatory of, and supplementary to, the Funding Act of eighteen hundred and fifty-eight, and in an act entitled An Act to provide for the examination and payment of certain Claims against the City of San Francisco, approved April twenty-eighth, eighteen hundred and sixty, shall be a charge upon the treasury of the said city and county of San Francisco, at the market value of the bonds herein named, with coupons attached at the time of presentation of said certificates for payment. The Auditor and Treasurer are respectively authorized to audit and pay the said certificates at the said valuation, out of the Corporation Debt Fund of said city and county. Unfunded balance certificates.  
  
To audit certificates.

CHAP. CCCCLXXX.—*An Act to amend an Act entitled An Act to regulate Elections, passed March twenty-third, eighteen hundred and fifty, and the several Acts amendatory thereof and supplemental thereto.*

[Approved May 18, 1861.]

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

SECTION 1. Section thirty-eight of said act is amended so as to read as follows :

Sec. 38. The Board of Supervisors of each county shall meet at their usual place of meeting, on the first Monday after each election, to canvass the election returns, and if the returns from each precinct of the county, or township, where polls were opened at such election, shall not have been received by the County Clerk at that time, then said Board shall adjourn, from time to time, until said returns shall be received, but not beyond the second Monday after such election, and the said Board shall Meetings of Supervisors.  
  
Board may adjourn.

Election returns.

then proceed, in public, to open the returns and estimate the vote of such county, or township, for each person voted for, and for and against each proposition voted upon at such election, and declare the result thereof. The Clerk of said Board shall, at such meeting, enter on the records of such Board a statement of the result of such election, containing the names of the persons voted for and the propositions voted upon; the office to fill which each person was voted for; the number of votes given at each precinct to each of such persons, and for and against each of such propositions; the number of votes given in the county to each of such persons, and for and against each of such propositions, and the whole number of votes cast in said county.

Duties of Clerk.

SEC. 2. Section forty-eight of said act is amended so as to read as follows:

Election of Governor and Lieut.-Governor.

Sec. 48. When an election has been held to fill the office of Governor, or Lieutenant-Governor, the said Clerk shall forthwith make out three duly certified copies from said records of the Board of Supervisors, of the statement provided for in section one of this act, so far as the same relates to the votes given to each of the several persons voted for Governor, or Lieutenant-Governor, seal the same up and indorse thereon "Election returns for Governor, or Lieutenant-Governor," as the case may be; and he shall forthwith transmit one of said copies, by mail, to the seat of government, directed to the Secretary of State, to be filed by him in his office, and shall transmit two of said certified copies to the Speaker of the Assembly, one by mail, directed to the seat of government, and the other by the Representative, or Senator, of his county, or district, whose duty it shall be to deliver the same to the Speaker on, or before, the second day after his election.

Certified copies to be transmitted.

Statement to be transmitted.

SEC. 3. The said Clerk shall also, forthwith, make out and transmit, by mail, to the Secretary of State, to be filed in his office, a duly certified copy of the statement provided for in section one of this act, in all cases, except when the election has been held for the election of township officers only.

Commissions to issue.

SEC. 4. It shall be the duty of the Governor, upon the certified copy of such statement being filed in the office of the Secretary of State, showing the election of a County Judge, or County Clerk, to issue to the person so elected a commission in the manner prescribed by law.

Acts repealed.

SEC. 5. The act entitled An Act supplemental to An Act to regulate Elections, passed March twenty third, eighteen hundred and fifty, approved May eighteen hundred and fifty-three, and an act entitled An Act supplemental to An Act to regulate Elections, passed March twenty-third, eighteen hundred and fifty, approved May fourth, eighteen hundred and fifty-five, and section forty of an act entitled An Act to regulate Elections, passed March twenty-third, eighteen hundred and fifty, and all acts and parts of acts, in conflict with the provisions of this act, are hereby repealed.

CHAP. CCCCLXXXI.—*An Act authorizing the settlement of certain Claims against the estate of Cesario Lataillade, late of Santa Barbara County.*

[Approved May 18, 1861.]

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

SECTION 1. The Guardian of the minor heirs of Cesario Lataillade, deceased, late of the county of Santa Barbara, namely, Gasper Orena, is hereby authorized and empowered, as such Guardian, to adjust, settle, and pay, all just and lawful accounts and demands, made against the estate, or against the heirs of said Lataillade, by the Executors of the last will and testament of José de la Guerra, late of the county of Santa Barbara, namely, Francisco de la Guerra and Pablo de la Guerra; *provided*, that the accounts and demands aforesaid, shall be subject to the examination and approval of the Probate Court of said county; and no payment shall be made thereon until such examination and approval be first had.

Settlement authorized.

Proviso.

SEC. 2. This act shall take effect immediately.

CHAP. CCCCLXXXII.—*An Act to amend an Act entitled An Act concerning Conveyances, passed April sixteenth, eighteen hundred and fifty.*

[Approved May 18, 1861.]

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

SECTION 1. Section seventeenth of said act, concerning conveyances, is amended by adding thereto the following :

*Provided*, however, that if it shall appear to the satisfaction of the officer so authorized to take such acknowledgment that such subscribing witness purposely conceals himself, or keeps out of the way, so that he cannot be served with a subpoena, or taken on attachment, after the use of due diligence to that end, or in case of his continued failure, or refusal, to testify for the space of one hour after his appearance shall have been compelled by process, then said conveyance, or other instrument, may be proved and admitted to record in the same manner as if such subscribing witnesses thereto were dead.

Refusal to testify.

SEC. 2. This act shall take effect from and after its passage.

To take effect.

CHAP. CCCCLXXXIII.—*An Act making appropriations for Deficiencies made for the Twelfth Fiscal Year ending June thirtieth, eighteen hundred and sixty-one.*

[Approved May 18, 1861.]

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

SECTION 1. The sum of four thousand five hundred dollars is hereby appropriated out of any moneys in the General Fund, not otherwise appropriated, two thousand dollars of which is for the per diem of members of the Senate, and two thousand five hundred dollars for the contingent expenses of the Senate; also, seven thousand five hundred dollars for the per diem of members of the Assembly, and seven thousand dollars for the contingent expenses of the Assembly.

Appropriat'n  
for Senate  
and Assom'y.

Exemption  
from certain  
act.

SEC. 2. The sum herein appropriated shall not be subject to any of the provisions of an act entitled An Act to create a Board of Examiners, to define their powers and duties, and to impose certain duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight.

To take  
effect.

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

CHAP. CCCCLXXXIV.—*An Act to authorize the sale of the Estate of the late Maria Smith, deceased.*

[Approved May 18, 1861.]

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

SECTION 1. The Public Administrator of Nevada County is hereby authorized to sell at public, or private, sale, the real estate owned and possessed by the late Maria Smith, of the said county of Nevada, at the time of her decease. The proceeds of such sale to be applied to the support and education of the minor heirs of the said Maria Smith, deceased, or to such other purpose for their use and benefit as may be determined by the Probate Judge of Nevada County, and the Guardian, or Guardians, of said minor heirs; *provided*, that no such sale shall take place without the approval of the Probate Judge aforesaid, and until he shall have granted an order directing the same.

Sale  
authorized.

Proviso.

Bond.

SEC. 2. The Probate Judge, before granting such order, may require of the said Public Administrator such bond as may to him seem proper, conditioned for the faithful performance of the duties assigned him by this act, and for the proper custody and application of the proceeds of the sale authorized by this act.

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

CHAP. CCCCLXXXV.—*An Act for the protection of Water Companies.*

[Approved May 18, 1861.]

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

SECTION 1. Any person who with intent to injure, or defraud, any water company, body corporate, or individual, shall connect, or cause to connect, any pipes, tube, or other instrument, or continuance, with any main service pipe, or other pipe, or conduit, or flume, for conducting, or supplying, any town, or city, or city and county, with pure fresh water, or interfering with any stream, creek, dam, or reservoir, or flood, or water gate, or any aqueduct, used, or which may be used, for conveying any flume, or pipe, for the introduction of such fresh water supply, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment, not exceeding six months, or by fine, not exceeding five hundred dollars, or by both such fine and imprisonment; *provided*, that this section shall not apply to any case where an adverse interest now exists as to the ownership of any stream, or land, or where an action may be pending relative thereto.

Penalty for defrauding, injuring, etc.

Proviso.

SEC. 2. Any person who with intent to injure, or defraud, any water company, or body corporate, or individual, shall willfully injure, alter, or obstruct, or prevent, the action of any meter, provided for the measuring and registering the quantity of water used, or consumed, by, or at, any meter, or orifice, or place, or cause, or procure, any such meter to be injured, or altered, or the action thereof to be obstructed, or prevented, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment, not exceeding six months, or by fine, not exceeding five hundred dollars, or by both such fine and imprisonment.

Fraud, injury, etc.

Penalty.

SEC. 3. Any person who with intent to defraud, or injure, any water company, body corporate, or individual, shall open, or cause to be opened, or draw water, from any stop-cock, or faucet, by which the flow of water is controlled, after having been notified that the same has been closed, or shut, for specific cause, by the order of said water company, body corporate, or individual, without a written permit from the Superintendent, Agent, or Clerk, of said water company, body corporate, or individual, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment, not exceeding six months, or by fine, not exceeding five hundred dollars, or by both such fine and imprisonment.

Penalty for injuring.

CHAP. CCCCLXXXVI.—*An Act to authorize the Board of Supervisors of El Dorado County to purchase a Building for the use of the County.*

[Approved May 18, 1861.]

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

Purchase of  
court-house.

SECTION 1. It shall be lawful for the Board of Supervisors of El Dorado County to purchase any suitable building in the city of Placerville, to be used as a court-house, at a price not exceeding seven thousand dollars. The purchase money for any such building shall be paid out of the General Fund of said county, and shall be drawn for and paid in the same manner as other claims upon said fund.

Acts  
repealed.

SEC. 2. All acts and parts of acts, so far as the same are inconsistent with the provisions of this act, are hereby repealed.

To take  
effect.

SEC. 3. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCLXXXVII.—*An Act to authorize the Board of Examiners to pay over certain Moneys.*

[Approved May 18, 1861.]

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

To pay  
balance due.

SECTION 1. The Board of Examiners are hereby authorized to pay to S. W. Churchill, the amount that may be found due to H. S. Fauchee, deceased, for services as Trustee of the State Reform School; *provided*, said Churchill shall first pay Dr. S. T. Watts the sum of sixty dollars, for medical services, and E. Hamilton sixty dollars, for expense of interment.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCCCLXXXVIII.—*An Act to amend an Act entitled An Act appropriating Money for the Payment of the Copying of the Legislature, during the Twelfth Session, approved April fifteenth, eighteen hundred and sixty-one.*

[Approved May 18, 1861.]

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

SECTION 1. Section two of the above entitled act is hereby amended so as to read as follows :

Appropriat'n

SEC. 2. The sum appropriated by this act is hereby expressly exempted from the provisions of An Act to create a Board of Examiners, to define their Powers and Duties, and to impose



certain Duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight, but shall be disbursed under the direction of the body to which it may respectively belong; *provided*, that all claims for copying done prior to, or subsequent to, the adjournment of the present session, and remaining unsettled at the time of adjournment, shall be presented to the next Legislature for payment; and, *provided*, further, that no State officer shall certify to any such claims. Proviso.

SEC. 2. This act shall take effect from and after its passage.

CHAP. CCCCLXXXIX.—*An Act to define the Senatorial and Assembly Districts of this State, and to apportion the Representation thereof.*

[Approved May 18, 1861.]

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

SECTION 1. The counties of San Diego and San Bernardino, shall be the First Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly. First Senatorial District.

SEC. 2. The county of Los Angeles shall be the Second Senatorial District, and shall elect one Senator; and shall also elect two members of Assembly. Second.

SEC. 3. The counties of Santa Barbara and San Luis Obispo shall be the Third Senatorial District, and shall elect one Senator and one member of Assembly. Third.

SEC. 4. The counties of Tulare and Fresno shall be the Fourth Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly. Fourth.

SEC. 5. The counties of Mariposa, Merced, and Stanislaus, shall be the Fifth Senatorial District, and shall elect one Senator. The county of Mariposa shall elect one member of Assembly, and the counties of Merced and Stanislaus shall together elect one member of Assembly. Fifth.

SEC. 6. The counties of Santa Cruz and Monterey shall be the Sixth Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly. Sixth.

SEC. 7. The county of Santa Clara shall be the Seventh Senatorial District, and shall elect one Senator, and also three members of Assembly. Seventh.

SEC. 8. The counties of San Francisco and San Mateo shall be the Eighth Senatorial District, and shall elect five Senators, four of whom shall be elected in San Francisco County, and one by San Mateo and San Francisco together. The county of San Francisco shall also elect twelve members of Assembly, and the county of San Mateo shall elect one member of Assembly. Eighth

SEC. 9. The county of Alameda shall be the Ninth Senatorial District, and shall elect one Senator and two members of Assembly. Ninth.

SEC. 10. The counties of Contra Costa and Marin shall be the

- Tenth.** Tenth Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly.
- Eleventh.** SEC. 11. The county of San Joaquin shall be the Eleventh Senatorial District, and shall elect one Senator and also two members of Assembly.
- Twelfth.** SEC. 12. The county of Tuolumne shall be the Twelfth Senatorial District, and shall elect two Senators and also three members of Assembly.
- Thirteenth.** SEC. 13. The county of Calaveras shall be the Thirteenth Senatorial District, and shall elect two Senators and three members of Assembly.
- Fourteenth.** SEC. 14. The county of Amador shall be the Fourteenth Senatorial District, and shall elect one Senator and also two members of Assembly.
- Fifteenth.** SEC. 15. The county of El Dorado shall be the Fifteenth Senatorial District, and shall elect two Senators and also four members of Assembly.
- Sixteenth.** SEC. 16. The county of Sacramento shall be the Sixteenth Senatorial District, and shall elect two Senators and also five members of Assembly.
- Seventeenth.** SEC. 17. The counties of Solano and Yolo shall be the Seventeenth Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly.
- Eighteenth.** SEC. 18. The counties of Napa, Lake, and Mendocino, shall be the Eighteenth Senatorial District, and shall elect one Senator; the counties of Napa and Lake shall elect one member of Assembly, and the county of Mendocino shall elect one member of Assembly.
- Nineteenth.** SEC. 19. The county of Sonoma shall be the Nineteenth Senatorial District, and shall elect one Senator and also three members of Assembly.
- Twentieth.** SEC. 20. The county of Placer shall be the Twentieth Senatorial District, and shall elect two Senators and also three members of Assembly.
- Twenty-First.** SEC. 21. The county of Nevada shall be the Twenty-First Senatorial District, and shall elect two Senators and also four members of Assembly.
- Twenty-Second.** SEC. 22. The county of Sierra shall be the Twenty-Second Senatorial District, and shall elect one Senator and two members of Assembly.
- Twenty-Third.** SEC. 23. The counties of Yuba and Sutter shall be the Twenty-Third Senatorial District, and shall elect two Senators, one of whom shall be elected by the county of Yuba, and one by the counties of Sutter and Yuba, jointly; the county of Yuba shall elect three members of Assembly, and the county of Sutter shall elect one member of Assembly.
- Twenty-Fourth.** SEC. 24. The counties of Butte and Plumas shall be the Twenty-Fourth Senatorial District, and shall elect two Senators, one of whom shall be elected by the county of Butte, and one by the counties of Butte and Plumas, jointly; the county of Butte shall elect two members of Assembly, and the county of Plumas shall elect one member of Assembly.
- Twenty-Fifth.** SEC. 25. The counties of Tehama and Colusa shall be the Twenty-Fifth Senatorial District, and shall elect one Senator and one member of Assembly.

SEC. 26. The counties of Shasta and Trinity shall be the Twenty-Sixth Senatorial District, and shall elect one Senator, and each of said counties shall elect one member of Assembly. Twenty-Sixth.

SEC. 27. The counties of Humboldt, Klamath, and Del Norte, shall be the Twenty-Seventh Senatorial District, and shall elect one Senator; the county of Humboldt shall elect one member of Assembly, and the counties of Klamath and Del Norte together shall elect one member of Assembly. Twenty-Seventh.

SEC. 28. The county of Siskiyou shall be the Twenty-Eighth Senatorial District, and shall elect one Senator and also two members of Assembly. Twenty-Eighth.

SEC. 29. At the next general election in this State, there shall be elected in the First, Second, Third, Fourth, Sixth, Eighth, Ninth, Eleventh, Twelfth, Thirteenth, Fourteenth, Sixteenth, Seventeenth, Eighteenth, Twentieth, Twenty-First, Twenty-Fifth, Twenty-Sixth, Twenty-Seventh, and Twenty-Eighth, Districts, and also in the county of Butte—one Senator each; and there shall be chosen, at said election, two Senators in the county of San Francisco; *provided*, that the Senators so elected in the county of San Francisco shall determine by lot which of the two shall hold his office for the term of one year only. Senators for 1861.

SEC. 30. At the general election in the year eighteen hundred and sixty-two, there shall be elected in the Fifth, Seventh, Tenth, Twelfth, Thirteenth, Sixteenth, Nineteenth, Twentieth, Twenty-First, Twenty-Second, Twenty-Third, Twenty-Fourth, Districts, and in the county of Yuba—one Senator each; and in the county of San Francisco, there shall be chosen two Senators; and in the county of El Dorado, there shall be chosen two Senators; *provided*, that in the county of El Dorado the Senators chosen at said election shall determine by lot which one of said Senators shall hold his office for but one year only; and, *provided*, further, that the Senators chosen at said election, in the Twenty-Third Senatorial District, and for the county of Yuba, shall, in like manner, determine by lot which one of said Senators shall hold his office for one year only. Senators for 1862.

SEC. 31. There shall be elected, at the general election in the year eighteen hundred and sixty-three, and every year thereafter, a number of Senators corresponding with the number of Senators whose term of office shall expire on the first Monday of January following said election. Elections after 1862.

SEC. 32. All acts and parts of acts in conflict with this act, are hereby repealed. Acts repealed.

CHAP. CCCCXC.—*An Act making Appropriations for the Support of the Civil Government of this State for the Thirteenth Fiscal Year, commencing on the first day of July, A. D. eighteen hundred and sixty-one, and ending on the thirtieth day of June, A. D. eighteen hundred and sixty-two, inclusive.*

[Approved May 20, 1861.]

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

- SECTION 1.** The following sums of money are hereby appropriated out of any money in the treasury not otherwise appropriated, for the objects hereinafter expressed, for the support of the Civil Government of the State for the Thirteenth Fiscal Year, commencing on the first day of July, A. D. eighteen hundred and sixty-one, and ending on the thirtieth day of June, eighteen hundred and sixty-two, inclusive :
- Appropriation for thirteenth fiscal year.** For the salary of the Governor, six thousand five hundred dollars.
- Governor's office.** For the rent of Governor's office, nine hundred dollars.
- For pay of Porter in office of Governor, six hundred dollars.
- For contingent expenses of office of Governor, three hundred dollars.
- For Special Contingent Fund of the Governor's office, to be drawn at his discretion, five thousand dollars; *provided*, that this amount shall be used for a Secret Service Fund, at the discretion of the Governor, and for no other purpose whatever.
- For pay of rewards which may be offered by the Governor, under the act of April twenty-ninth, eighteen hundred and fifty-one, a sum not exceeding five thousand dollars.
- Secretary of State.** For salary of Secretary of State, three thousand seven hundred and fifty dollars.
- For pay of Clerks in the office of the Secretary of State, four thousand six hundred and fifty dollars.
- For postage for the office of Secretary of State, twelve hundred dollars.
- For pay of Porter in the office of Secretary of State, one hundred and fifty dollars.
- For contingent expenses of the office of Secretary of State, three hundred dollars.
- Controller.** For salary of Controller, three thousand seven hundred and fifty dollars.
- For salary of Deputy Controller, six hundred dollars.
- For pay of Porter in the Controller's office, one hundred and fifty dollars.
- For expressage of the Controller's office, one thousand five hundred dollars.
- For contingent expenses of the office of Controller of State, three hundred dollars.
- For salary of Clerks in the office of Controller of State, seven thousand five hundred dollars.
- Treasurer.** For salary of Treasurer, three thousand seven hundred and fifty dollars.

For salary of Clerks in the office of Treasurer of State, five thousand four hundred dollars.

For pay of Watchman in the office of Treasurer of State, fifteen hundred dollars.

For pay of Porter in State Treasurer's office, one hundred and fifty dollars.

For contingent expenses in the office of Treasurer of State, three hundred dollars.

For salary of Superintendent of Public Instruction, three thousand five hundred dollars. Superinten't  
of Public  
Instruction.

For Clerk in the office of Superintendent of Public Instruction, one thousand eight hundred dollars.

For rent of office of Superintendent of Public Instruction, three hundred dollars.

For postage and expressage for the office of Superintendent of Public Instruction, six hundred dollars.

For stationery, lights, and fuel, for Superintendent of Public Instruction, two hundred dollars.

For salary of Surveyor-General, two thousand dollars. Surveyor-  
General.

For salary of Draughtsman in the office of Surveyor-General, two thousand one hundred dollars.

For rent of office of the Surveyor-General, seven hundred and twenty dollars.

For pay of Porter in the Surveyor-General's office, one hundred and fifty dollars.

For contingent expenses of the office of Surveyor-General, three hundred dollars; and for purchase of maps from the United States Surveyor-General's office, five hundred dollars; and for copying the same for use of County Surveyors and Locating Agents, two hundred and fifty dollars.

For salary of Attorney-General, three thousand dollars.

For pay of Clerk in the office of Attorney-General, seven hundred and fifty dollars. Attorney-  
General.

For pay of Porter in Attorney-General's office, one hundred and fifty dollars.

For contingent expenses of Attorney-General's office, two hundred dollars.

For rent of office of Attorney-General, four hundred and eighty dollars.

For salary of Librarian of the State Library, two thousand five hundred dollars. State  
Library.

For shelving and furniture of State Library rooms, three hundred dollars.

For pay of Porter for State Library rooms, six hundred dollars.

For contingent expenses of the State Library, three hundred dollars.

For postage and expressage for State Library, two hundred dollars.

For salary of Governor as a member of the Board of Examiners, five hundred dollars.

For salary of the Secretary of State as a member of the Board of Examiners, five hundred dollars. Board of  
Examiners.

For salary of the Attorney-General as a member of the Board of Examiners, seven hundred and fifty dollars.

For salary of the Clerk of the Board of Examiners, nine hundred dollars.

For compensation of Experts of the Board of Examiners, three hundred dollars.

For contingent expenses of the Board of Examiners, two hundred dollars.

**Supreme Court.** For salary of Justices of the Supreme Court, nineteen thousand dollars.

For pay of Bailiff of the Supreme Court, nine hundred dollars.

For pay of Porter of the Supreme Court, three hundred dollars.

For rent of Supreme Court rooms, two thousand dollars.

For salary of the Secretary of the Supreme Court, eighteen hundred dollars.

For contingent expenses of the Supreme Court, six hundred dollars.

**Dist't Judges.** For salary of District Judges, eighty-five thousand dollars.

**Senate and Lt. Governor** For per diem and mileage of the Lieutenant-Governor and Senators, forty-five thousand dollars.

For pay of officers and Clerks of the Senate, fifteen thousand dollars.

**Members of Assembly, and others.** For per diem and mileage of members of the Assembly, ninety thousand dollars.

For pay of officers and Clerks of the Assembly, twenty thousand dollars.

**Contingent expenses of Legislature.** For contingent expenses of the Senate, two thousand dollars.

For contingent expenses of the Assembly, three thousand dollars.

**Stationery.** For stationery, blank books, lights, fuel, etc. for the Legislature and State officers, fifteen thousand dollars; said amount to be used for no other purpose by the Secretary of State, and no Clerk in any office shall receive his salary out of said fund.

**Priv. Sec'y.** For salary of Private Secretary of the Governor, one thousand nine hundred dollars.

**Printing.** For printing, paper, and official advertisements, forty thousand dollars.

**Insane Asylum.** For the support of the State Insane Asylum for the insane, eighty-four thousand dollars.

For salary of Resident Physician of the Insane Asylum, five thousand dollars.

For salary of Visiting Physician to the Insane Asylum, three thousand dollars.

**Rent, Capitol** For rent of State House, seven thousand two hundred dollars.

**Rent, Lib'ry.** For rent of State Library rooms, one thousand dollars.

For translation of the laws into the Spanish language, two thousand dollars.

**Reporter.** For salary of the Reporter of the Supreme Court, four thousand dollars.

**Supreme Ct. Reports.** For three hundred copies of the annual reports of the Supreme Court, two thousand dollars for each volume.

**Stamp Act.** For carrying out the provisions of the Stamp Act, three thousand dollars.

**Deaf, dumb, and blind.** For the education and care of the indigent deaf, dumb, and blind, in accordance with the provisions of section three of an

act approved March twentieth, eighteen hundred and sixty-one, the sum of seven thousand five hundred dollars.

For salary of Adjutant-General, two thousand dollars.

Adj-Gen'l.

For costs and expenses of suits, where the State is a party in interest, to be expended under the direction of the Attorney-General, one thousand dollars.

Costs of suit

For salary of the Register of the State Land Office, sixteen hundred dollars.

State Land Office.

For salary of Clerks in the State Land Office, four thousand two hundred dollars.

For contingent expenses of the State Land Office, five hundred dollars.

For transportation of prisoners to the State Prison, twenty-five thousand dollars.

Transport to State Prison.

For salary of Treasurer, as member of War Board of Examiners, six hundred dollars.

Salaries.

For canceling and registering vouchers in State Treasurer's office, under act of April tenth, eighteen hundred and sixty, twelve hundred dollars.

For salary of Controller as member of War Board of Examiners, six hundred dollars.

For pay of Clerk of the Board of War Bond Commissioners, six hundred dollars.

For the support of the State Prison, to be expended under the direction of the State Prison Directors, fifty thousand dollars.

State Prison

For prosecution of delinquents and for infractions of revenue laws, to be expended under the direction of the Controller of State, one thousand dollars.

Enforcing revenue laws

For the improvement of the State burial grounds, in the Sacramento City Cemetery, subject to the order of the Commissioners appointed by law, one thousand dollars.

Burial grounds.

In order to carry out the provisions of An Act, approved April twenty-first, eighteen hundred and sixty, in relation to the Geological Survey of the State, to be disbursed in accordance with the provisions of said act, the sum of fifteen thousand dollars.

Geological survey.

SEC. 2. All stationery, blank books, lights, and fuel, required by the Supreme Court and State officers, resident at the State capital, shall be furnished by the Secretary of State, upon the order of the Judges, or officers, requiring the same. The Secretary of State shall furnish, under oath, to the Legislature a statement, at the time he makes his annual report, showing the cost of the articles furnished the Judges of the Supreme Court and State officers. The stationery, lights, and fuel, furnished by the Secretary of State, shall be procured by him as now required by law for stationery, lights, fuel, etc. for the Legislature.

Purchase of stationery.

SEC. 3. The sum herein appropriated as a Contingent Fund of the Senate and Assembly shall be disbursed under the direction of the body to which it may respectively belong, and shall not, nor shall the sum appropriated to the State Insane Asylum, be subject to any of the provisions of an act entitled An Act to create a Board of Examiners, to define their powers and duties, and to impose certain duties upon the Controller and Treasurer, approved April twenty-first, eighteen hundred and fifty-eight. The Controller shall draw his warrants upon the Treasurer for the monthly expenses of the State Insane Asylum, upon the order

Appropriations exempt from Board of Examiners.

of the Trustees of said asylum; *provided*, the same shall not exceed the sum appropriated by this act.

Duty of  
Controller.

SEC. 4. The Controller of State shall not draw his warrant for the payment of any money out of the appropriation made by this act until the money for the same is in the State treasury, nor for the payment of any services done, or debt accrued, prior to the first day of July, A. D. eighteen hundred and sixty-one.

Not to con-  
tract debt.

SEC. 5. No officer drawing money under provisions of this act shall be permitted to contract any debts, or liabilities, beyond the amounts herein appropriated.

To make  
report.

SEC. 6. The various State officers, except the Governor, to whom appropriations, other than salaries, are made, under the provisions of this act, shall, with their annual report, submit a detailed statement, under oath, of the manner in which all appropriations to their respective offices, for rents of office, contingent expenses, or other purposes, other than salaries, have been expended; *provided*, that no officer shall use, or appropriate, any money for any purpose whatever, unless authorized so to do, specifically, by law.

Proviso.

CHAP. CCCCXCI.—*An Act amendatory of, and supplementary to, an Act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to incorporate the City and County of Sacramento, approved April twenty-fourth, eighteen hundred and fifty-eight.*

[Approved May 20, 1861.]

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

Election of  
Warden.

SECTION 1. There shall be elected by the qualified voters of the city and county of Sacramento, at the general election in the year eighteen hundred and sixty-one, and at the general election each two years thereafter, a Warden of the County Jail, who shall take office on the first Monday in October next succeeding his election, and shall hold office for two years, and until his successor is elected and qualified; and such Warden shall perform such duties as now are, or hereafter may be, imposed on him by law, or ordinance; and he shall receive a salary of two thousand dollars per annum. At the general election in eighteen hundred and sixty-one, and every two years thereafter, the qualified voters of the city of Sacramento shall elect a Harbor-Master, who shall perform such services as now are, or hereafter may be, imposed on him by law, or ordinance, and who shall receive a salary of eighteen hundred dollars per annum, and shall enter upon the discharge of his duties on the first Monday in October after his election.

Salary.

Harbor-  
Master.

SEC. 2. Section thirteen of said act is hereby amended so as to read as follows :

Sec. 13. The Treasurer shall keep the moneys belonging to each fund separate and distinct, and shall, in no case, pay de-



mands chargeable against one fund out of moneys belonging to another. The said Treasurer shall give his personal attendance at his office during office hours, and if he absent himself therefrom, except on account of sickness, or urgent necessity, he shall lose his salary during such absence. For the purpose of collecting city licenses, he may employ a Deputy, whose compensation shall be fixed by the Board of Supervisors, at a rate not exceeding five dollars per day, when necessarily and actually employed, which salary shall be payable out of the City Salary Fund; and, *provided*, that when any ordinance gives the Treasurer special fees in cases where the licenses are not promptly paid, such fees shall be retained by him for his own use, and not be first paid into the treasury and thereafter audited to him; *provided*, that the Treasurer, or his Deputy, shall not receive a sum greater than five dollars per day for collecting licenses in the city and county of Sacramento.

Duty of Treasurer.

Salary.

Proviso.

SEC. 3. All acts, or parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

Repealing clause.

SEC. 4. This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. CCCCXCII.—*An Act to amend an Act entitled An Act supplementary to an Act entitled An Act granting the right of way over certain Lands in this State, in the Counties of San Francisco and San Mateo, approved April twenty-sixth, eighteen hundred and fifty-eight, approved March first, eighteen hundred and sixty.*

[Approved May 20, 1861.]

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

SECTION 1. Section first of said act is hereby amended so as to read as follows:

Section 1. The company organized in pursuance of the act to which this act is amendatory, shall have the right to extend the road mentioned in said act, in a northerly direction, to Mission Creek, and shall also have the right to erect a toll-gate upon the Potrero Nueva at any point they may deem expedient; *provided*, said company shall not have the right to erect more than one toll-gate north of their present gate, near Islep's Creek; and, *provided*, also, that the parties passing through the gate on the Potrero Nueva, from the direction of San Francisco, shall receive at said gate a ticket which shall be received on the return of such person at the gate aforesaid in lieu of additional toll, in case the party has not passed the second gate, located near Islep's Creek, as aforesaid; and, *provided*, also, that no toll shall be collected at the said toll-gate to be erected on Potrero Nueva, until Brannan Street shall be macadamized, to the width of twenty feet, between Mission Creek and Third Street; and, *provided*, also, that the tolls upon said road, for the period of three years from the first day of March, A. D. eighteen hundred and sixty, shall not be higher than the rates following: For vehicles drawn

Franchise granted.

Tolls.

**Rates of toll.** by four animals, seventy-five cents; for vehicles drawn by two animals, fifty cents; for vehicles drawn by one animal, twenty cents; for each animal rode, or led, over the road, ten cents; and that after the period of three years, the Board of Supervisors of the city and county of San Francisco and of the county of San Mateo, shall have the right to regulate the same; *provided*, however, that no toll shall be collected at the said toll-gate on the Potrero Nueva for a longer term than three years from the first day of March, A. D. eighteen hundred and sixty. The Toll Gatherer, or Collector, at the toll-gate located on the Potrero Nueva, may detain and prevent from passing through said gate any person, or persons, leading, riding, or driving, any animal, or animals, not exempt from paying toll, until they shall have paid the toll prescribed in the schedule of rates fixed in this section; and any person refusing to pay the tolls before specified, or in any manner evading the payment thereof, shall, for each offense, pay a penalty of twenty, dollars to be recovered in any court of competent jurisdiction.

**Proviso.**

**Penalty.**

**To take effect.**

SEC. 2. This act shall take effect from and after its passage.

- CHAP. CCCCXCIII.—*An Act amendatory of an Act entitled An Act to repeal the several Charters of the City of San Francisco, to establish the Boundaries of the City and County of San Francisco, and to consolidate the Government thereof, approved the nineteenth day of April, eighteen hundred and fifty-six; and of An Act amendatory and supplementary thereof, approved the eighteenth day of April, eighteen hundred and fifty-seven; and of An Act amendatory thereof, approved the twenty-eighth day of March, eighteen hundred and fifty-nine, and supplementary to said Acts.*

[Approved May 18, 1861.]

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

SECTION 1. Section twenty-one of said act is hereby amended so as to read as follows:

Sec. 21. The Clerk of the Police Judge's Court shall keep a record of its proceedings, issue all process ordered by said court, receive and pay, weekly, into the treasury of the city and county, all fines imposed by said court, and render to the County Auditor monthly, and before any amount can be paid him on account of salary, an exact and detailed account, upon oath, accompanied with an exhibition of said record, of all fines imposed and moneys collected, since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the Police Judge, in cases not exceeding one thousand dollars, and he shall fix, justify, and accept, bail, after arrest, in the absence of the Police Judge, in all cases not amounting to a felony, in the same manner and to the same effect, as though the same had been fixed by the Police Judge. The said Clerk shall remain at the court-room of said court, in the City Hall, during

**Duty of Clerk of Police Court.**

**Same.**

the hours named in section eight of the act of which this is amendatory, and during such reasonable hours thereafter as may be necessary for the purpose of discharging his said duties.

SEC. 2. Section thirty-six is hereby amended so as to read as follows :

Sec. 36. The expense of construction of any street, or portion of a street, shall be assessed upon the lots of land fronting thereon, each lot, or portion, of a lot, being separately assessed, in proportion to its frontage, at a rate per front foot to cover the total expenses of the work. The expense of all improvements upon streets and crossings, until the same may be fully constructed and finally accepted, as provided in section six of this act, shall be assessed upon the lots of land, as provided in this act, for construction of streets and crossings; and after any street, or crossing, shall have been so accepted, the expense of all repairs thereon shall be paid by said city and county, out of the Street Department Fund. Assessments  
for repairs.

SEC. 3. Section thirty-seven is hereby amended so as to read as follows :

Sec. 37. The expense of construction of the main street crossings, at right angles, shall be assessed upon each quarter block adjoining and cornering on the same, and each lot, or part of a lot, in such quarter blocks, fronting on such main streets, shall be separately assessed, according to its proportion of frontage on the said main streets. The expense of the construction of the small, or subdivision, street crossings, shall be assessed upon the lots fronting upon such small streets, on each side thereof, in all directions, half-way to the next street, or court, on either side, respectively, or to the end of such street, if it does not meet another. Where a main street terminates at right angles in another main street, the expense of the construction of one-half of the width of the street, at the termination, shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on the same, according to the frontage of such lots on said main streets, and the other half upon the lots fronting on the street opposite such termination. Expenses  
of street  
crossings.

Where a small street, place, or court, terminates at right angles in another street, place, or court, the expense of the construction of one-half of the width of the street, or court, at the termination, shall be assessed upon the lots fronting on such small streets, or court, so terminating, according to their frontage thereon, half-way down on each side, respectively, to the next small street, place, or court, or to the end of such street, or court, if it does not meet another, and the other one-half upon the lots fronting such termination. Same.

The expense of the construction, or repair, of the spaces, junctions, and intersections of other streets, with Market Street, meeting at oblique angles, and not squarely in front of, and not properly assessable to, lots fronting on such streets, shall be assessed upon lots in the contiguous, adjacent, and neighboring, blocks, according to the designation thereof on the plans certified by the Superintendent of Streets and Highways, and approved by the order of the Board of Supervisors; when so certified and approved, said plans shall be kept as an open record in the office of the said Superintendent.

SEC. 4. Section forty of said act is hereby amended so as to read as follows:

Duties of Supervisors.

Sec. 40. When any street has been located, the Board of Supervisors, when they shall deem it expedient, may order the whole, or any portion thereof, to be constructed, or repaired, after notice of their intention so to do has been published for the period of ten days; *provided*, that the owners of one-half in frontage of the lots and lands fronting on said street proposed to be graded, may make written objections thereto, within ten days after the first publication of said notice in some daily newspaper published in the city and county of San Francisco, which objections shall be delivered to the Clerk of the Board of Supervisors, who shall indorse thereon the date of its delivery, and such notice shall be a bar to further proceedings under such order; and the grading of such street shall not again be advertised for a period of six months, unless a majority of the property holders, or the proportion proposed to be graded, shall sooner petition therefor.

Proviso.

SEC. 5. Section forty-one of said act is hereby amended so as to read as follows.

Owners may petition.

Sec. 41. The owners of more than one-half in frontage of lots and lands fronting on any street, or portion of a street, or their duly authorized agents, may petition to construct, or improve, the same, when the Board of Supervisors shall order the same to be done, after notice of their intention to make such improvements, published in some daily newspaper in said city and county for the period of ten days. No order shall be made to construct, or improve, any street, or portion of a street, without extending and completing such work throughout the whole breadth of such street; *provided*, that when a portion of a street one-half its width has been already graded, or constructed, to the official grade, at the time of the passage of this act, by the property owners, the lots and land fronting on such graded, or constructed, portion of a street, shall not be included in, or liable to, assessment for such grading, or construction; *provided*, further, that the lots fronting on a portion of a street, the grading, or construction, in part, of such street, which may be done after the passage of this act and without the authority of the Board of Supervisors, shall not be exempt from assessment for the grading and construction as in other cases. The Superintendent of Public Streets and Highways shall furnish the Board of Supervisors such specifications for any contemplated improvements as they may require.

Proviso.

SEC. 6. Section forty-two of said act is amended so as to read as follows:

Supervisors to accept streets.

Sec. 42. When any street, or portion of a street, has been, or shall hereafter be, constructed, to the satisfaction of the Committee on Streets, Wharfs, and Public Buildings, of the Board of Supervisors, and the Superintendent of Public Streets and Highways, under such regulations as said Board shall adopt, the same shall be accepted by the Board of Supervisors, and thereafter shall be kept open and in repair by the said city and county, the expense thereof to be paid out of the Street Department Fund; *provided*, that the Board of Supervisors shall not accept of any portion of a street less than the full width thereof from curb to

Proviso.

curb, inclusive, and one block in length, or one entire crossing. The Superintendent of Public Streets and Highways shall keep in his office a register of all accepted streets, the same to be indexed, so that reference may be easily had thereto.

Sec. 7. Section forty-three of said act is amended so as to read as follows :

Sec. 43. Before giving out any contract for the construction, or improvement, of any street, the Board of Supervisors shall cause notice to be conspicuously posted in the office of the Superintendent of Streets and Highways, and also published for ten days, inviting sealed proposals for the work contemplated. All proposals offered shall be delivered to the Clerk of the Board of Supervisors, and they shall, in open session, open, examine, and publicly declare, the same, and award said work to the lowest responsible bidder ; *provided*, said Board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may have proved delinquent, or unfaithful, in any former contract with said city, or county ; *provided*, also, that the owners of the major part of the frontage of the lots and lands liable to be assessed therefor, shall not be required to prevent sealed proposals, but may, within five days after the first publication of notice of such award, elect and enter into a written contract to do the whole work at the price at which the same may have been awarded. Should said owners fail to commence the work within fifteen days after the first publication of the notice of the award, it shall be the duty of the Superintendent of Public Streets and Highways, to enter into a contract with the original bidder to whom the contract was awarded, and at the price the same may have been awarded to him ; but if said bidder neglect, for twenty days after the first publication of the award, to enter into the contract, then the Board of Supervisors shall relet the same. All such Contractors, except the owners aforesaid who may elect to do the work, shall, at the time of the execution of the contract, also execute a bond, with two, or more, sureties, payable to the city and county of San Francisco, in such sum as the said Superintendent shall deem adequate, conditioned for the faithful performance of the contract ; and the sureties shall justify, before any officer competent to administer an oath, in double the amount mentioned in said bond. Any person suffering damages by reason of the breach of said contract, may sue on such bonds in his own name. The Superintendent of Public Streets and Highways is hereby authorized, in his official capacity, to enter into all written contracts and receipt all bonds authorized by this act, that pertain to the street department.

Proposals.

May reject bids.

Proviso.

Bond of Contractors.

Damages.

Contracts.

Sec. 8. Section forty-eight of said act is amended so as to read as follows :

Sec. 48. The Contractor of any street work having fulfilled his undertaking, and the work having been approved by the Superintendent, or Board of Supervisors, on appeal, shall receive from the Superintendent a warrant, by virtue of which he shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in such contract ; which warrant shall refer to the contract, the work contracted for, and performed, and the amount to be paid

Form of warrant.

therefor, and shall specify the amount of each assessment, with the name of the owner of the lot assessed, if known, and shall be signed by the Superintendent, and be countersigned by the Auditor of said city and county, who, before countersigning it, shall examine the contract, the steps taken previous thereto, and the record of assessments, and must be satisfied that the proceedings have been legal and fair.

SEC. 9. Section forty-nine of said act is hereby amended so as to read as follows :

Collection of assessments.

Sec. 49. The Contractor, or his Agent, shall call upon the person so assessed, or their Agents, if they can conveniently be found, and if payment be not made, shall demand payment upon the premises. If any payment be made, the Contractor, or his Agent, shall receipt the same upon the warrant, or schedule, affixed thereto, in presence of the person making such payment, and shall also give a separate receipt, if demanded; the warrant shall be returned to the Superintendent within thirty days after its date, with a return indorsed thereon, signed by the Contractor, or his Agent; and if any of the assessments remain unpaid, verified upon oath, and stating that he has called upon the persons assessed, and whose assessments remain unpaid in whole, or in part, and demand payment, or that they could not conveniently be found, and that he has publicly demanded payment on the premises liable for such assessment, and that the same, or the amount thereof, specified in such return as delinquent, remain unpaid, thereupon the Superintendent shall record the return made upon such warrant, in the margin of the record of such warrant, and also the original contract referred to therein, if it has not already been recorded, at full length in a book to be kept for that purpose in his office, and shall sign such record.

Same.

SEC. 10. Section fifty of said act is amended so as to read as follows :

To recover assessments.

Sec. 50. If any assessment contained in said warrant shall remain unpaid in whole, or in part, for five days after the demand, the Contractor may sue, in his own name, such delinquent, or delinquents. In all cases where the amount claimed is less than two hundred dollars, such suit shall be brought in the Justice Court in the township in which such work was performed, unless the Justice thereof is interested, or otherwise disqualified to try the cause, then in any other Justice's Court in said city and county; and in all other cases where the amount claimed exceeds two hundred dollars, the suit shall be brought in one of the District Courts of said city and county, which court is hereby clothed with jurisdiction to hear and determine such actions. The said warrant of assessment, with the affidavit of demand and non-payment, shall be *prima facie* evidence of such indebtedness. The said Contractor, at the time of the commencement of such action, or actions, may file a notice of *lis pendens*, describing the property charged therewith, the amount due, and the court in which such action is pending, and the name of the owner, if known, in the office of County Recorder of said city and county, and from the date of the filing thereof, the amount due shall become a lien upon the property charged therewith, which lien, if judgment is subsequently obtained, shall take precedence of all other liens, or incumbran-

Liens.

ees, on said property, and shall remain in force for two years, unless sooner paid, or discharged. In any case, after suit has been commenced by such Contractor, he shall be allowed to charge and collect from the defendant, or defendants, as costs, in addition to his actual costs, twenty-five dollars Attorney fee, and five per cent on the amount recovered.

Costs.

SEC. 11. Section fifty-seven of said act is hereby amended so as to read as follows:

Sec 57. If such repairs be not commenced within three days after notice given, as aforesaid, and diligently and without interruption, prosecuted to completion, the said Superintendent shall employ any suitable person, applying to do the work, at the expense of the tenant and owner, or occupant, at a reasonable price, to be determined by the said Superintendent, and such owner and tenant, or occupant, shall be liable to pay the same. If the expenses of the work and material for such repairs after the completion thereof be not paid to the Contractor, so employed, on demand; he shall have the right to sue for the same, under the provisions of section ten of this act, and the certificate of the Superintendent that the work has been properly done and the charges for the same are reasonable and just, shall be *prima facie* evidence of the right of the Contractor to recover in such action.

Repairs.

Powers of Superintendent.

SEC 12. Section fifty-eight of said act is hereby amended so as to read as follows:

Sec. 58. In addition and as cumulative to the remedies above given, the Board of Supervisors shall have power, by regulation, to prescribe the penalties that shall be incurred by any person hable and neglecting, or refusing, to make repairs when required, as provided in section fifty-six of the act to which this is an amendment, which fines and penalties shall be recovered for the use of the city and county, and may be applied, if deemed expedient by the said Board, in payment of the expenses of any such repairs, when not otherwise provided for.

Penalties.

SEC. 13. Section sixty-two of said act is hereby amended so as to read as follows:

Sec. 62. The said Superintendent shall keep a public office in some convenient place, to be designated by the Board of Supervisors, and his office shall be kept open as in this act required. He shall not, during his continuance in office, follow any other profession, or calling, but shall be required to devote himself exclusively to the duties of his office. He shall be allowed, at the discretion of the Board of Supervisors, not to exceed three Deputies, to be by him appointed from time to time. It shall be lawful for the said Deputies to perform all, or any, of the duties conferred by this act upon the Superintendent of Public Streets and Highways under the direction of the said Superintendent. The Superintendent of Public Streets, or his Deputies, shall superintend and direct the clearing of all sewers in the public streets, and the expense of the same shall be paid out of the Street Department Fund, in the same manner as is provided for the repair of streets that have been finally accepted, as in this act provided.

Office of Superintendent.

Deputies.

Powers and duties.

SEC. 14. Section seventy-one of said act is hereby amended so as to read as follows:

**To levy tax.** Sec. 71. On, or before, the first Monday of May, annually, the Board of Supervisors of said city and county shall levy the amount of taxes for State, city, and county, purposes, required by law to be levied upon all property in said city and county, not exempt from taxation, such amount as they may deem sufficient to provide for the payment of all demands upon the treasury thereof, authorized by law to be paid out of the same; *provided*, that such taxation, exclusive of the State tax and any special tax, shall not, in the aggregate, for all the purposes of said city and county tax, exceed the rate of two dollars and thirty-five cents upon each one hundred dollars' valuation; *provided*, further, that the Board of Supervisors shall, in making the levy of said taxes, apportion and divide the taxes so levied, collected, and applied, to specific purposes, as hereinafter provided:

**Levy for Corporation Debt Fund.** *First*—For the Corporation Debt Fund, not to exceed one dollar twelve and one-half cents upon each one hundred dollars valuation, as aforesaid, which shall be applied to the payment of demands authorized under the fourth, fifth, sixth, seventh, eighth, and tenth, subdivisions of section ninety-five of the act as amended April eighteenth, eighteen hundred and fifty-seven, and of section seven of an act entitled An Act to provide for the funding and payment of the Outstanding Unfunded Claims against the City of San Francisco and against the County of San Francisco, as they existed prior to the first day of July, A. D. eighteen hundred and fifty-six, approved April twentieth, A. D. eighteen hundred and fifty-eight.

**School Fund.** *Second*—For the School Fund, not to exceed thirty-five cents upon each one hundred dollars' valuation aforesaid, which shall be applied to the payment of demands authorized under the second and ninth subdivisions of section ninety-five of the act as amended April eighteenth, eighteen hundred and fifty-seven.

**General Fund.** *Third*—For the General Fund, not to exceed seventy cents upon each one hundred dollars' valuation, as aforesaid, which shall be applied, first, to the payments of demands authorized under the first, third, eleventh, twelfth, thirteenth, and fourteenth, subdivisions of section ninety-five of the act as amended April eighteenth, A. D. eighteen hundred and fifty-seven; and for the payment of any sum authorized by any special act; and for the payment of any demands, not exceeding eight thousand dollars in any fiscal year, for the purchase and erection of hydrants, under the first section of an act entitled An Act to provide for the purchase and erection of Hydrants in the City and County of San Francisco, approved March seventh, eighteen hundred and fifty-nine; and after all the foregoing demands are provided for and satisfied, for the payment of demands authorized under the fifteenth subdivision of section ninety-five of the act as amended April eighteen, eighteen hundred and fifty-seven; *provided*, that all repairs for hydrants shall be paid out of the eight thousand dollars as aforesaid.

**Street Light Fund.** *Fourth*—For the Street Light Fund, not to exceed seven and one-half cents upon each one hundred dollars, which shall be paid for lighting the streets of said city with gas, and for the repair of lamps and posts, in pursuance of the provisions of the present contract of said city and county with the San Francisco Gas Company, upon demands to be audited and allowed.



*Fifth*—For the Street Department Fund, not to exceed ten cents upon each one hundred dollars, which shall be paid for repairing and cleaning the streets and sewers which may have been excepted by the Board of Supervisors, for constructing street-crossings, for the salary of the Assistant Superintendent of Public Streets and Highways, and for such other objects relating to streets as shall be directed by law to be paid therefrom. All moneys received from licenses on wheeled vehicles, from the income on street railroads, and all fines received from the violation of any law, or laws, of any city and county ordinances regulating the public streets, shall be paid into said Street Department Fund; and no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund, until all the indebtedness arising in any fiscal year and payable out of said fund so raised for said fiscal year, shall have been paid and discharged.

Street  
Department  
Fund

SEC. 15. Section seventy-four of said act is amended so as to read as follows:

Sec. 74. The Board of Supervisors shall further have power, by regulation, or order:

Powers of  
Supervisors.

*First*—To regulate the police, and police force, of said city and county.

Regulation  
of police.

*Second*—To provide for the security, custody, and administration, of all property of said city and county, without any power to sell or encumber the same, or lease any part thereof for more than three years, except, however, that such personal property belonging to the fire, street, or other, departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold, or exchanged, by order, or resolution. The said Board shall also have power, at their discretion, to appoint a City and County Attorney, learned in the law, and to prescribe and regulate his duties and obligations.

General  
powers.

City and  
County  
Attorney.

*Third*—To provide, by regulation, for the prevention and summary removal of all nuisances to public health, the prevention of contagious diseases, the prevention, [and] summary removal, of all nuisances and obstructions in the public streets and highways, and to provide for the destruction of dogs running at large in the public streets.

Nuisances.

*Fourth*—To provide for cases omitted in this act, and in conformity with the principles adopted in it for opening, altering, extending, constructing, repairing, or otherwise improving, of public streets and highways, at the expense of the property benefited thereby, without any recourse, in any event, upon the city and county, or the public treasury, for any portion of the expense of such works, or any delinquency of the property-holders, or owners.

To provide  
for omitted  
cases.

*Fifth*—Providing for lighting and cleaning the streets.

*Sixth*—To regulate market-houses and market-places.

*Seventh*—To provide for the erection, repair, and regulation of wharfs and docks, and fixing the rates of wharfage thereat.

General  
powers.

*Eighth*—To provide for inclosing, improving, and regulating, all public grounds of the city and county, at an expense not to exceed two thousand dollars per annum.

*Ninth*—To prohibit the erection of wooden buildings, or struc-

tures, within any fixed limits where the streets have been established and graded, or ordered to be graded; to regulate the sale, storage, and use, of gunpowder, or other explosive, or combustible, materials and substances, and make all needful regulations for protection against fire.

**Same.** *Tenth*—To make such regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

**Fines, etc.** *Eleventh*—To determine the fines, forfeitures, and penalties, that shall be incurred for the breach of regulations established by the said Board of Supervisors, and also for a violation of the provisions of this act, where no penalty is affixed thereto, or provided by law, but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months' imprisonment, or both; and every violation of any lawful order, or regulation, or ordinance, of the Board of Supervisors of the city and county of San Francisco, is hereby declared a misdemeanor, or public offense, and all prosecutions for the same shall be in the name of the people of the State of California.

**Labor of prisoners.** *Twelfth*—To regulate and provide for the employment of prisoners sentenced to labor on the public works of said city and county.

**Licenses for hacks, etc.** *Thirteenth*—To license and regulate hackney-coaches, carriages, and other public vehicles, and to fix the rates to be charged for the transportation of persons, baggage, and property, therein; and also to license and regulate porters employed in conveying baggage for persons arriving in, and departing from, said city and county, and to prohibit the exercise of those employments without such licenses.

**Trades, etc.** *Fourteenth*—To license and regulate all such callings, trades, and employments, as the public good may require to be licensed and regulated, and are not prohibited by law; and all licenses granted in pursuance of the provisions of this act, or the powers therein delegated, shall be signed and issued by the Auditor of said city and county, on production to him of the Treasurer's receipts for the sum required to be paid therefor, which receipt shall also be entered and countersigned by the Auditor, as in case of all other receipts for money paid into the treasury.

**To suppress houses of ill-fame.** *Fifteenth*—To prohibit and suppress, or exclude, from certain limits, all houses of ill-fame and prostitution, and all occupations, houses, places, amusements, and exhibitions, which are against good morals, and contrary to public order and decency.

**Workhouse.** *Sixteenth*—To provide for the erection of a workhouse, house of refuge, or house of correction, and for the regulation and government of the same.

**Fire department.** *Seventeenth*—To direct and control the fire department of said city and county in conformity with the laws.

**Fees of Surveyors.** *Eighteenth*—To fix the fees and charges to be collected by the Surveyor of said city and county for certificates of surveys for buildings, or other purposes, and by the Superintendent of Streets and Highways, and any and all other municipal officers, where their fees are not otherwise fixed by law.

*Nineteenth*—To provide, by regulation, where it may be necessary, for carrying the provisions of this act into effect.

*Twentieth*—To provide for the care and maintenance of the

indigent sick of said city and county, but not to incur any expense therefor, exceeding the sum of three thousand dollars a month. Indigent sick

*Twenty-First*—To provide for the construction and repair of hydrants, fire-plugs, cisterns, and pumps, in the streets, for public security and convenience. Hydrants.

*Twenty-Second*—To provide for the erection, of all buildings necessary and proper for the use of the city and county, upon lands belonging thereto, but without the power to purchase either lands, lots, or buildings. Buildings.

*Twenty-Third*—To provide ways and means for the prosecution of the claims, in the name of the city of San Francisco, to the public lands, now pending for the same. Prosecution of claims.

*Twenty-Fourth*—To permit the laying down of railroad tracks, and the running of cars thereon, along any street, or portion of street, for the sole purpose of excavating and filling in a street, or portion of a street, or adjoining lots, and for such limited time as may be necessary for the purposes aforesaid, and no longer. Railroads.

SEC. 16. The term "construction of a street," as used in this act, shall include any, or all, of the following, viz: Grading, sewer-ing, paving, piling, and capping, planking, excavating, filling in, and other incidental matters, necessary to make a street, or part of a street, in perfect condition in the first instance, including sidewalks, crosswalks, street-crossings, or intersections of streets. The term "repairs of streets," as used in this act, includes all manner of necessary improvements of any street, or part of a street, including sidewalks and crossings, or intersections of streets, and, also, keeping the same in order, after the same has been accepted as is this act provided. The term "main streets," as used in this act, mean such streets as bound a block. The word "block" shall mean the blocks which are known and designated as such on the map and books of the Assessor of said city and county. Definition of "construction of a street," etc.

SEC. 17. The publication of all notices required by the provisions of this act, shall be made in the newspaper doing the printing for said city and county. Publication of notices.

SEC. 18. Sections fifty-one, fifty-five, and fifty-nine, of the act to which this is an amendment, commonly called the "Consolidation Act," are hereby repealed. This act shall take effect and be in force, from and after the first day of June next. Sections repealed.

CHAP. CCCCXCIV.—*An Act to authorize the taking of Depositions in Foreign Countries.*

[Approved May 20, 1861.]

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

SECTION 1. The testimony of a witness in a foreign country may be taken by deposition in any civil action pending in any of the District Courts of this State, at any time after the service Depositions in foreign countries.

of the summons, or the appearance of the defendant; and in a special proceeding, at any time after a question of fact has arisen therein.

**Commission.** SEC. 2. The deposition of a witness in a foreign country shall be taken upon commission issued from a District Court, under the seal thereof, upon an order of such court, or the Judge thereof, on the application of either party, upon five days' previous notice to the other. It shall be issued to a person, or persons, agreed upon between the parties, or if they do not agree, to any person, or persons, nominated by the court, or Judge, granting the commission.

**Interrogatories.** SEC. 3. Such proper interrogatories, direct and cross, as the respective parties may prepare, to be settled, if the parties disagree as to their form, by the court, or Judge, granting the order for the commission, at a day fixed in the order, may be annexed to the commission, or when the parties agree to that mode, the examination may be without written interrogatories.

**Oath.** SEC. 4. The commission shall authorize the Commissioner to administer an oath to the witness, and to take his deposition in answer to the interrogatories, or, when the examination is to be without interrogatories, in respect to the question in dispute, and to certify the deposition to the court in a sealed, or closed, envelope, directed to the Clerk, or other person, designated, or agreed, upon, and forward to him by mail, or other usual channel of conveyance.

**Legal objections.** SEC. 5. When a deposition has been once taken in accordance with the provisions of this act, it may be subject to legal objections, be read in evidence in any stage of the same action, or proceeding, by either party, and shall then be deemed the evidence of the party reading it.

**To take effect.** SEC. 6. This act shall take effect from and after its passage.

CHAP. CCCCXCV.—*An Act to fix and regulate the Fees and Salaries of Officers in the City and County of San Francisco.*

[Approved May 17, 1861.]

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

**Salaries.** SECTION 1. Salaries shall be allowed and paid to the following officers of the city and county of San Francisco, as in this act provided and not otherwise, and shall be in full compensation for all official services required of them by law:

**Co. Judge.** To the County Judge, five thousand dollars per annum.

**Associate Justices.** To the Associate Justices of the Court of Sessions, five dollars per day for each day's actual attendance, not to exceed six hundred dollars per annum each.

**Dist. Att'y.** To the District Attorney, four thousand dollars per annum.

**Clerk.** To the Clerk of the District Attorney, seventy-five dollars per month.

**Police Judge.** To the Police Judge, four thousand dollars per annum.

To the Clerk of the Police Court, two hundred dollars per month.	Clerk of Police Court.
To the Prosecuting Attorney for the Police Court, two hundred dollars per month.	Prosecuting Attorney.
To two Interpreters and Translators of foreign languages, to be appointed by the County Judge, Police Judge, and President of the Board of Supervisors, if they deem them necessary, one hundred dollars each per month, subject, however, to be reduced by an order of the Board of Supervisors, if in their opinion such reduction is proper.	Interpreters
To the City and County Attorney, four thousand dollars per annum.	City and Co. Attorney.
To the Clerk of the City and County Attorney, seventy-five dollars per month.	Clerk.
To the County Clerk, four thousand dollars per annum.	Co. Clerk.
To the Deputy County Clerks for the Twelfth District Court, as follows :	Deputy Clerk.
To one Register Clerk, one hundred and seventy-five dollars per month.	Register Clerk.
To one Court-Room Clerk, one hundred and seventy-five dollars per month.	Court-Room Clerk.
To one Copying Clerk, one hundred and fifty dollars per month.	Copying Clerk.
To the Deputy County Clerks for the Fourth District Court, as follows :	Deputy Co. Clerk.
To one Court-Room Clerk, one hundred and seventy-five dollars per month.	Court-Room Clerk.
To one Register Clerk, one hundred and seventy-five dollars per month.	Register Clerk.
To one Copying Clerk, one hundred and fifty dollars per month.	Copying Clerk.
To the Deputy County Clerks for the County Court, Court of Sessions, and Probate Court, as follows :	Deputy Co. Clerks.
To one Clerk, one hundred and seventy-five dollars per month.	Clerk.
To one Assistant Clerk, one hundred and fifty dollars per month.	Assistant Clerk
To the Sheriff, eight thousand dollars per annum.	Sheriff.
To one Under Sheriff, two hundred dollars per month.	Under Sheriff
To three Deputy Sheriffs, each one hundred and fifty dollars per month.	Deputy Sheriffs.
To three Deputy Sheriffs, each one hundred and twenty-five dollars per month.	Deputies.
To four Deputies, acting as Jail-Keepers, each one hundred and twenty-five dollars per month.	Jail-Keepers
To one Book-Keeper, for the Sheriff's office, one hundred and fifty dollars per month.	Book-Keeper
To the Coroner, two thousand dollars per annum, in addition to the compensation now allowed him by the act entitled An Act allowing compensation to the Coroner of the City and County of San Francisco for certain services, approved February nineteenth, eighteen hundred and fifty-nine.	Coroner.
To the Mayor, three thousand dollars per annum.	Mayor.
To the City and County Surveyor, five hundred dollars per annum, which shall be in lieu of all fees, or other charges, for official services, which would otherwise be a city and county	Surveyor.

charge, and he shall charge and collect, for services rendered individuals such fees as may be prescribed and allowed by the Board of Supervisors.

- Assessor.** The Assessor shall receive for all services required of him by law, a salary at the rate of four thousand dollars per annum, which salary shall be in full for all services required of him, and for all contingent expenses of his office, except necessary books; and he shall devote his whole time, during office hours, to the business of his office, and shall keep his office open to the public during the same hours provided by law for the City and County Auditor. To assist him in making his assessment he shall be allowed from the first of February, in each year, until the first of May, seven Deputies, and from the first of May until the assessment roll is finally completed and handed over to the Auditor, he shall be allowed but three Deputies, after which time, during the balance of the year, he shall be allowed one Deputy only, except as hereinafter provided. The said Deputies shall be paid at the rate of one hundred and fifty dollars per month, each. The Assessor shall also be allowed such Deputies as he may require, to collect poll taxes, who shall be allowed for their services only such fees and per centages as may be allowed by law for the collection of poll taxes.
- Deputies.**
- Clerk Board Supervisors.** To the Clerk of the Board of Supervisors, one hundred and fifty dollars per month.
- Porters.** To two Porters, not to exceed seventy-five dollars each, per month.
- Auditor.** To the Auditor, four thousand dollars per annum.
- Clerk.** To one Clerk of Auditor, seventy-five dollars per month.
- Tax Collector.** To the Tax Collector, four thousand dollars per annum; *provided*, that for the first year after the passage of this act, he shall receive seven thousand dollars. During the entire year the Tax Collector shall be allowed one Deputy, at two hundred dollars per month; during eight months of each year, he shall be allowed one additional Deputy, at one hundred and seventy-five dollars per month; during five months he shall be allowed three Clerks, in addition to said Deputies; and during three months, he shall be allowed two additional Clerks. Said Clerks shall be paid at the rate of one hundred and fifty dollars per month, each. He shall also be allowed one Auctioneer, to conduct tax sales, whose compensation shall not exceed, in any one year, the sum of two hundred dollars. All fees, commissions, per centages, and other compensation, of whatever nature, or kind, heretofore allowed by law, or which may hereafter be allowed by law, as the compensation of the Tax Collector of said city and county, for the collection of State and county taxes, shall be paid into the Special Fee Fund.
- Treasurer.** To the Treasurer, four thousand dollars per annum.
- Deputies.** To one Deputy Treasurer, one hundred and seventy-five dollars per month; and, to one additional Deputy, one hundred dollars per month.
- Co. Recorder.** To the County Recorder, four thousand dollars per annum.
- Deputies.** To one Chief Deputy Recorder, one hundred and fifty dollars per month. The Recorder may also employ as many Deputy Clerks as he may deem necessary to duly perform the duties of his office, and they shall be paid at the rate of twelve cents per

folio of one hundred words for all matters either registered, or copied, by them respectively. The Recorder, or his Chief Deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented, the number of folios paid for; and shall, in his monthly return to the Treasurer, certify under oath the number of folios copied, or registered, by each one of said Deputy Clerks; and such certificate of the Recorder, or his Chief Deputy, shall be conclusive evidence to authorize the Auditor to audit such certified accounts of such Deputy Clerks, monthly.

To one Porter, or Watchman, for the Recorder's office, not to exceed seventy-five dollars per month. Porter.

To the Harbor-Master, three thousand dollars per annum. Harbor-Master.

To the Superintendent of Common Schools, four thousand dollars per annum. Supt. of Schools.

To the Clerk of the Superintendent of Common Schools, who shall also act as Secretary of the Board of Education, one hundred and twenty-five dollars per month, payable from the School Fund, as now provided for by law. Clerk.

To the Superintendent of Public Streets and Highways, four thousand dollars per annum. Supt. of Streets, etc.

To three Deputies of the Superintendent of Streets and Highways, as follows: One, at one hundred and fifty dollars per month; and two, at one hundred dollars per month, each. Deputies.

FIRE DEPARTMENT.

To the Chief Engineer, four thousand dollars per annum. Chief Eng'r.

To the First, Second, and Third, Assistant Engineers, each, fifty dollars per month. Assistants.

To the Secretary of the Board of Delegates, as such, and also as Clerk of the Chief Engineer, one hundred and fifty dollars per month. Secretary of Board of Delegates.

To three Bell-Ringers, for the city hail fire alarm bell, one hundred dollars per month, each. Bell-Ringers.

POLICE DEPARTMENT.

To the Chief of Police, four thousand dollars per annum. Chief, Police.

To four Captains of Police, one hundred and twenty-five dollars per month each. Captains.

To Policemen, not exceeding forty, the number to be determined from time to time by order of the Board of Supervisors, one hundred dollars per month each; *provided*, that one of the same detailed for Clerk in the office of the Chief of Police, to be appointed by him, shall receive one hundred and twenty-five dollars per month. Policemen.

To the Resident Physician of the City and County Hospital, two hundred dollars per month, in full compensation for all duties as such, and also for his attendance on the small-pox hospital, county jail; and city prison. Resident Physician of Hospital.

SEC. 2. The several officers named in this act, who are entitled to charge and collect, or receive, any fees, commissions, per centages, or other compensation, of whatever nature, or kind, allowed by law for services rendered by them, or their Deputies, in their several official capacities, or for the performance of du- Fees to be paid to Treasurer.

ties appertaining to said offices, shall collect and safely keep the same, and on each Monday they shall pay the total amount by them received, to the Treasurer of said city and county, who shall set apart the same as a Special Fee Fund, for the payment of the respective salaries of the several officers entitled to charge and collect fees, commissions, or other compensation. And the salaries of all other officers shall be paid out of the General Fund; *provided*, that the Assessor, so far as relates to the collection of poll tax, and the City and County Surveyor, shall be exempt from the provisions of this section. It shall be, and is hereby, made the duty of all such officers who are entitled to charge and collect, or receive, fees, commissions, or other compensation, for their official services, to keep a book, or books, in which shall be entered by items the amount received for all official services performed by them, or their Deputies, showing the date and nature of such services, and the amount received therefor, which book, or books, shall, at all office hours, be open to the inspection of the Board of Supervisors, or any citizen; and each of said officers shall, at the expiration of each month, make out and verify by oath and file with the Auditor, a full and accurate transcript from his said book, or books, of the entries for the preceding month.

Transcript of fees to be verified.

Duties of Treasurer.

SEC. 3. It shall be the duty of the Treasurer of said city and county to receive, receipt for, and safely keep, all moneys paid over to him under the provisions of this act, and to make up on the first day of October, eighteen hundred and sixty-one, and quarterly thereafter, an accurate statement of said Special Fee Fund, showing the actual condition of the same up to such time, when, if any balance remain in said fund, after satisfying all demands payable out of the same, the Treasurer shall transfer such balance to the General Fund; but should such Special Fee Fund be insufficient to satisfy all of the demands payable therefrom, then the Treasurer shall, at the request of the holder, register such unpaid demands against, and pay the same in their order of registration out of, the General Fund, as in other cases.

Demands to be audited.

Salaries.

SEC. 4. All demands upon the treasury, allowed by this act, shall, before they are authorized to be paid, be duly audited, as in other cases of demands lawfully payable out of the treasury. The several salaries named shall be payable monthly by the Treasurer upon the audit of the County Auditor, who is hereby directed to audit the salaries herein provided for.

Additional Deputies.

SEC. 5. The Board of Supervisors may, from time to time, authorize the appointment of such additional Deputies, for any of the various city and county offices and for such period of time, as in their judgment may be necessary, for the proper and faithful discharge of the duties of such office. Deputies appointed under the provisions of this section, shall receive not to exceed one hundred and fifty dollars per month, each; but in no case shall the aggregate pay of such Deputies exceed three thousand dollars per annum.

Fees in advance.

SEC. 6. The fees receivable by the several officers named in this act, shall be payable in advance.

Advertising.

SEC. 7. The advertising for the Sheriff's office shall be in such daily newspaper, of general circulation, printed and published, in the English language, in the city and county of San Francisco,



as shall, upon the notice hereinafter provided for, offer to do the same at the lowest rates, to ascertain which the Sheriff shall annually advertise three, or more, times successively, in two, or more, daily newspapers, published in said city and county, for proposals to do such advertising.

SEC. 8. For a willful neglect, or refusal, to comply with any of the provisions of this act, by any officer, or officers, herein named, he, or they, shall be deemed guilty of felony, and on conviction thereof, in the Court of Sessions, be subject to a fine not to exceed five thousand dollars and a forfeiture of office, or to imprisonment in the State Prison, not less than one, nor more than three, years, or to both such fine and imprisonment; *provided*, that nothing herein shall be held to release such officer from the obligation to give the official bond required by law, or from any civil responsibility arising from his official duties.

Penalty for neglect of duty.

Proviso.

SEC. 9. All requisitions for books, blanks, and stationery, for any of the officers named in this act, shall be made by such officers, respectively, upon the Board of Supervisors, stating the amount and description thereof, and that the same are essential and necessary for the use of such office, which statement shall be verified by the oath of such officer, and upon their approval thereof, the said Board shall order the cost of the same paid out of the Special Fee Fund.

Stationery.

SEC. 10. The Inspectors, Judges, and Clerks, of Elections, shall be paid out of the General Fund, such reasonable compensation for their services as such, as may be fixed and allowed by the Board of Supervisors, not exceeding twenty-five dollars each, for all services at any one election.

Payment of Inspectors of Elections.

SEC. 11. This act shall take effect on and after the first day of July, eighteen hundred and sixty-one, at which time the act entitled An Act concerning the Offices of County Clerk, Sheriff, and County Recorder, of the City and County of San Francisco, approved March seventh, eighteen hundred and fifty-nine, shall be, and the same is hereby, repealed. All acts and parts of acts in conflict with the provisions of this act, so far as they affect this act, are hereby declared inoperative and void, from and after the first day of July, eighteen hundred and sixty-one.

To take effect.

Acts repealed.

CHAP. CCCCXCVI.—*An Act to provide for the revisal, re-enactment, and amendment, of An Act to provide for the laying out and construction of certain Public Roads in the County of San Joaquin, and to compensate the owners of Land taken for that purpose, approved April twenty-eighth, eighteen hundred and sixty.*

[Approved May 20, 1861.]

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

SECTION 1. Section one of said act is revised with the following amendments so as to read as follows:

Section 1. The Board of Supervisors of San Joaquin County are authorized and required to submit to a vote of the people, at the

**Election.** next general election for State and county officers, the following proposition, which shall be printed, or written, on tickets: "For a tax of fifty cents on the one hundred dollars for road purposes," or "Against the tax of fifty cents on the one hundred dollars for road purposes." Should a majority of the citizens, voting at such election, vote in favor of the tax, then the provisions of the act which is revived by this act, shall be carried out, and the Supervisors of the county are directed to levy a special tax of fifty cents on each one hundred dollars of taxable property in said county for the purposes herein named.

**Tax for road purposes.**

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CHAP. CCCCXCVII.—*An Act supplemental to An Act to fix and regulate the Fees and Salaries of Officers in the City and County of San Francisco, passed May thirteenth, eighteen hundred and sixty-one.*

[Approved May 20, 1861.]

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

**Salaried officers not affected.** SECTION 1. The above entitled act shall not affect any officers whose entire compensation is paid by fixed salaries, exclusive of fees, during the term of the present incumbents.

**To take effect.** SEC. 2. This act shall take effect immediately.

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CHAP. CCCCXCVIII.—*An Act to define the Boundaries and provide for the Organization of Lake County.*

[Approved May 20, 1861.]

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

**Boundaries.** SECTION 1. Lake County is bounded as follows: Commencing at the southeastern corner of Mendocino County; thence running in an easterly direction along the dividing ridge between Russian River and Knight's Valley on the west, and Clear Lake and Coyote Valley on the east, to the highest point of Mount St. Helena; thence easterly in a direct line to the point where the second standard line north, (United States Survey,) crosses the line dividing Yolo and Napa counties; thence along the line of Yolo County to the Mendocino County line; thence along said Mendocino County line to the place of beginning.

**Officers to be elected.** SEC. 2. There shall be an election held for county officers and for the location of the county seat of Lake County on the first Monday of June, eighteen hundred and sixty-one, at which election shall be chosen, by the qualified electors of said county, one County Judge, one District Attorney, one County Clerk, who shall be *ex officio* the Auditor, Recorder, and Superintendent of

Public Instruction, in and for said county, one Sheriff, one County Surveyor, a County Treasurer, a County Assessor, a Coroner, and three Supervisors, and two Justices of the Peace and two Constables for each township in the county.

SEC. 3. William Manlove, Alexander McLean, and Woods Crawford, of Lake County, are hereby appointed Commissioners to designate additional precincts to those already established within the boundaries of Lake County, at such places as may be deemed necessary for the convenience of the voters, with such powers as a Board of Supervisors are now clothed by law. Said Commissioners shall appoint Inspectors and Judges of Election for the various precincts of said county; they shall, also, divide the various townships of said county into three districts, to be known as districts number one, two, and three, and one of the Supervisors whose election is herein provided for shall be chosen from each of the said districts, by the qualified electors thereof. Said Commissioners shall also be a Board of Canvassers, who shall receive the returns of election from the various precincts of said county, and it shall be their duty, at the time in this act specified, to canvass, or count, the votes given for the different officers, with power to issue certificates of election to each person receiving the highest number of votes for each separate office; they shall also canvass the votes cast for county seat, and shall declare the place receiving the highest number of votes the county seat of said county.

Commissioners.

Powers and duties of.

SEC. 4. Said Commissioners shall meet at Major Cook's store, in Big Valley, Clear Lake Township, on the second Monday in April, eighteen hundred and sixty-one, and after being duly sworn by an officer qualified to administer oaths, to truly perform the duties by this act imposed upon them, shall designate precincts, if in their opinion others than those already established are necessary to accommodate the voters of said county; and shall appoint one Inspector and two Judges of Election for each precinct in the county. The Commissioners shall choose one of their number as Chairman and one as Clerk, who shall keep a record of all their proceedings, which record shall be deposited in the County Clerk's office as soon as a Clerk shall have entered upon the discharge of his duties. A majority of said Commissioners shall constitute a quorum for the transaction of business.

Meetings.

Appointments.

SEC. 5. The Commissioners, after having designated places of voting, appointed Inspectors and Judges of Election, as required in section four of this act, shall give public notice of said precincts established in said county, specifying in said notice the township in which each of them is located, also the time of holding the election, the number and name of each officer to be elected in said county, and in each district and township of the same, by notices posted at each precinct appointed, at least ten days prior to the day of election.

To give notice.

SEC. 6. The Inspectors and Judges of Election, of the several precincts, shall conduct said election in the manner as required by the general election law of this State, and shall return the list and poll books, kept by each of them, to the Commissioner, at Major Cook's store in Big Valley, Clear Lake Township, on, or before, the Monday following the day of election; and the said

Duties of Inspectors, etc. of Election.

**Same.** Commissioners are hereby required to be at said place on said day for the purpose of receiving the same, and shall, then and there, open said returns and canvass the votes as required by the third section of this act; they shall make a statement, in writing, showing the votes given at each precinct for each person voted for, and the office for which each person was voted to fill, and the person receiving the highest number of votes for each office, shall be declared elected to the same, and the said Commissioner shall issue to each person so elected a certificate of election, which shall be signed by the Chairman and Secretary.

**Officers elected to file bonds.** SEC. 7. Each person elected shall, within ten days after receiving his certificate of election, file with the President of the Board of Commissioners the bond required by law, and shall qualify in the same manner as required by the general law of this State, before entering upon the duties of his office; *provided*, that the County Judge elect, may qualify before the President of the Board of Commissioners, immediately after his election is known, and all other county and township officers may qualify before the County Judge in the same manner as required by general law in the counties of this State.

**Statement to be transmitted.** SEC. 8. The President of the Board of Commissioners, without delay, shall transmit to the Secretary of State an abstract of said election returns, and shall file the original returns in the Clerk's office as soon as he shall have entered upon the duties of his office. Said Commissioners shall be allowed a just and reasonable compensation for their services by the Supervisors of Lake County, to be audited and allowed as other county charges.

**County Judge.** SEC. 9. The County Judge, elected under this act, shall hold office four years from the first day of December, eighteen hundred and sixty-one, and until his successor is elected and qualified, and shall reside and keep his office in the township where the county seat is located. All other county officers, elected under the provisions of this act, shall hold office for two years from the first day of December, eighteen hundred and sixty-one, and until their, and each of their, successors are elected and qualified.

**Salary of Judge.** SEC. 10. The County Judge shall receive a salary of one thousand dollars per annum, which shall be paid quarterly as other county charges; he shall hold the courts required by law to be held by County Judges, at the same time, commencing the first Monday of February, May, August, and November; *provided*, however, the County Judge may call and hold special terms of the Probate Court and Court of Sessions whenever public necessity may require.

**District Attorney.** SEC. 11. The District Attorney shall receive a salary of four hundred dollars per annum, to be paid quarterly, and such fees as are allowed by general law. All other county and township officers shall receive as compensation the fees allowed by law in this State.

**Board of Supervisors.** SEC. 12. The Board of Supervisors shall hold regular meetings at the county seat, the first Mondays of February, May, August, and November, of each year. Special terms may be held at the call of the President of the Board of Supervisors; *provided*, not more than two special terms shall be held in any one year. One of the three Supervisors shall be chosen from each of the dis-

**Meetings of.**

tricts. The Supervisor elected from District Number One shall be President of the Board, and shall hold office for one year from the first day of December, one thousand eight hundred and sixty-one. The Supervisor elected from District Number Two shall hold office for two years from said day. The Supervisor elected from District Number Three shall hold office for three years; and, thereafter, every Supervisor shall hold office for three years, and the one holding the oldest commission shall be President of the Board. Their compensation shall be twenty cents for each mile necessarily traveled in going and returning to the county seat, to attend the regular meetings of said Board, and four dollars for each day's attendance upon the same.

Term of office.

SEC. 13. Lake County shall continue a portion of the Seventh Judicial District, and the District Judge shall hold one term of court in said county, commencing the second Monday of April, one thousand eight hundred and sixty-one, and every year thereafter two terms, commencing on the second Monday of April, and first Monday of December.

Seventh Judicial District.

SEC. 14. For representative purposes Lake County shall continue and be a part of Napa County.

Representative purposes

SEC. 15. J. N. Pendergast, of Yolo County, Charles Ramsey, of Solano County, and Anthony P. Buckner, of Colusa County, are hereby appointed to select two sites, which they shall deem most suitable for the county seat of Lake County. After having made such selections, as herein directed, they shall report the same to the Commissioners of Election for Lake County, on or before the second Monday in June, one thousand eight hundred and sixty-one.

County seat.

SEC. 16. Said Commissioners of Election shall cause to be posted, at each precinct in Lake County, notice of the selections made for a county seat, at least ten days before the day of election. The notices shall plainly designate, by name, each place selected to be voted for as a county seat; and the place receiving the highest number of votes shall be the county seat of Lake County; *provided*, however, that said Commissioners, herein named, for making such selection, shall, prior to performing the duties imposed upon them, first make oath before some officer authorized to administer the same, each for himself, that they, nor either of them, are in any manner interested in the location of the county seat of said county; and that they will faithfully and impartially make the selections by this act imposed. Any two of said Commissioners shall be a quorum.

To give notice.

Provido.

SEC. 17. The said Commissioners shall receive four dollars per day for the time necessarily employed in making the selection and traveling expenses to and from their places of residence, not to exceed twenty-five cents for each mile necessarily traveled; which shall be paid out of the first money received into the treasury of Lake County. In case of failure on the part of said Commissioners to make selections as in this act required, in that case the place which shall receive the highest number of votes shall be by the Election Commissioners declared the county seat.

Pay of Commissioners.

Mileage.

SEC. 18. All assessments for the current legal year, shall be made by the Assessor of Lake County, and all taxes shall be collected by the Sheriff, who shall be *ex officio* Tax Collector; and

Assessments

the Board of Supervisors are hereby authorized to levy and cause to be collected, in the manner prescribed by the general law of this State and the provisions of this act, an annual tax, for State and county purposes, not to exceed the sum of two dollars and twenty-five cents on each one hundred dollars' worth of taxable property in said county.

Repealing clause.

SEC. 19. All acts and parts of acts in this State are hereby repealed, so far as they conflict with the provisions of this act.

To take effect.

SEC. 20. This act shall take effect and be in force, from and after its passage.

CHAP. CCCCXCIX.—*An Act to create certain Road Districts in the City and County of San Francisco and to provide for the repair and improvement of Roads therein.*

[Approved May 20, 1861.]

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

Duty of Supervisors.

SECTION 1. It shall be the duty of the Board of Supervisors of the city and county of San Francisco, within sixty days from and after the passage of this act, to divide that portion of the eleventh and twelfth districts in said city and county, being southerly and westerly of the line formed by Center, Dolores, Market, and Larkin, streets, into two road districts; they shall cause each district to be numbered, and the boundaries of the same to be accurately defined by reference to public streets, or highways, or other permanent monuments, and shall cause such description of boundaries, with their numbers, to be entered on their minutes.

Road districts.

SEC. 2. The said Board of Supervisors shall, as soon as they have established the road districts, before named, appoint some qualified person, a resident and legal voter in each road district, Roadmaster; and whenever thereafter a vacancy in said office may occur, each Roadmaster shall hold his office for the term of one year, from and after the date of his appointment and until his successor is appointed and qualified.

Roadmaster.

Oath and bond.

SEC. 3. Said Roadmasters shall each take and subscribe the proper oath of office and give bond conditioned on the faithful discharge of the duties of his office in such sum not exceeding fifteen hundred dollars, and with such sureties as the Board of Supervisors may direct.

Duties.

SEC. 4. It shall be the duty of each Roadmaster to carefully examine all the public roads in his district, and report the condition of the same, from time to time, to the Board of Supervisors; *provided*, that from the month of November to May, inclusive, of each year, such report shall be made on the first Monday of each month, said report shall specify the kind of repairs and the portion, or portions, of the district in which they are required, together with an estimate of the cost thereof.

SEC. 5. Upon presentation to the Board of Supervisors of the estimate of the Roadmaster of any district, as herein provided,

the said Board of Supervisors shall appropriate a sum of money not exceeding the amount of said estimate; *provided*, that the amount of all appropriations authorized by this act, shall not exceed four thousand dollars for any one fiscal year. All sums so appropriated shall be faithfully applied for the purposes specified in such appropriation; and upon the presentation of the sworn certificate of the Roadmaster of any district, any sum, or sums, not exceeding such appropriation, shall be allowed and ordered paid, out of the General Fund, in like manner as other demands are allowed and ordered paid. Appropriation

SEC. 6. For the purposes of this act, public roads and highways shall include all roads that have been open to the public, and used as public highways long enough to evince their utility and necessity, but shall not include any street established by any authorized survey of the city, or city and county, of San Francisco, or any part thereof, unless such streets shall have been, or may hereafter be, established across, or along, such public road, or highway, or some part thereof. Public roads.  
Exceptions.

SEC. 7. Each Roadmaster is hereby authorized to purchase all necessary timber, planks, or other material, for the construction, or repair, of bridges, or culverts; and to hire, at just and reasonable rates, all necessary labor, tools, or implements, for widening, straightening, grading, or otherwise improving, such roads and highways. Each Roadmaster shall receive a reasonable compensation, to be paid out of the General Fund, not to exceed five dollars per day, for each day's service rendered in the discharge of the duties of his office; *provided*, that no Roadmaster shall be entitled to receive more than three hundred dollars for all services he may render as such officer, in any one fiscal year. Powers of Roadmaster.  
Compensation.

SEC. 8. All acts and parts of acts inconsistent with, so far as they are in conflict with, the provisions of this act, are hereby repealed. Acts repealed.

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

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CHAP. D.—*An Act exempting Lots in Cemeteries, and Pews in Churches, from levy and forced sale.*

[Approved May 20, 1861.]

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

SECTION 1. All lots of land, owned, used, or occupied, by any person, or by any person in joint tenancy, or tenancy in common with any person, or persons, in any graveyard, or cemetery, or other place, for the sole purpose of burying the dead, not exceeding one-quarter of an acre in size, together with the railing, or fencing, enclosing the same, and all gravestones, tombstones, monuments, and other appropriate improvements thereon erected, are hereby exempted from levy and forced sale, by virtue of any writ, order, judgment, or decree, or by any legal process whatever. And in cases of religious, or benevolent, associations, Property exempt.

or corporations, the amount of land so exempt for the purposes aforesaid, may extend to not exceeding five acres; *provided*, that not more than one lot of land shall be held exempt by such person, or by him in joint tenancy, or tenancy in common, with any person, or persons, or by any such association, or corporation, in any one cemetery, graveyard, or other place; and, *provided*, further, that the provisions of this act shall not be deemed to apply to land held by any person, or persons, association, or corporation, for the purpose of sale, or disposition, as burial lots, or otherwise.

**Property exempt.** SEC. 2. All pews in churches and meeting-houses, used for religious purposes, owned and claimed by any person, or held, agreeably to the rules and regulations of such churches, are hereby exempt from levy and sale, on any writ, or legal process, or by operation of any law whatever.

CHAP. DI.—*An Act to provide for the appointment of an Assayer of Ores and Metals, and to define his duties for, and within, the County of Mono.*

[Approved May 20, 1861.]

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

**Assayer appointed.** SECTION 1. Louis Lanszweert is hereby appointed an Assayer of Ores and Metals for the county of Mono, to hold his office for the term of two years, and until his successor shall be chosen and qualified.

**Bond.** SEC. 2. Before entering upon the discharge of his duties he shall take the usual oath of office, and give an official bond conditioned for the faithful performance of his duties, with two, or more, sureties in the sum of ten thousand dollars, which shall be in the usual form of law, and shall be filed and left in the office of the Secretary of State; and if the said Assayer shall, at any time, fail, or refuse, to discharge his duties as Assayer, or if he shall, at any time, willfully make, or return, any false, or improper assay of any piece, or parcel, of ore, or metal, intrusted to him for assay, he shall be deemed guilty of a misdemeanor, and shall, for each and every such offense, be subject to a penalty not to exceed the sum of five thousand dollars, to be recovered in any court of competent jurisdiction, by and for the benefit of any person, or persons, who may be injured thereby.

**Penalty.** SEC. 3. It shall be the duty of the said Assayer to assay such ores and metals as may be offered to him for that purpose, and to give certificates of the character, quality, and value, thereof, and also in case of all precious metals assayed, to stamp the same with such suitable stamp as may be selected, or devised, by said Assayer, showing the quality and value thereof, according to the standard of the Mint of the United States, and for such service said Assayer shall be paid such compensation as may be agreed upon by the person, or persons, procuring the same to be done; *provided*, that the charge for such labor per-

**Duties of Assayer.**

**Proviso.**



formed, shall not be more than the prices of the United States Mint for similar services done, and the charge for a seal to any certificate, when required, shall not be more than two dollars.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. DII.—*An Act fixing the times of holding the Terms of the County Court and Courts of Sessions, in and for the County of Stanislaus.*

[Approved May 20, 1861.]

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

SECTION 1. The County Court of Stanislaus County shall be held at the county seat of said county, on the third Monday of January, March, May, July, September, and November, of each year, and shall continue from term to term, unless all the business be sooner disposed of. County Court.

SEC. 2. The Court of Sessions of said county shall be held on the third Monday of February, April, June, August, October, and December, in each year, and shall continue from term to term, unless all the business be sooner disposed of. Special terms of the Court of Sessions may be held whenever, in the opinion of the County Judge, the public interests may require the same. All acts, or parts of acts, so far as they conflict with the provisions of this act, are hereby repealed. Court of Sessions.

SEC. 3. This act shall take effect from and after its passage. To take effect.

CHAP. DIII.—*An Act to authorize the formation of Corporations to provide the Members thereof with Homesteads, or Lots of Land, suitable for Homesteads.*

[Approved May 20, 1861.]

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

SECTION 1. Any number of persons, not less than seven, may associate and form themselves into an incorporated company for the purpose of accumulating a fund for the purchase of real estate in large tracts, paying off incumbrances thereon, the improvement thereof, and the subdivision thereof into lots and parcels suitable for homesteads, and the distribution of such lots, or parcels, among the shareholders, or to aid its shareholders in acquiring real estate, making improvements thereon, and removing incumbrances therefrom. Formation authorized.

SEC. 2. Such persons shall severally subscribe articles of association, in which shall be set forth the name and objects of the corporation, the time not to exceed five years, for which the same is limited to exist, the amount of the capital stock and the Articles of association.

number of shares into which it is proposed to be divided, the number of Directors and other officers, their terms of office and duties, and such other regulations as may be necessary to enable the corporation to carry on its business and accomplish its objects, and how amendments thereto may be made.

Certificate.

SEC. 3. A certificate in writing, duly signed and acknowledged by three, or more, of the persons proposing to form such corporation, before some officer competent to take the acknowledgment of deeds, in which shall be set forth the corporate name of the association, its objects, the amount of the capital stock and of the fund to be raised, the number of shares, the time of its existence, not to exceed five years, the number of Trustees, or Directors, who shall manage the concerns of the association for the first three months of its existence, and their names, and the name of the city, town, or county, in which the office, or principal place of business, is to be located, shall be filed in the office of the County Clerk of the county in which the office, or principal place of business, is intended to be located, and a copy thereof, duly certified under the hand and seal of such County Clerk, in the office of the Secretary of State of the State of California, and thereupon the persons who have subscribed the said certificate, and such other persons as shall become members of such association and their successors, shall be a body corporate, by the name specified in said certificate, and shall possess the powers and privileges, and be subject to the provisions of An Act concerning Corporations, passed April twenty-second, eighteen hundred and fifty, and the various acts amendatory of and supplemental thereto, so far as the provisions therein contained are consistent with the provisions of this act, and no further; and they shall, by their corporate name, be capable, in law, of purchasing, holding; and conveying, any personal property, or estate, whatever, which may be necessary to enable said associates to carry on the operations named in such certificate.

General provisions.

Payment of subscription

SEC. 4. It shall be lawful for the Trustees to call in and demand from the shareholders respectively all such sums of money by them subscribed, at such times and in such payments, or installments, as the articles of association shall prescribe, under the penalty of forfeiture of the shares of stock subscribed for, and all deposits, assessments, and previous payments, made thereon and towards the principal funds of the association, and the property acquired therewith and owned by the association, if payment shall not be made by the stockholder within thirty days after a personal demand, or notice, requiring such payment shall have been published at least ten days in a newspaper of general circulation in the city, town, or county, where the office, or principal place of business, of such corporation is located, or in the newspaper published nearest to the place where the business of the company shall be carried on as aforesaid; but the articles of incorporation may prescribe other penalties than such forfeiture upon such failure to meet the payments of deposits, assessments, and installments, in which case such provisions shall govern and may be legally enforced. No holder of shares shall claim to be exempt from making the monthly, or other, payments provided for in the articles of association, or installments upon the said shares, upon the ground that amounts have been paid by said

Publication of notice.

Penalties.

shareholder as fines for the non-payment of dues, or other violation of the articles of association, or of any premium for loans made to members, or advance price for property, bid by such member.

SEC. 5. All corporations formed under this act shall have power to borrow money for temporary purposes not inconsistent with the objects of their organization, and to loan to their own members, or other persons, any moneys belonging to such corporation and not needed for immediate use; but no loan for such purpose shall have a larger duration than two years; nor shall such indebtedness exceed at any one time one-fourth of the aggregate amount of the shares and parts of shares, and the income thereof actually paid in and received. Such corporation, however, for the purpose of completing the purchase of land to be subdivided and distributed among the shareholders, may borrow upon the security of their shares, or the land so purchased, or the land owned and held by them at the time of making such loan, or loans, any sum, or sums, of money which, together with the interest to grow due thereon, shall not exceed ninety per cent. of the amount subscribed by the shareholders, and still remaining to be paid in upon the shares; but no loan shall be taken for a longer period than the time limited in the articles of association for the existence of the corporation, nor shall the interest to be paid upon such loans ever be compounded, or exceed in the aggregate, the rate of twelve per centum per annum.

Power to borrow money.

Limit of loan

Loans for completion of purchase.

SEC. 6. Parents and Guardians may take and hold shares in such associations in behalf and for the use of their minor children, or wards; *provided*, the cost of such shares, and the amount of deposits and assessments thereon be paid from the personal earnings of such minor children, or wards, or by gifts from persons other than their male parents. Married women may take and hold shares in such associations; *provided*, the cost of such shares, and the amount of deposits and assessments be paid from their personal earnings, the personal earnings of their children, voluntarily bestowed for this purpose, or from property bequeathed, or given, to them by persons other than their husbands.

Parents and guardians.

Proviso.

SEC. 7. Every such corporation shall terminate, except for the purpose of settling its affairs, at the expiration of the time stated in the articles of association for its existence, or whenever it is dissolved in the manner provided in the articles of association; but no dividend of the funds on hand belonging to the corporation, or the proceeds of property owned by the corporation, shall be paid to the shareholders upon such dissolution until all the debts of the association shall have been paid, or otherwise sufficiently provided for.

Termination of corporation

SEC. 8. No officer, Trustees, Attorney, Agent, or servant, of any association incorporated under the provisions of this act, shall use, or dispose of, any part of the funds of such association, or assign, transfer, cancel, deliver up, or acknowledge satisfaction of, any bond, mortgage, or other written instrument, belonging to such association, unless duly authorized, or be guilty of any fraud in the performance of his duties; and every person guilty of a violation of this section shall be liable civilly to the party injured, to the extent of the damage thereby incurred, and shall also be liable to indictment for a misdemeanor, punishable

Fraud.

Liabilities.

by fine, or imprisonment, or both, in the discretion of the court by which it shall be tried.

To publish  
statement  
annually

SEC. 9. Each association formed under the provisions of this act, shall, at the close of its first year's operations, and annually at the same period in each year thereafter, publish, in at least one newspaper of general circulation published in the city, town, or county, where the principal office, or place of business, of such corporation is located, or if no newspaper shall be published in such county, then in any newspaper of general circulation, published nearest such office, or principal place of business, a concise statement, verified on the oath of its President and Secretary, showing the actual financial condition of the association and the amount of its property and liabilities, specifying the same particularly.

Liabilities  
of stock-  
holders.

SEC. 10. All shareholders of any association formed under the provisions of this act, shall be individually liable to the creditors of such association to an amount equal to the amount of stock held by them respectively, for all debts contracted by such association. The Directors, or other officers, of every association formed under the provisions of this act, shall be personally liable for any fraudulent use, disposition, or investment, of any money, or other property, belonging to such association, or for any loss which shall be incurred by any investment made by such Directors, or other officers, other than such as are mentioned in and authorized by the articles of association; but no Director, or other officer, of any such association shall be liable as aforesaid, except he authorized, sanctioned, approved, or made, such fraudulent use, disposition, or investment, as aforesaid.

Same.

SEC. 11. No person holding stock in any corporation, as Executor, Administrator, Guardian, or Trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such Executor, Administrator, Guardian, or Trustee, shall be liable in like manner and to the same extent as the testator, or intestate, or the ward, or person, interested in such trust fund, would have been if he, or she, had been living and competent to act, and held the same stock in his, or her, own name.

Representa-  
tion of shares  
of stock.

SEC. 12. Every such Executor, Administrator, Guardian, or Trustee, shall have the right of having the share, or shares, of stock in his hands, represented at all meetings of the company, subject to the provisions of the articles of association; and every person who shall pledge his stock as aforesaid, may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder.

Election of  
Trustees.

SEC. 13. In case it shall happen, at any time, that an election of officers shall not be made on the day designated by the by-laws, or articles of association, of said corporation as the time for holding such election, the corporation shall not for that reason be dissolved, but it shall be lawful, on any other day thereafter, to hold an election for Trustees, or other officers, in such manner as shall be provided for by the said by-laws, or articles of association; and all acts of Trustees, or other officers, shall be

valid and binding as against such company until their successors are elected and qualified.

SEC. 14. Any corporation which may be formed under the provisions of this act, may increase, or diminish, its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

May  
increase or  
diminish  
stock.

SEC. 15. Whenever any such corporation shall desire to call a meeting of the stockholders, for the purpose of increasing, or diminishing, the amount of its capital stock, it shall be the duty of the Trustees to publish a notice, signed by at least a majority of them, in a newspaper of general circulation, published in the city, town, or county, where the principal office, or place of business, of such corporation is located, if any such is published therein, at least ten days, and to deposit a written, or printed, copy thereof in the post-office, addressed to each shareholder at his usual place of residence, at least ten days previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place, when and where, such meeting shall be held, and the amount to which it shall be proposed to increase, or diminish, the capital, and a vote, of at least two-thirds of all the shares of stock issued, shall be necessary to an increase, or diminution, of the amount of its capital stock.

Manner of.

SEC. 16. If, at any time and place specified in the notice provided for in the preceding section of this act, stockholders shall appear in person, or by proxy, in numbers representing not less than two-thirds of all the shares of stock issued by the corporation, the meeting shall organize and proceed to a vote of those present, in person, or by proxy; and if on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing, or diminishing, the amount of capital, a certificate of the proceedings, showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount to which the capital stock shall be increased, or diminished, shall be made out, signed, and verified by the affidavit of the Chairman, and attested by the Secretary of the meeting; and such certificate shall be acknowledged by the Chairman and filed as required by the third section of this act; and when so filed, the capital stock of such corporation shall be increased, or diminished, to the amount specified in such certificate.

Same.

SEC. 17. The copy of any certificate of incorporation, filed in pursuance of this act, certified by the County Clerk, or his Deputy, to be a true copy of such certificate, and the whole thereof shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

Copy of  
certificate  
to be legal  
evidence.

SEC. 18. No loan made by any such association to any of its members may exceed in amount the par value of the capital stock for which such member may have subscribed together

Limit of loan

with the other payments remaining to be made upon such share, or shares, as provided in the articles of association.

Power of  
Trustees.

SEC. 19. The Trustees of such corporations shall have power to make such prudential by-laws and regulations as they shall deem proper, for the management and disposition of the stock and business affairs of such corporation, not inconsistent with the laws of this State, or the articles of association, and prescribing the duties of officers and servants that may be employed, for the appointment of officers and agents, for the security of the funds of the corporation, and for carrying on all kinds of business within the scope of the objects and purposes of such corporation.

Powers of  
Legislature.

SEC. 20. The Legislature may, at any time, alter, amend, or repeal, this act, or may annul, or repeal, any incorporation formed, or created, under this act, but such amendment, or repeal, shall not, nor shall the dissolution of any company, take away, or impair, any remedy given against such corporation, its stockholders, or officers, for any liability which shall have been previously incurred.

Shares  
exempt.

SEC. 21. The shares held by the members of all associations, incorporated under the provisions of this act, together with any amounts of deposits, or assessments, shall be exempt from attachment, or sale, on execution for debt, to an extent not exceeding one thousand dollars in such shares, deposits, or assessments, at their par value; *provided*, the person holding such shares is not the owner of a homestead under the homestead laws of this State.

Associations  
entitled to  
benefit of  
this act.

SEC. 22. Any existing association, formed for the purpose mentioned in the first section of this act, may, by a vote of a majority of the voting shares, at any regular meeting, or meeting specially called, as provided in the articles of association, after the passage of this act, become entitled to the benefit of this act, on complying with the second and third sections thereof, unless the second section of this act has heretofore been complied with, in which case it shall be necessary to comply with the provisions of the said third section only.

Acts  
repealed.

SEC. 23. All acts, or parts of acts, conflicting with the provisions of this act are hereby repealed.

To take  
effect.

SEC. 24. This act shall take effect and be in force, from and after its passage.

CHAP. DIV.—*An Act concerning the Infant Heirs of William M. Stockton, deceased.*

[Approved May 20, 1861.]

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

To sell  
real estate.

SECTION 1. That William M. Stockton, surviving husband of Anne Eliza Stockton, deceased, his wife, late of the county of Los Angeles, is hereby authorized to sell at private sale, all the right, title, and interest, that his said wife died seized of, in any

real estate acquired during the existence of the marriage between them, and lying in said county; and that the deed of said William M. Stockton, executed in pursuance of this act, as Commissioner of Ellen Stockton, Frances Anne Stockton, George Stockton, and Mary Alice Stockton, infant children of him, the said William M. Stockton, and Anne Eliza Stockton, his wife— shall be effectual to pass all the right, title, and interest, aforesaid, and now vested in them and either of them, in and to the said real estate described as aforesaid.

To execute conveyance.

SEC. 2. Before said deed shall become valid and effectual, as aforesaid, it shall be presented to the Probate Court of the county of Los Angeles, and thereupon the Judge of said court shall examine the same, and if he thinks that it is beneficial to said infants, he shall approve the same, and the approval of said Judge, when granted, shall be indorsed upon said deed by said Judge, and authenticated by the seal of said court, whereupon it, together with said deed, shall be entitled to record, and the indorsement of said approval, as aforesaid, shall be full and conclusive proof that it was duly given.

Duty of Probate Judge.

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

To take effect.

#### CHAP. DV.—*An Act concerning Jurors in the City and County of San Francisco.*

[Approved May 20, 1861.]

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

SECTION 1. The Board of Supervisors of the city and county of San Francisco shall, within one month after this act shall take effect, by an order to be entered on its minutes, determine the number of persons to be returned from said city and county for Grand Jurors and for Trial Jurors, and apportion the same among the several districts in said city and county, as in this act provided; and, thereafter, whenever the number of ballots in the grand jury box named in the next election shall be less than thirty, or the number in the trial jury box so named less than one hundred, the said Board shall make a like order providing for Grand Jurors, or Trial Jurors, as the case may require. The whole number to be returned, by virtue of any order contemplated by this section, shall not, for Grand Jurors, be less than one hundred and fifty, nor more than one hundred and seventy-five, and for Trial Jurors, not less than eight hundred, nor more than one thousand, and shall be apportioned among the several districts aforesaid, as nearly as may be convenient, in proportion to the number of qualified electors in each district, as indicated by the number of ballots cast for Governor, therein, at the election for such officer next preceding such apportionment.

Duties of Supervisors.

SEC. 2. The Supervisor of each district in said city and county, or if there be a vacancy in the office of Supervisor, then the School Director of such district, shall, within two weeks after

Duty of School Director.

the making of any order, provided for in the first section of this act, from persons resident in his district whose names are upon the poll list of the general election next preceding, and who are qualified to serve, and not exempt from serving, as Jurors, make out a list of persons, with their residences, for Grand Jurors, or for Trial Jurors, as the order may require, and separate lists, in all cases, for Grand Jurors and for Trial Jurors, though both may be embraced in the same order; the number of names upon every such list to be equal to the number of persons apportioned to the district, and shall return the same, signed and certified by him, to the said Board of Supervisors; and the said Board shall, without unnecessary delay, proceed to act thereon, and may alter and revise said lists by striking names therefrom, and inserting in place thereof names of other persons residing in the proper district, and may add names to complete lists wanting the full number according to the apportionment. From the several district lists, by them revised and completed as above, the said Board shall, in case the same are returned for Grand Jurors, make a general grand jury list, and in case the same are returned for Trial Jurors, a general trial jury list; and the said general lists, certified by the President and Clerk of said Board, shall be recorded on the minutes of said Board, and deposited with the County Clerk. Immediately, thereupon, the County Clerk shall write upon a separate paper, or ballot, each name upon any such list so deposited with him, and shall, in the presence of said President, compare the ballots so made out with the lists in his possession, and shall deposit all the ballots containing names taken from a general grand jury list, in a box to be prepared for that purpose, and to be called the "Grand Jury Box," and in a separate box, to be likewise prepared for that purpose, and to be called the "Trial Jury Box," all the ballots containing names taken from a general trial jury list. The ballots, before being so deposited, shall be closely folded, so as to conceal the names written thereon.

**SEC. 3.** The boxes named in the second section shall be furnished with safe locks and keys, which, together with said boxes, shall remain in the custody of the County Clerk; and if any person shall unlock or open either of said boxes, or deposit any names or ballots therein, or extract any ballots therefrom, without due authority of law, he shall be deemed guilty of a public offense, and on conviction thereof shall be punished by imprisonment in the State Prison for a term not exceeding five years, or by fine not exceeding five thousand dollars.

**SEC. 4.** Whenever, in said city and county an order shall be duly made for summoning a grand jury, or a trial jury, for a District Court, or the Court of Sessions, or persons to complete any such jury, the County Clerk shall request the attendance at his office of the Sheriff of the county, and of at least two witnesses, to be named by the Judge, or court, making the order, and shall, in the presence of said Sheriff and witnesses, draw by lot from the proper box the requisite number of names for Grand Jurors, or Trial Jurors, as the case may be (the number so to be drawn to be named in the order, and if to form a grand jury to be twenty-four); and shall deliver a copy of the order, and a list of the persons so drawn, with their places of residence, certified by

Same.

Jury lists.

General lists.

Duty of County Clerk.

Penalty for opening jury boxes.

Drawing of grand and trial jurors.



him, to the Sheriff, who shall summon the persons so drawn in the manner now provided by law, and return the said copy and list to the proper court; *provided*, however, that the court, or Judge making any such order may direct, and such direction shall have full force, that the same shall be executed in accordance with the provisions of an act entitled An Act concerning Jurors, passed May third, one thousand eight hundred and fifty-two; and, *provided*, further, that all persons necessary to complete any jury, may, in the discretion of the court, or Judge, making the order therefor, be drawn as prescribed in this act, or obtained in accordance with said act concerning Jurors; and *provided*, further, that whenever no names, or an insufficient number, shall be in the box from which a drawing must be made to obtain a jury under the special provisions of this act, the said act concerning Jurors shall, for all purposes connected with the obtaining of such jury, be in full force in said city and county.

Proviso.

SEC. 5. If, of the persons drawn and summoned to form a grand jury in accordance with the fourth section of this act and appearing, there shall, after such as shall show cause therefor, or shall be disqualified, shall be excused, or discharged, remain sixteen, and no more, they shall constitute the grand jury. If more than sixteen persons shall remain, the Clerk of the court shall prepare separate ballots containing the names of the persons so summoned, appearing, and not excused, or discharged, and deposit them in a box, and the said Clerk, or the Sheriff, under the direction of the court, shall draw from the box sixteen names, and the persons whose names are so drawn shall constitute the grand jury. If, of those so summoned, appearing, and not excused, or discharged, there shall remain less than sixteen, those so remaining shall be placed upon the grand jury, and the court may order the Sheriff to summon from the body of the county and not from the bystanders a sufficient number of persons to complete the grand jury.

Formation of grand jury.

To summon additional Grand Jurors.

SEC. 6. The County Clerk shall dispose of the ballots drawn in accordance with the fourth section of this act, as follows: He shall replace in the box from which they were drawn, all ballots upon which are the names of persons shown by the return of the Sheriff to be temporarily absent from the county, and also of persons summoned and appearing, and not incompetent to serve, nor exempt from serving as Jurors, who shall be excused by the court for the term; or, in case of Grand Jurors, shall not be drawn upon the drawing provided for in the fifth section of this act; all the other ballots he shall destroy. The County Clerk shall keep minutes of all ballots by him replaced in the box in accordance with this section.

Duties of County Clerk.

Drawing of Jurors.

SEC. 7. The sixteenth section of an act entitled An Act concerning Jurors, passed May third, eighteen hundred and fifty-two, shall apply to the County Court in said city and county; and Jurors for said County Court may be obtained in accordance with the provisions of said sixteenth section.

Application of act.

SEC. 8. No person having served as a Trial Juror for a full term in any District Court, or in the Court of Sessions, in said city and county, shall be required to serve as a Trial Juror in any of said courts for one year thereafter; *provided*, that this

Time of service of Trial Jurors.

exemption shall not apply in the case of persons summoned to form, or complete, a jury for the trial of a particular case.

Repealing  
clause.

SEC. 9. An act entitled An Act to prescribe the mode of drawing Grand Jurors and Trial Jurors in the City and County of San Francisco, approved April second, eighteen hundred and fifty-seven, is hereby repealed; and all acts and parts of acts repealed by this act first named in this section, are hereby revived, except so far as the same are inconsistent with this act.

Grand  
Jurymen.

SEC. 10. Nothing in this act contained, shall be construed to affect the legality of a panel of Jurymen which may have been summoned to attend any court at the time when this act shall take effect, but such Jurymen may continue to serve until the end of the term for which they shall have been summoned, in the same manner as if this act had not been passed.

CHAP. DVI.—*An Act amendatory of an Act entitled An Act to confirm and legalize certain Assessment Rolls of the City and County of San Francisco, and to provide for the collection of the Delinquent Taxes thereon, approved March twenty-second, eighteen hundred and fifty-nine.*

[Approved May 20, 1861.]

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

SECTION 1. Section twelve of said act is hereby amended so as to read as follows:

Payment of  
delinquent  
taxes.

SEC. 12. The said delinquents may pay said taxes to the Tax Collector, in cash, or in any judgments against said city and county, or in any bonds of said city, or of said county and city, which have heretofore been issued, or may hereafter be issued, or in any genuine city Controller's warrants of said city, at forty per cent. on their par value, or in any county warrants of said county, duly registered, at forty per cent. on their par value. And the Finance Committee of the Board of Supervisors of said city and county, shall examine said Controller's warrants and said county warrants, and if found genuine, approve the same; and, *provided*, said Controller's warrants and said county warrants have not been funded, under any of the funding acts heretofore passed; and the Board of Supervisors of said city and county are hereby empowered to allow, and the Auditor of said city and county to audit, so much of the following claims as may be equitable and just, viz: The claim of Pickering, Fitch & Co. or their assigns, not to exceed the sum of three hundred and fifty dollars, for city printing; the claim of John Boland, or his assigns, not exceeding the sum of five hundred and thirty-eight dollars, for grading Pinkney Place, adjoining the county jail; the claim of H. E. Perry, or his assigns, not exceeding the sum of twenty-two hundred and twenty-five dollars, for grading and planking streets; the claim of L. R. Hodgkins, or his assigns, not exceeding the sum of two hundred and ninety-two dollars, for excavating the crossings of streets; the claim of J. C. Cassi-

To audit  
and allow  
claims.

na, or his assigns, not exceeding the sum of two thousand and seventy-seven dollars, for grading and planking the crossings of streets; the claim of John D. Sauborn, or his assigns, not exceeding the sum of nine hundred and ninety-two dollars, for the holding of inquests; the claim of A. Richardson, or his assigns, not exceeding the sum of fourteen hundred and seventy-seven dollars, for the holding of inquests; the claim of N. Proctor Smith, or his assigns, not exceeding the sum of thirteen hundred and thirty-four dollars, for money paid, and labor performed, in and about the City Hall; the claim of William Fitzpatrick, or his assigns, not exceeding the sum of twenty-seven hundred and sixteen dollars, for grading and planking Brenham Place; and the claim of Samuel Webb, or his assigns, not exceeding the sum of five hundred and forty-nine dollars, for stationery furnished the City Controller; and the claim of H. S. Pitcher, or his assigns, not exceeding the sum of six thousand and two dollars, for excavating crossings of streets; and the claim of the Executors of the estate of Joseph L. Folsom, or their assigns, not exceeding the sum of thirteen hundred and twenty dollars, for ground rent. Same.

And when said claims are allowed and audited, in whole, or in part, they shall be received for delinquent taxes, mentioned in said act, at their par value, in like manner as the bonds of said city and county, according to the provisions of this section; *provided*, that all sums so audited and allowed, shall be received for such taxes only, in cases where the taxes due the State and the school department of said city and county shall be paid in cash; and, further, *provided*, that such auditing and allowance of said claims and sums shall give no further validity, or force, to such claims, than is provided in this act. To receive claims at par for delinquent taxes.

The Tax Collector of said city and county shall be allowed for collecting all taxes under this act, the following rates for all cash judgments, audited accounts, City Controller's, and county warrants, 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, two per cent. on all over fifty thousand dollars and under two hundred thousand dollars, and one per cent. on all sums over two hundred thousand dollars, and no more; all of which fees shall be paid into the Fee Fund of said city and county, as now paid. Fees of Tax Collector.

CHAP. DVIII.—*An Act to amend an Act entitled An Act to amend An Act concerning Notaries Public, approved April thirteenth, eighteen hundred and fifty-seven, approved March sixteenth, eighteen hundred and fifty-nine.*

[Approved May 20, 1861.]

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

SECTION 1. Section first of said act is hereby amended so as to read as follows:

Number of  
Notaries  
Public  
increased.

Section I. The Governor shall have power to appoint and commission twenty-five Notaries Public for the county of San Francisco; and for the counties of Nevada, Sierra, and Tuolumne, thirteen Notaries Public; and ten Notaries Public for each of the counties of El Dorado, Placer, Butte, Calaveras, and Tuolumne; and for the county of San Joaquin, twelve; and in the county of Mariposa, eight; and for the county of Santa Clara, eight, two of whom shall reside in Santa Clara Township, and one in Gilroy Township; and for the counties of Napa, Sonoma, Amador, and Los Angeles, eight; and for the county of Sacramento, fourteen; for the county of Yuba, twelve; and for the county of Solano, six; and five for each of the other counties of this State, who shall hold office for the term of two years, and until their successors are appointed and qualified; *provided*, this act shall not be construed to affect Notaries Public holding appointments under the act of which this is amendatory.

Proviso.

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CHAP. DVIII.—*An Act to define the time an Act entitled An Act to amend an Act entitled An Act to amend An Act concerning Notaries Public, passed the Senate May seventeenth, and passed the Assembly May eighteenth, eighteen hundred and sixty-one, shall take effect.*

[Approved May 20, 1861.]

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

To take  
effect.

SECTION I. The act referred to in the above title, shall take effect immediately after the passage of this act.

SEC. 2. This act shall take effect from and after its passage.

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CHAP. DIX.—*An Act to pay the Claim of A. R. Meloney, late State Controller.*

[Approved May 20, 1861.]

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

Appropriat'n

SECTION I. The sum of eight hundred and forty-one dollars and eighty-five cents, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the salary of the late A. R. Meloney, late State Controller, from the twenty-sixth day of April, to the eleventh day of October, eighteen hundred and fifty-eight.

Warrant.

SEC. 2. The State Controller is hereby directed to draw his warrant upon the Treasurer of State, in favor of Lucy Meloney, widow of the late A. R. Meloney, for the benefit of herself and

the minor children of said Meloney, for the sum of eight hundred and forty-one dollars and eighty-five cents, in payment of said claim.

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CHAP. DX.—*An Act granting the Right of Way over certain Lands of this State, in the County of San Mateo.*

[Approved May 20, 1861.]

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

SECTION 1. If J. P. Ames, Owen McMahon, and George H. Ensign, and associates, shall organize under the incorporation laws of this State, relating to the construction of plank and turnpike roads, within one year, and shall commence, and within two years from the first day of May next, shall construct, a plank, or turnpike, road, commencing at, or near, the residence of James Pease, in San Mateo County, in the Pilarcitos Cañon, and running northerly along the meanders of said stream, over the most favorable ground, to the water companies' tunnel, near the head waters of said Pilarcitos Creek; thence, northeasterly, across the Coast Range of Mountains, over the most favorable ground, to the San Andres Creek, at, or near, the house of George Bement; thence, by the most practicable route through the Burri Burri Ranch, terminating at, or near, Thorpe's San Bruno House, on the road leading from San Francisco to San José, the State hereby grants to said parties named, the right of way, use, and occupancy, of the lands of this State, for the purposes of said road, not to exceed thirty feet in width from the center, on each side of the same, for the term, or period, of twenty-five years.

SEC. 2. The grantees herein named, and their successors, shall have the right to erect toll-gates, and charge and collect tolls on said road; *provided*, that the rates so to be charged and collected shall be fixed by the Board of Supervisors of San Mateo County.

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CHAP. DXI.—*An Act to regulate the Fees of certain Officers in Calaveras County.*

[Approved May 20, 1861.]

*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 in Calaveras County, herein 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  
District  
Court.

SEC. 2. The fees of the Clerk of the District Court shall be as follows :

For entering each suit on the register of actions and making the necessary entries therein, for each folio, twenty-five cents.

For issuing every writ, or process, under seal, seventy-five cents.

For issuing a subpoena for each witness, fifteen cents.

For filing each paper, fifteen cents.

For entering every motion, rule, order, or default, thirty-five cents.

For entering every discontinuance, dismissal, or nonsuit, thirty-five cents.

For entering every cause on the calendar and making a copy for the bar, for each term of the court, one dollar.

For receiving and entering each verdict of a jury, seventy-five cents.

For entering every final judgment, for the first folio, one dollar; for each subsequent folio, twenty-five cents.

For filing judgment roll, twenty-five cents.

For entering judgment on judgment docket, thirty-five cents.

For entering satisfaction of judgment, seventy-five 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, twenty-five cents.

For every certificate under seal, seventy-five cents.

For searching the files of each year in his office, but not to charge suitors, or Attorneys, seventy-five cents.

For issuing every commission to take testimony, seventy-five cents.

For taking down testimony of witnesses during trial, for each folio, twenty-five cents.

For issuing every execution, or other final process, seventy-five cents.

For issuing every decree, or order of sale, of mortgaged property, seventy-five cents.

For issuing writ of injunction, or attachment, seventy-five cents.

For entering judgment by confession, the same fees as in other cases for entering judgment.

For receiving and filing every *remittitur* from Supreme Court, and accompanying papers, fifty cents.

For taking each bond required by law, fifty cents; for justification thereto, twenty-five cents for each surety.

For acknowledgment of deed, or other instrument, including all writing, and the seal for each name thereto, seventy-five cents.

When the court is sitting as a Court of Criminal Jurisdiction, he shall receive for the trial of each issue, 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, twenty-five cents.

SEC. 3. The fees of the Clerk of the County Court shall be as follows :

For filing all papers sent on appeal from Justices' Courts, in each cause, one dollar. Of Clerk of County Court.

For all other services, the same fees as are allowed in the District Court for similar services.

SEC. 4. The Clerk of the Court of Sessions shall receive the same fees as are allowed the Clerk of the District Court in criminal cases. Of Clerk of Court of Sessions.

SEC. 5. The fees of the Clerk of the Probate Court shall be as follows:

For issuing letters of administration, or testamentary, seventy-five cents. Of Clerk of Probate Court.

For certificate of appointment of Appraisers, or Guardians, seventy-five cents.

For writing and posting notices, when required, for each copy, fifty cents.

For notice given by publication, in addition to the cost of publication, fifty cents.

For recording wills, for each folio, twenty-five cents.

For all other services the same fees as are allowed the Clerk of the District Court for similar service.

SEC. 6. The fees of the County Recorder shall be as follows:

For recording any instrument, paper, or notice, when required, for each folio, twenty-five cents. Of County Recorder.

For copies of any papers, or records, per folio, twenty-five cents.

For filing, or receiving, every instrument for record, and making the necessary entries thereon, 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 records, or papers, in his office, when required, fifty cents.

For every entry of discharge of mortgage, on margin of record, twenty-five cents.

For searching records and files of each year in his office, when required, twenty-five cents.

For abstract, or certificate, of title, when required, for each conveyance, or incumbrance, certified, seventy-five cents.

For recording every town plat, for every course, fifteen cents.

For figures and lettering plats and maps, per folio, seventy-five cents.

For taking and writing acknowledgments, including seal for each signature, fifty cents.

For filing and entering a minute of certificate of tax sale, twenty-five cents.

For recording marriage certificate, seventy-five cents.

For filing and keeping each paper not required to be recorded, and indorsing same, if required twenty-five cents.

SEC. 7. All laws and parts of laws, in conflict with the provisions of this act, so far as the same relate to the county of Calaveras, are hereby repealed. Acts repealed.

SEC. 8. This act shall take effect from and after the first Monday in October, A. D. eighteen hundred and sixty-one. To take effect.

CHAP. DXII.—*An Act to change the Name of Gustave Madson.*

[Approved May 20, 1861.]

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

Name  
changed.

SECTION 1. The name of Gustave Madson, of Tuolumne County, is hereby changed to John Gustave Madson.

CHAP. DXIII.—*An Act amendatory of, and supplementary to, an Act entitled An Act concerning Forcible Entries and Unlawful Detainers, passed April twenty-second, eighteen hundred and fifty.*

[Approved May 20, 1861.]

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

SECTION 1. Section three of said act is hereby amended so as to read as follows :

Complaint.

Sec. 3. When any complaint shall be made in writing, under oath, to any Justice of the Peace, of any such unlawful, or forcible, entry, or unlawful detainer, said Justice shall issue a summons, directed to the Sheriff, or any Constable, of the county, commanding him to summon the person, or persons, against whom such complaint shall have been made, to appear before the said Justice on a day in such summons named, which shall not be less than two, nor more than ten, days from the day of issuing such summons, and at the place therein mentioned.

Summons.

Service of.

Sec. 2. Section twelve of said act is hereby amended so as to read as follows :

Verdict.

Sec. 12. In all cases of a verdict by the Justice, or jury, for the complainant, the damages shall be assessed, if claimed in the complaint, as well for waste and injury committed upon the premises as for the rents and profits during such detainer, and the verdict shall also find the monthly value of the rents and profits of the said premises; and the complainant shall be entitled to recover treble damages against the persons against whom judgment has been rendered; which damages shall be assessed by the Justice, or jury, and when so assessed shall be trebled by said Justice, and entered as a judgment in the cause upon which execution may issue.

Treble  
damages.

Sec. 3. Section thirteen of said act is hereby amended so as to read as follows :

Holding over  
lands, etc.

Sec. 13. When any person shall hold over any lands, tenements, or other possessions, after the termination of the time for which they are devised, or let, to him, or her, or to the person under whom he, or she, holds possession, or contrary to the conditions, or covenants, of the lease, or agreement, under which he, or she, holds, or after any rent shall become due according to the terms of such lease, or agreement, and shall remain unpaid



for the space of three days, in all such cases if the lessor, his heirs, executors, administrators, assigns, agent, or attorney, shall make demand in writing of such tenant, that he, or she, shall deliver possession of the premises held as aforesaid; and if such tenant shall refuse, or neglect, for the space of three days after such demand, to quit the possession of such lands, or tenements, or to pay the rent thereof, due and unpaid as aforesaid, upon complaint therefor to any Justice of the Peace of the proper county, the Justice shall proceed to hear, try, and determine, the same in the same manner as in other cases hereinbefore provided for, but shall impose no fine upon any such case mentioned in this section. The said demand may be made at any time within a year after the termination of the lease, or agreement, or after a breach of the conditions, or covenants, of the lease, or agreement, or after any rent shall become due, according to the terms of such lease, or agreement, and shall remain unpaid for the space of three days.

Demand.

Same.

SEC. 4. In all leases of lands and tenements, or any interests therein, from month to month, the landlord is hereby authorized, upon giving fifteen days' notice, in writing, before the expiration of the month, to change the terms and conditions of said lease, to take effect at the expiration of said month, and said notice served on the lessee shall, of itself, operate and be effectual, to create and establish the change in said terms and conditions which may be specified in said notice; *provided*, however, that if the lessee shall leave, quit, and abandon, the lands, tenements, or interests, therein so leased, at, or before, the expiration of the month, he shall not be bound by said change of terms and conditions so made; otherwise he shall be bound by, and held to comply with, the terms and conditions so specified in such notice, as if they had been the original terms and conditions of the lease.

Changing terms of monthly lease.

CHAP. DXIV.—*An Act to amend an Act entitled An Act amendatory of, and supplementary to, an Act entitled An Act to amend an Act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to Incorporate the City of Sacramento, and the several Acts amendatory and supplementary thereto, and to Incorporate the City and County of Sacramento, approved April twenty-ninth, eighteen hundred and sixty-one.*

[Approved May 20, 1861.]

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

SECTION 1. Section seven of said act is amended so as to read as follows :

Sec. 7. The President of the Board of Supervisors, Police Judge, and Chief of Police, (the concurrence of two of them being necessary to a choice,) shall appoint a Lieutenant of Police, and not exceeding nine Policemen, and the officers so elected, or appointed, shall give bonds, as required by law; they shall each

Lieut. of Police.

take the oath of office and perform such duties as are now, or may hereafter be, imposed by law or ordinance; and they shall hold their offices for the period of one year, and until their successors are elected and qualified, unless sooner suspended, tried, and removed, as now provided by law; *provided*, that the present Chief of Police, Lieutenant of Police, and Policemen, and the Clerk and Engineer of the Water-Works, shall each hold their office until the first Monday of October, eighteen hundred and sixty-one, and until their successors are elected and qualified, unless sooner suspended, tried, and removed, as now provided by law.

Proviso.

To take effect.

SEC. 2. This act shall take effect from and after its passage.

CHAP. DXV.—*An Act concerning the Offices of Coroner and Harbor-master in the City and County of Sacramento.*

[Approved May 20, 1861.]

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

Fees of Coroner.

SECTION 1. The Coroner of the city and county of Sacramento shall be entitled to the following fees:

For general services in holding an inquest, ten dollars.

For each witness subpoenaed, twenty-five cents.

For swearing each witness, twenty-five cents.

For each mile necessarily traveled in going to the place of inquest and in subpoenaing witnesses, twenty-five cents.

For taking down testimony, twenty-five cents per folio.

For directing, or attending, the interment of each body upon which an inquest has been held, two dollars—

Which fees shall be all that he shall be entitled to charge; and the city and county of Sacramento is hereby excepted from the operation of any law allowing other, or a different rate of, fees, or compensation, to Coroners.

To audit and allow claims of Coroner.

SEC. 2. The Board of Supervisors and the Auditor of the city and county of Sacramento, are hereby authorized and required to audit and allow to the Coroner of the city and county of Sacramento the fees provided for in the first section of this act, for all services rendered since the first day of October, eighteen hundred and fifty-nine, or so much thereof as have not been heretofore audited and allowed; and said Supervisors, or Auditor, are also authorized and required to audit and allow to the Harbor-Master of the city of Sacramento an additional sum of twenty-five dollars per month for all services rendered after the first day of May, eighteen hundred and sixty, and prior to the first day of October, eighteen hundred and sixty-one.

Additional pay.

To take effect.

SEC. 3. This act shall take effect immediately.

CHAP. DXVI.—*An Act providing for the publication and reference to the Legislature of the State of California for the year eighteen hundred and sixty-two, of the Amendments to the Constitution proposed by the Legislature of the year eighteen hundred and sixty-one.*

[Approved May 20, 1861.]

*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 Governor to cause to be published, once a week for the period of three months preceding the next general election, the amendments to the Constitution proposed by the Legislature of the year eighteen hundred and sixty-one, in some newspaper printed at Sacramento. Publication of notice.

SEC. 2. The said proposed amendments are hereby referred to the Legislature of the State of California, for the year eighteen hundred and sixty-two, pursuant to section one of article ten of the Constitution. Amendments referred.

SEC. 3. The accounts for the publication, as provided in section one, when allowed by the Board of Examiners, shall be paid out of any moneys in the treasury not otherwise appropriated, and the accounts so allowed, shall constitute sufficient authority to the Controller for the issuance of his warrants for the same. Payment for advertising.

SEC. 4. This act shall take effect from and after its passage. To take effect.

CHAP. DXVII.—*An Act relative to the issuance of Certificates to Exempt Firemen within the State.*

[Approved May 20, 1861.]

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

SECTION 1. Any member of any fire company, belonging to any regular organized fire department within this State, who shall have served in any one, or more, companies of any such regularly organized fire department, or departments, within this State for the period of five years, and shall produce a certificate, or certificates, showing the same, signed by the proper officer, or officers, of the fire department, or departments, to which he belongs, or may have belonged, shall be entitled to receive a certificate as an exempt fireman, which said certificate shall be issued by the Secretary of State, with the seal of State attached thereto, upon the payment to said officer of the sum of one dollar, which said sum shall be, by said Secretary of State, paid to the Treasurer of State, and be placed by him in the Library Fund of said treasury. Firemen's certificates to be issued by Secretary of State.

SEC. 2. All persons, to whom such certificates as exempt firemen shall hereafter issue, shall, from the date thereof, be exempt from all jury duty and militia service within this State. All acts, and parts of acts, in conflict with this act, are hereby repealed. Exemption from jury duty.

CHAP. DXVIII.—*An Act to re-locate the County Seat of Sonoma County, by the qualified Voters of said County.*

[Approved May 20, 1861.]

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

- Election.** SECTION 1. It shall be lawful for the qualified voters of Sonoma County, at the next general election for Governor and State officers, to vote for, or against, the removal of the county seat of said county to Petaluma.
- Form of ballots.** SEC. 2. Each person voting for the removal of the county seat, shall indorse upon his ticket the words, "For Removal;" and each person voting against such removal, shall indorse on his ticket the words, "Against Removal."
- Location of county seat.** SEC. 3. If a majority of all the votes cast at such general election shall be in favor of the removal of the county seat, then, and in that case, the county seat of said county shall be, and is hereby, established at the city of Petaluma.
- Misdemeanor.** SEC. 4. It shall not be lawful for any person to vote for, or against, the removal of the county seat of said county, as provided for in this act, in any township other than the one in which he shall reside, and any person who shall vote, contrary to the provisions of this section, or who shall vote not having the legal qualifications so to do, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars, nor more than five hundred dollars, and shall be imprisoned until such fine shall be satisfied at the rate of two dollars per day.
- Penalty.** SEC. 5. All the laws governing general elections and the qualifications of voters, shall be applicable to the election provided for in this act.
- Laws applicable.** SEC. 6. This act shall be in force from and after its passage.
- To take effect.**

CHAP. DXIX.—*An Act amendatory of an Act entitled An Act to repeal the Act passed March twenty-sixth, eighteen hundred and fifty-one, entitled An Act to incorporate the City of Sacramento, and the several Acts amendatory and supplemental thereto, and to incorporate the City and County of Sacramento, approved April twenty-fourth, eighteen hundred and fifty-eight.*

[Approved May 20, 1861.]

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

SECTION 1. Section thirty-five of said act is amended so as to read as follows :

Sec. 35. The revenue derived from and within the city limits for municipal purposes, viz : Taxes, licenses, harbor dues, water rents, and fines collected in the Mayor's Court, or otherwise,

when paid into the treasury, shall be set apart and appropriated as follows: Fifty-five per cent. to an Interest and Sinking Fund, which shall be applied to the payment of the annual interest and the final redemption of bonds issued for city indebtedness, in accordance with the provisions of this act; fifteen per cent. to a Salary Fund, which shall be applied to the payment of the salaries of municipal officers, as provided in this act; eight per cent. to a School Fund, which shall be applied to the support of schools within the city limits, and the balance twenty-two per cent. to a fund to be used for all such necessary municipal expenses as are not otherwise provided for in this section, and shall be called the Contingent Fund; *provided*, however, that all moneys received from water rents, shall be applied, so far as may be necessary, to the payment of the current expenses of the water works, exclusive of the salaries and fees of the officers thereof, and the balance, if any, shall be distributed as is hereinbefore in this section provided.

Revenue to be distributed in certain funds.

Proviso.

SEC. 2. This act shall take effect from and after its passage.

CHAP. DXX.—*An Act in relation to the Commission appointed on behalf of this State to run and mark the Eastern Boundary Line of the State of California.*

[Approved May 20, 1861.]

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

SECTION 1. Whenever the Governor of this State shall have ascertained that the Commissioner, appointed on behalf of the United States to run and mark the eastern boundary line of the State of California, has been recalled, or has resigned, he is hereby authorized and required to recall the Commissioner appointed on behalf of this State.

To recall Commissioner.

SEC. 2. Should said Commissioner, appointed on behalf of the State of California, be recalled, as provided in the preceding section, in the discretion of the Governor, he is hereby directed and required to sell at public auction, in the city of Sacramento, to the highest bidder for cash, after having first advertised the time, place, and terms of sale for ten days, in some newspaper published in said city, all or so much of the property belonging to the State and in his possession, or under his control, as such Commissioner, as the Governor may designate, and, after deducting the expenses of sale, he shall pay the proceeds of sale to the State Treasurer; and from and after the recall of said Commissioner, and after a sufficient time shall have elapsed after his recall for his return to the city of Sacramento, the compensation of said Commissioner shall cease, and the Board of Examiners are forbidden to allow any accounts for the expenses of said Commissioner incurred after that period.

Duties of Commissioner.

Sale of property.

Compensation to cease.

SEC. 3. If at any time prior to the meeting of the next Legislature the United States Government should renew the boundary

Governor  
may direct  
him to  
resume his  
duties.

commission, by the appointment of another Commissioner, or by directing the same, or another, officer to proceed with the duty of defining the eastern boundary line of this State, and such Commissioner shall enter upon the performance of the duties aforesaid, the Governor, upon being duly notified of that fact, shall direct the Commissioner elected on behalf of the State of California to resume his duties as such Commissioner; and, from the time of receiving such direction from the Governor, his salary and expenses shall be audited and allowed by the Board of Examiners as now provided by law; *provided*, however, that said Commissioner shall not be entitled to draw, nor the Board of Examiners audit and allow, more than three months' pay and expenses at any one time, nor shall more than one account be allowed within any three months. This act shall be in force from and after its passage.

CHAP. DXXI.—*An Act amendatory of An Act supplemental to An Act of April sixteenth, eighteen hundred and fifty, concerning Crimes and Punishments.*

[Approved May 20, 1861.]

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

SECTION 1. Section forty-five of said act is hereby amended so as to read as follows:

Administer-  
ing poison.

Penalty.

Abortion.

Penalty.

Proviso.

Sec. 45. Every person who shall willfully and maliciously administer, or cause to be administered, to, or taken by, any person, any poison, or other noxious, or destructive, substance, or liquid, with the intention to cause the death of such person, and being thereof duly convicted, shall be punished by imprisonment in the State Prison, for a term not less than ten years, and which may be extended to life; and every person who shall administer, or cause to be administered, or taken, or shall take, any medicinal substances, or shall use, or cause to be used, any instruments whatever, with the intention to procure abortion, or miscarriage, of any woman then being with child, and any woman who shall knowingly cause to be used upon herself, or consent to the use of such instruments upon herself, with the intent to produce abortion, or miscarriage, when with child, and shall be thereof duly convicted, shall be punished by imprisonment in the State Prison, for a term not less than two years, nor more than five years; *provided*, that no Physician shall be affected by the last clause of this section, who, in the discharge of his professional duties, deems it necessary to produce abortion, or miscarriage, of any woman in order to save her life, nor shall any woman be affected by said last clause, when her Physician deems it necessary to have said abortion, or miscarriage, produced, in order to save her life, nor shall such Physician, or Surgeon, be arrested, indicted, or put on trial, or convicted, by the testimony of such woman alone.

CHAP. DXXII.—*An Act to regulate Appeals in this State.*

[Approved May 20, 1861.]

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

SECTION 1. That no distinction as to the mode of taking, or perfecting, appeals, or as to the effect of them, shall be made between cases at law and cases in equity; but the provisions of the practice act shall apply in the same manner to all cases of appeal. Appeals in law and equity.

SEC. 2. In cases tried by the court without a jury, no judgment shall be reversed for want of a finding, or for a defective finding, of the facts, unless exceptions be made in the court below to the finding, or to the want of a finding; and in cases of a defective finding, the particular defects shall be specifically and particularly designated; and upon failure of the court below to remedy the alleged error, the party moving shall be entitled to his exceptions, and the same shall be settled by the Judge, as in other cases; *provided*, that such exceptions shall be filed in the court within five days after the making of the finding, or decision, excepted to. Exceptions. Proviso.

SEC. 3. No appeal shall be dismissed for insufficiency of the notice of appeal, or undertaking, thereon; *provided*, that a good and sufficient undertaking, approved by a Judge of the Supreme Court, be filed in the Supreme Court, before the hearing upon motion to dismiss the appeal, and upon payment of such reasonable cost as the court may adjudge; *provided*, that the respondent shall not be delayed, but may move when the cause is regularly called for the disposition, or dismissal, of the same, if such undertaking be not given. Dismissal of appeal.

SEC. 4. During the progress of a cause, a party may take his bill of exceptions to the admission, or exclusion, of testimony, or to the rulings of the Judge on points of law, and it shall not be necessary to embody in such bill anything more than sufficient facts, to show the point and pertinency of the exception taken; the presiding Judge shall sign the same, as the truth of the case may be, which bill shall then become a part of the record; and a party against whom judgment is rendered may appeal from such judgment without any further statement, or motion; and on such appeal it shall only be necessary to bring to the Supreme Court the transcript of the pleadings, and the judgment, and the bill, or bills, of exceptions; so taken. Bill of exceptions to be signed by Judge.

SEC. 5. This act shall take effect from and after the first day of July, eighteen hundred and sixty-one. To take effect.

CHAP. DXXIII.—*An Act amendatory of the Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April twenty-ninth, eighteen hundred and fifty-one.*

[Approved May 20, 1861.]

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

SECTION 1. Section one hundred and ninety-five of the act entitled An Act to regulate proceedings in Civil Cases in the Courts of Justice of this State, passed April twenty-ninth, eighteen hundred and fifty-one, is hereby amended so as to read as follows :

Sec. 195. The party intending to move for a new trial shall give notice of the same, as follows: When the action has been tried with a jury, within five days after the rendition of the verdict; and when the action has been tried by the court, or a Referee, within ten days after receiving written notice of the filing of the findings of the Judge, or the report of the Referee; and he shall within five days after giving such notice, or within such further time, not exceeding twenty days, as the court, or Judge, thereof, may by order grant, prepare, and file, with the Clerk, the affidavit required by the last section, or a statement of the grounds upon which he intends to rely. If no affidavit, or statement, be filed within five days after the notice, or within such further time as the parties may agree upon, or the court, or Judge thereof, may by order grant, the right to move for a new trial shall be deemed waived. The grounds of the motion shall be specifically set forth, and the statement shall contain so much of the evidence, or reference thereto, as may be necessary to explain them, and no more; such statement, when not agreed to by the adverse party, shall be settled by the Judge, upon notice; when agreed to, it shall be accompanied by the certificate of the parties, or their Attorneys, that the same has been agreed upon, and is correct; and when settled by the Judge, the same shall be accompanied with his certificate, that the same has been allowed by him and is correct; on the argument, reference may also be made to the pleadings, depositions, and documentary evidence on file, and to the minutes of the court. If the application be made upon affidavits filed, the adverse party may use counter affidavits on the hearing; any counter affidavits shall be filed with the Clerk, one day, at least, previous to the hearing; the affidavits and counter affidavits, or the statement, thus used in connection with such pleadings, depositions, and minutes, of the court, as are read, or referred to, on the hearing, constitute, without further statement, the papers to be used on appeal from the order granting, or refusing, the new trial. To identify the affidavits, it shall be sufficient for the Judge, or Clerk, to indorse them at the time, as having been read, or referred to, on the hearing. To identify any depositions, or minutes of the court read, or referred to, on the hearing, it shall be sufficient that the Judge designate them in his certificate as having been thus read, or referred to.

New trial.

Affidavit and statement.

Form of statement.

General provisions.

Certificate of Judge.



SEC. 2. Section five hundred and thirty of the said act is hereby amended so as to read as follows :

Sec. 530. The time within which an act is to be done, as provided in this act, shall be computed by excluding the first day, and including the last ; if the last day be Sunday, it shall be excluded. When the act to be done relates to the pleadings in the action, or the undertakings to be filed, or the justification of sureties, or the service of notices, other than of appeal, or the preparation of statements, or of bills of exceptions, or of amendments thereto, the time allowed by this act may be extended, upon good cause shown, by the court in which the action is pending, or the Judge thereof, or in the absence of such Judge from the county in which the action is pending, by the County Judge ; but such extension shall not exceed thirty days, beyond the time prescribed by this act, without the consent of the adverse party.

Time for doing acts.

Extension by Judge.

Limit of time.

SEC. 3. This act shall take effect on the first day of July next.



CHAP. DXXIV.—*An Act defining further powers and duties of the Trustees, or Managers, of the State Reform School, and the Managers of the Industrial School Department of San Francisco.*

[Approved May 20, 1861.]

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

SECTION 1. Upon the completion of the building for the State Reform School, or such portion, or portions, thereof as the Trustees, or Managers, may deem necessary for the organization of said school, the said Trustees, or Managers, shall notify the Governor of such fact, and that they are ready for the reception of pupils ; and the said Trustees, or Managers, of the State Reform School, upon the organization thereof, are hereby authorized and empowered to receive into said school all boys and youth now, or at that time, detained in the Industrial School at San Francisco, and support and provide for the same agreeably to the provision of existing law, or laws, and the fact that any such boy, or boys, have not been convicted of any crime, or crimes, shall not be considered.

Trustees to notify Governor.

To receive scholars.

SEC. 2. The Managers of the said Industrial School at San Francisco, are hereby authorized and empowered, at their discretion, to make, or cause to be made, the transfer of all boys detained therein to the State Reform School at Marysville as provided in the preceding section of this act.

Transfer of boys.

SEC. 3. Upon the request of any parent, or Guardian, or friend, of any boy, or youth, who has no parent, or Guardian, who may be shown to the Trustees, or Managers, and Superintendent of the State Reform School, such boy, or youth, shall be received therein, and shall be subject to the care, instruction, support, and discipline, thereof, notwithstanding such boy, or youth, may be guilty of no especial crime, or crimes.

Other than criminals may be received.

SEC. 4. This act shall take effect from and after its passage.

To take effect.

CHAP. DXXV.—*An Act fixing the number of Officers and Employés of the Senate and Assembly, to define their duties and to establish their pay.*

[Approved May 20, 1861.]

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

Senate.

SECTION 1. The officers and employés of the Senate shall consist of one Secretary; one Assistant Secretary; one Sergeant-at-Arms; one Assistant Sergeant-at-Arms; one Minute Clerk; one Journal Clerk; one Enrolling Clerk; one Engrossing Clerk; two Copying Clerks; two Porters; two Pages; one Post-Office Page, and one Paper-Folder.

Assembly.

SEC. 2. The officers and employés of the Assembly shall consist of one Chief Clerk; one Assistant Clerk; one Sergeant-at-Arms; one Assistant Sergeant-at-Arms; one Minute Clerk; one Journal Clerk; two Copying Clerks; one Enrolling Clerk, one Engrossing Clerk; three Porters; three Pages; one Post-Office Page, and one Paper-Folder.

Pay of officers, etc.

SEC. 3. There shall be paid to the several officers and employés named in this act, for all services rendered by them under the provisions of this act, the following sums, and no more, except by a two-third vote of the House in which they are employed: To the Secretary, the Assistant Secretary, Journal Clerk, and Minute Clerk, of the Senate, and to the Chief Clerk, Assistant Clerk, Journal Clerk, and Minute Clerk, of the Assembly, each the sum of eight dollars per day; to the Enrolling, Engrossing, and Copying, Clerks of the Senate and Assembly, each eight dollars per day; to the Sergeant-at-Arms of the Senate and to the Sergeant-at-Arms of the Assembly, each eight dollars per day; to the Assistant Sergeant-at-Arms of the Senate and of the Assembly, each six dollars per day; to the Porters of the Senate and Assembly, each four dollars per day; to each Committee Clerk, appointed by authority of either House, five dollars per day; to the Pages, Post-Office Pages, and Paper-Folders, of the Senate and Assembly, each three dollars per day.

Duties of Secretary of Senate.

SEC. 4. It shall be the duty of the Secretary of the Senate, to attend each day, call the roll, read the journal and bills, to take charge of, and superintend, the copying of the journals, and all other copying necessary to be done for the Senate. It shall be

Chief Clerk of Assembly

the duty of the Chief Clerk of the Assembly to attend each day, to call the roll, read the journals and bills, and to take charge of, and superintend, the copying of the journals, and all other copying necessary to be done for the Assembly. It shall be the duty

Ass't Sec'y and Ass't Clerk.

of the Assistant Secretary of the Senate and the Assistant Clerk of the Assembly, to take charge of all bills, petitions, and other papers, presented to their respective Houses, to file and enter the same in the books provided for that purpose, and perform such other duties as may be directed by the Secretary of the Senate and the Chief Clerk of the Assembly. It shall be the duty of the

Minute Clerks.

Minute Clerk of the Senate and the Minute Clerk of the Assembly, to keep a correct record of the proceedings of each day for the purpose of having such proceedings recorded in the journal by the Journal Clerks of their respective Houses. It

shall be the duty of the Journal Clerk of the Senate to record each day's proceedings in the journal, from which they shall be read by the Secretary, each day of meeting, in order that they may be authenticated by the signature of the President. It shall be the duty of the Journal Clerk of the Assembly to perform all similar duties for the Assembly which are required to be performed by the Journal Clerk of the Senate. It shall be the duty of the Copying Clerks of the Senate to copy into the appendix the annual reports of the State officers and other lengthy documents, and to perform all such copying for the printer as shall be ordered by the Senate. It shall be the duty of the Copying Clerks of the Assembly to copy into the appendix all lengthy documents and perform all such copying for the printer as shall be ordered by the Assembly; but the annual reports of State officers shall not be copied into the Assembly journals, or appendix. It shall be the duty of the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the Assembly, to give a general supervision, under the direction of their presiding officers, to the Senate and Assembly chambers, with the rooms attached; to attend during the sittings of their respective bodies, execute their commands, together with all such process issued by authority thereof, as shall be directed to them by their presiding officers; to keep an accurate account for pay, mileage of members, and prepare checks for the same. They shall receive no other compensation for their services, beyond their per diem, except actual expenses incurred in arrests made by them, and for traveling expenses for themselves, or special messengers, which expenses, so incurred, shall be paid from the Contingent Fund of their respective Houses; *provided*, that no special messenger shall be employed by any officer of either House, unless expressly authorized so to do by the House of which he is an officer. It shall be the duty of the Assistant Sergeant-at-Arms, of each House, to perform the duties of Door-Keeper, prohibit all persons, except members, officers, and employes, and such Reporters as may have seats assigned them by the rules of each House, from entering within the bar of the House of which he is Door-Keeper, unless upon invitation, and to arrest for contempt all persons outside of the bar, or in the gallery, found engaged in loud conversation, or otherwise making a noise to the disturbance of their respective Houses.

Journal Clerks.

Copying Clerks.

Sergeants-at-Arms.

Expenses of arrest.

Messengers.

Ass't Serg'ts-at-Arms.

Duties of officers at close of session.

Payment.

SEC. 5. It shall be the duty of the Secretary and Assistant Secretary of the Senate, and Chief Clerk and Assistant Clerk of the Assembly, at the close of each session of the Legislature, to mark, label, and arrange, all bills and papers, belonging to the archives of their respective Houses, and to deliver the same, together with all books of both Houses, to the Secretary of State, who shall certify to the reception of the same, and upon production of said certificate to the Controller of State, the Controller is authorized and directed to draw his warrant upon the Treasurer in favor of the above named parties for the sum of fifty dollars each; and the Treasurer is authorized to pay the same out of any money in the General Fund not otherwise appropriated.

SEC. 6. The Secretary, Assistant Secretary, Sergeant-at-Arms, Assistant Sergeant-at-Arms, Journal Clerk, Minute Clerk, Enroll-

Officers elected. ing Clerk, Engrossing Clerk, and the two Copying Clerks, of the Senate, shall be elected by the Senate. The Chief Clerk, Assistant Clerk, Sergeant-at-Arms, Assistant-Sergeant-at-Arms, Journal, Minute, Enrolling, Engrossing, and the two Copying Clerks, of the Assembly, shall be elected by the Assembly. The Porters, Pages, and Paper-Folders, shall be appointed by the presiding officers of their respective Houses.

Officers appointed.

Removal from office.

SEC. 7. Any of the officers and employés mentioned in this act may be removed for failure to perform the duties imposed upon them by this act, or for incompetency.

SEC. 8. All acts, and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Additional Copying Clerks.

SEC. 9. No additional number of Copying Clerks shall be appointed, unless by a vote of two-thirds of the Senate, or Assembly.

CHAP. DXXVI.—*An Act to establish Pilots and Pilot Regulations for the Port of San Francisco.*

[Approved May 20, 1861.]

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

Governor to appoint.

SECTION 1. It shall be the duty of the Governor to appoint three experienced and competent citizens of the city and county of San Francisco, who, together with two persons to be elected by the Chamber of Commerce of the city of San Francisco, at a stated meeting of the said Chamber, called for that purpose, shall constitute a Board of Pilot Commissioners for the port of San Francisco.

To take oath

SEC. 2. The Commissioners appointed, or elected, shall, before entering upon their official duties, take an oath for the faithful discharge of the same, and shall hold their offices at the pleasure of the power electing, or appointing, them.

Time of meeting.

SEC. 3. The Commissioners shall keep an office at San Francisco, and shall meet therein, at least, once in each month. They shall elect one of their number as President of the Board, who shall be authorized to administer all necessary oaths, and he is further authorized to issue subpoenas for the attendance of witnesses in all cases arising before the Board under this act; a witness disobeying such subpoena, shall forfeit and pay a sum not exceeding one hundred dollars, which forfeiture may be recovered in a civil action to be instituted in the name of the President of the said Board of Commissioners. They shall make by-laws and rules for their own government, and all needful rules and regulations for the government of the Pilots; *provided*, that such rules and regulations shall not be inconsistent with the provisions of the laws of this State, or of the United States; a majority of said Commissioners shall constitute a quorum for the transaction of business.

Powers of President.

Duties of Board.

SEC. 4. The Board may appoint a Secretary, and fix his compensation, whose duty it shall be to keep correct minutes of all

the proceedings of the Commissioners in books to be provided by them for that purpose, and to register the names of all the Pilots with the date of their license and place of residence; the books and register shall always be open to public inspection.

SEC. 5. Neither the Commissioners, nor the Secretary, shall have any interest, directly, or indirectly, in any pilot boat, or the earnings thereof, other than for compensation, as herein provided.

SEC. 6. Immediately after the passage of this act, the Board of Commissioners shall, with all convenient speed, proceed to license, in the manner prescribed in this act, such number of Pilots for said port as they may deem necessary; *provided*, the number shall not exceed twenty, nor less than fifteen.

SEC. 7. No person shall be appointed a Pilot, unless he is an American citizen, and over twenty-one years of age; and before being appointed he shall be rigidly examined by the Commissioners, before two, or more, licensed Pilots, touching his qualifications and practical knowledge of the management of square rigged and other vessels, and of the tides, soundings, bearings, and distances, of the different shoals, rocks, bars, points of land, and night-lights, of the said harbor and bay; and if after such examination he shall be deemed qualified, he shall receive a license as Pilot, for the term of twelve months; and the Commissioners shall be required to renew the said license, unless good cause be shown why the said license should not be renewed; *provided*, that until two, or more, Pilots are licensed, as provided by this section, the examination as herein prescribed shall be conducted by the Commissioners before two, or more, competent shipmasters, to be selected by the said Commissioners for that purpose.

SEC. 8. Every Pilot, before entering upon the discharge of his duties, shall give a bond in the sum of five thousand dollars, payable to the State of California, and conditioned for the faithful performance of his duties as such Pilot, which bond shall be executed by said Pilot, with two, or more, sureties, which shall be approved by said Board, and when so approved shall be filed in their office. The Commissioners shall require the Pilots to renew their bonds whenever they may deem it necessary.

SEC. 9. Pilots shall at all times keep boats in good condition, which shall not be less than forty tons register, and no more than six Pilots shall be attached to one boat.

SEC. 10. It shall be the duty of every Pilot in charge of a vessel arriving in the harbor of San Francisco, to have the vessel safely moored, in such position as the master of the vessel, or Harbor-Master, may direct, and should the Pilot be called upon to heave the vessel to the wharf, or drop her into the stream, he shall do so without extra charge.

SEC. 11. Every Pilot of the harbor of San Francisco, shall, once in each month, render to the Pilot Commissioners an account of all moneys received by him, or by any other person for him, or on his account, and shall pay ten per cent. on the amount thereof to the said Commissioners, which shall be received by them in full compensation for their official services, for the services of their Secretary, and all the incidental expenses of their office. If any Pilot shall neglect for thirty days to render such

Secretary.

Not to be interested.

Licenses to Pilots.

Qualifications of Pilots.

Proviso.

Bond.

Pilot boats.

Duties of Pilots.

To render monthly account.

Compensa'n.

an account, or pay over the ten per cent. above specified, or if he shall render a false account of moneys so received, he may be deprived of his license.

Powers of Board.

SEC. 12. The Commissioners shall have power to suspend Pilots for misconduct, or inattention to their duty, and shall have power to revoke the license of said Pilots, for the causes hereinafter mentioned, upon due proof thereof, as hereinafter provided.

Forfeiture of license.

SEC. 13. Every Pilot who shall absent himself from duty for more than one month, at any one time, except upon leave granted by said Commissioners, or except by reason of sickness, shall forfeit his license.

Same.

SEC. 14. Every Pilot boarding a vessel shall, at the request of the Master, exhibit his license, and if he shall willfully refuse to do so, he shall forfeit the same.

Same.

SEC. 15. If any Pilot shall become habitually intemperate, or shall be intoxicated while in charge of any vessel, as Pilot, he shall forfeit his license.

Same.

SEC. 16. If any Pilot shall negligently, ignorantly, or willfully, run a vessel on shore, or otherwise render her liable to injury, he shall forfeit his license, and shall be incapable ever after of being licensed as a Pilot, under this act.

Complaint.

SEC. 17. When complaint is lodged with the Board of Commissioners against a Pilot for misconduct, or neglect of duty, it shall be reduced to writing and sworn to, as in civil cases, and said Pilot shall be notified and required to appear and answer the complaint within fifteen days thereafter. If, upon a fair hearing of the complaint and the testimony in relation thereto, the Board of Commissioners shall adjudge the complaint well founded, and that said Pilot is guilty of any of the acts herein declared as operating as a forfeiture of his license, said Board shall adjudge and declare him so guilty, and order him to be deprived of his license, and revoke the same, which order shall be entered in their book of records before mentioned.

Action of Board.

Penalty for acting without license.

SEC. 18. Any person not holding a license as Pilot, or any person not being attached to a pilot boat, approved by said Commissioners, who shall pilot any ship, or vessel, into, or out of, the port of San Francisco, by way of the "Heads," except such as are exempt by virtue of this act, shall be deemed guilty of a misdemeanor, and on conviction in any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding ninety days.

Aid to discharged Pilots.

SEC. 19. Whenever a Pilot is discharged from an outward bound vessel, the pilot boat on the station shall receive such Pilot, and give him all necessary aid for returning to San Francisco.

Pilots carried to sea.

SEC. 20. Every Pilot carried to sea against his will, when a boat is in attendance to receive him, shall be entitled to receive the sum of eight dollars per day, while absent, which sum may be recovered from the master, or owners, of the vessel so taking him away; *provided*, the amount herein allowed to be recovered shall in no case exceed one thousand dollars.

Pilotage by agreement.

SEC. 21. The pilotage inside the "Heads," to the anchorage opposite San Francisco and about the harbor, shall be at such rates as shall be agreed upon between the parties.

SEC. 22. All vessels, their tackle, apparel, and furniture, and the master and owners thereof, shall be jointly and severally liable for pilotage fees, to be recovered in any court of competent jurisdiction. Vessels, etc.  
liable for  
fees.

SEC. 23. When two, or more, Pilots shall offer their services to a vessel, outside of a line drawn from Point Bonita to the outward Wolf Rock, inward bound, the Pilot first offering his services, or one connected with the same boat, shall have the preference; and when two, or more, Pilots offer their services to any vessel outward bound, the Pilot first offering his services, or one belonging to the same boat, shall have the preference, unless the other Pilot so offering, or one belonging to the same boat, shall have brought the vessel in, when said last Pilot, or one so belonging to the same boat, shall be preferred; and if the master of any vessel shall refuse to observe such rule of preference, and to take the Pilot entitled to be preferred on board, the vessel, her appurtenances, the master, and owner, thereof, shall be jointly and severally liable to the Pilot entitled to such preference, for one-half the amount of pilotage he would have been entitled to claim had his services been accepted. Order of  
preference.

SEC. 24. The following shall be the rates of pilotage into, or out of, the harbor of San Francisco: All vessels over one hundred and fifty, and under five hundred, tons, seven dollars per foot draft, and all vessels over five hundred tons, seven dollars per foot draft, and four cents per tun for each and every tun of her registered measurement; all vessels engaged in the whaling trade, one dollar per foot draft. When a vessel is spoken, and the services of a Pilot is declined, one-half of the rates shall be paid, except when a vessel is in tow of a steam tug outward bound, in which case no charge for pilotage shall be made, unless a Pilot be actually employed; all government vessels, ten dollars per foot draft; all vessels coasting between the ports in the State of California shall be exempt from the provisions of this act. Rates of  
pilotage.

SEC. 25. All acts heretofore passed in relation to Pilots and Pilot regulations for the port and harbor of San Francisco, are hereby repealed; *provided*, that nothing in this act contained shall be so construed as to repeal, or in any manner affect, an act entitled An Act to establish Pilots and Pilot Regulations for the Port and Harbor of Benicia and Mare Island, approved March twenty-three, eighteen hundred and fifty-six. Vessels  
exempt.

SEC. 26. This act shall take effect from and after its passage, except section seven, which section shall not take effect, or be in force, until twenty days from the passage of this act. Acts  
repealed.

To take  
effect.

CHAP. DXXVII.—*An Act to authorize John Reed, Guardian of the Infant Heirs of Joseph Purdue, deceased, to sell certain Real Estate in Sacramento City and County.*

[Approved May 20, 1861.]

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

- SECTION 1.** It shall be lawful for John Reed, Guardian of the infant heirs of Joseph Purdue, deceased, to sell all the real estate in the city and county of Sacramento, California, at public, or private, sale, as may be most advantageous to said estate.
- SEC. 2.** That in case of any sales under the authority of the Guardian, as above provided, he may execute to the vendee, or vendees, of the real estate so sold, all necessary and sufficient conveyances therefor.
- SEC. 3.** That in case of any sale, as herein provided, the Probate Judge of Los Angeles County shall require the said Guardian to file his bonds, with additional securities for the faithful discharge of the duties as such Guardian, under this act. The securities on this bond, by this section required to be taken, shall justify in the amount for which they shall become liable in the same manner as sureties are now required by law to justify in other cases of sale under order of the Probate Court.
- SEC. 4.** The said Guardian shall make a full report of the sale, or sales, of real estate to the Probate Court of Sacramento County, within a reasonable time thereafter, and said court shall confirm, or reject, said sale, or sales, as in other cases of sales of real estate by Executors, or Administrators, and the Guardian shall make no conveyance of real estate sold under this act, nor shall such sale become valid unless the sale be first confirmed and approved by the Probate Judge.
- SEC. 5.** This act shall be in force from and after its passage.

CHAP. DXXVIII.—*An Act amendatory of, and supplementary, to an Act entitled An Act to provide for the Funding and Payment of the Outstanding Unfunded Claims against the City of San Francisco and against the County of San Francisco, as they existed prior to the first day of July, eighteen hundred and fifty-six.*

[Approved May 20, 1861.]

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

- SECTION 1.** The Judiciary Committee of the Board of Supervisors, the Treasurer, and Auditor, of the city and county of San Francisco, are hereby authorized, constituted, and appointed, a committee to examine into, and pass upon, the following City Controller's warrants, which were not presented to the Board of Examiners under the provisions of the act entitled An



Act to provide for the Funding and Payment of the Outstanding Unfunded Claims against the City of San Francisco and against the County of San Francisco, as they existed prior to the first day of July, eighteen hundred and fifty-six, approved April twentieth, eighteen hundred and fifty-eight: Number five hundred and fourteen, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number five hundred and sixteen, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number two hundred and twenty, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number five hundred and twenty-two, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number five hundred and twenty-three, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number five hundred and nineteen, dated August fifth, eighteen hundred and fifty-four, for one hundred dollars; number six hundred and three, dated August fourth, eighteen hundred and fifty-four, for one hundred dollars; number six hundred and four, dated August fourth, eighteen hundred and fifty-four, for one hundred dollars; number six hundred and five, dated August fourth, eighteen hundred and fifty-four, for one hundred dollars; number six hundred and six, dated August fourth, eighteen hundred and fifty-four, for one hundred dollars; number six hundred and seven, dated August fourth, eighteen hundred and fifty-four, for one hundred dollars; number two thousand two hundred and eleven, dated September sixth, eighteen hundred and fifty-four, for one hundred dollars; number two thousand two hundred and twelve, dated September sixth, eighteen hundred and fifty-four, for one hundred dollars; number two thousand two hundred and thirteen, dated September sixth, eighteen hundred and fifty-four, for one hundred dollars; number two thousand two hundred and fourteen, dated September sixth, eighteen hundred and fifty-four, for one hundred dollars; number two thousand two hundred and sixteen, dated September sixth, eighteen hundred and fifty-four, for one hundred dollars; number five thousand nine hundred and eighty-eight, dated April eighth, eighteen hundred and fifty-four, for five hundred dollars; number eleven thousand and thirty-eight, dated July twenty-fourth, eighteen hundred and fifty-four, for two hundred and fifty dollars; number eleven thousand and thirty-nine, dated July twenty-fourth, eighteen hundred and fifty-four, for two hundred and fifty dollars; number eleven thousand and forty, dated July twenty-fourth, eighteen hundred and fifty-four, for two hundred and fifty dollars; number eleven thousand and forty-one, dated July twenty-seventh, eighteen hundred and fifty-four, for two hundred and fifty dollars; number eleven thousand and forty-six, dated July fourteenth, eighteen hundred and fifty-four, for one hundred dollars. City Controller's warrant, number four thousand seven hundred and seventy-five, issued December twenty-ninth, eighteen hundred and fifty-four, for the purchase of Long Wharf, amounting to four hundred and fifty dollars; City Controller's warrant number ten thousand nine hundred and seventy-five, issued July twenty-eighth, eighteen hundred and fifty-four, for sundries furnished for station-house, amounting to two hundred and twenty-five dollars; City Con-

To examine  
schedule of  
Controller's  
warrants.

Same.

Same.

troller's warrant number six thousand one hundred and seventy, issued June twenty-fifth, eighteen hundred and fifty-five, for repairing cistern, amounting to two hundred and nine dollars and ten cents; City Controller's warrant number six thousand four hundred, issued June twenty-ninth, eighteen hundred and fifty-five, for repairing cisterns, amounting to forty dollars.

**Committee.** SEC. 2. It shall be the duty of said committee, soon after said warrants are presented to them to examine into them, and such examination shall be based upon the principles assumed and acted upon by the Board of Examiners under the provisions of the act to which this act is amendatory and supplementary, and shall, after having approved, or rejected, said warrants, report to the Board of Fund Commissioners in said act created, their approval, or rejection, of said warrants, stating what warrants are approved, and what, if any, are rejected, and the amount thereof that are entitled to be funded.

**Reports.**

**Warrants may be funded.** SEC. 3. Said warrants, when approved and allowed, as provided in this act, may, within sixty days after such approval, be funded, under the provisions of the act referred to in section one of this act, in the same manner, and to the same extent, as though the same had been presented, approved, and funded, at the time specified in said act.

**To take effect.** SEC. 4. This act shall take effect and be in force, from and after its passage.

CHAP. DXXIX.—*An Act amendatory of, and supplementary to, an Act entitled An Act to provide for the construction of the State Capitol in the City of Sacramento, approved March twenty-ninth, eighteen hundred and sixty.*

[Approved May 20, 1861.]

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

**Commissioners to settle with Contractor.** SECTION 1. The Board of Commissioners, appointed under the provisions of said act, to which this is amendatory and supplementary, are hereby authorized and empowered to make an amicable settlement with Michael Fennell, and to cancel and annul a certain contract made and executed by the said Fennell with them as the Board of Commissioners aforesaid, under the provisions of said act, on the twentieth day of September, A. D. eighteen hundred and sixty, and to release the said Fennell and his sureties from all liability upon said contract, upon the terms and conditions specified in this act; *provided*, that within ten days after the passage of this act, the said Fennell shall file with the Board of Commissioners—

**Proviso.** *First*—His written consent to the cancellation of the said contract.

**Conditions of settlement.** *Second*—A bill of sale of all materials furnished and delivered upon the capitol grounds, as well as of all building erected by him thereon for the prosecution of the work, and—

*Third*—His written release of all claims and demands against

the State of every nature and character, whatsoever, growing out of, or connected with, said contract, which said papers shall be filed by the Board of Commissioners in the office of the Secretary of State.

SEC. 2. Upon the compliance by the said Fennell with all the requirements contained in section one of this act, the Board of Commissioners and the said Fennell, shall, within five days thereafter, each appoint one competent person, and the two so appointed shall select a third, who, with the two thus appointed, shall proceed and estimate the amount of work done, and of materials furnished and delivered upon the capitol grounds under said contract, at the cash value thereof to the State; and they shall, within ten days after their appointment, report the same to the said Board of Commissioners, who shall thereupon make a settlement with said Fennell, upon the basis of such estimates; *provided*, that if the estimates made and returned to the Board of Commissioners, as herein provided, should in their opinion be too large, said Board may reject the same, and cause new estimates to be made by other competent persons in the same manner as though none had been previously made; *provided*, further, that the Architect heretofore appointed by the Board of Commissioners, shall perform this service on the part of the Board without further compensation. The person selected by said Fennell shall be paid by him, and the third person selected shall be paid equally by said Board of Commissioners and said Fennell. Upon such settlement being agreed upon under authority of this act, the said Commissioners are authorized to demand and receive, from the State Controller, and said Controller is required to deliver to said Commissioners his warrant, drawn upon the State Treasurer, payable to the order of said Commissioners, in such sum as may be designated by said Commissioners, and upon the said Fennell complying with all the provisions of this act relating thereto, the Commissioners shall indorse said warrant in blank, and deliver the same to said Fennell; *provided*, that the amount agreed upon shall not exceed the amount of the estimates to be made as aforesaid; and, *provided*, further, that the Commissioners shall first deduct from the total amount of the estimates the amount which has already been allowed said Fennell and paid him under his contract; *provided*, that no payment shall be made to the Contractor under the provisions of this act, until the Board of Commissioners are fully satisfied that no valid liens exist against the property, either for labor performed, or for materials furnished.

SEC. 3. Should no settlement be made as provided in this act, for the period of thirty days from and after the passage thereof, then no such settlement shall be had under, and by virtue of, any of these provisions in this act contained.

SEC. 4. Upon making a final settlement with said Fennell, as provided for in this act, the Board of Commissioners shall proceed to make a new contract for the completion of the State capitol building to the extent contemplated and provided for in the contract with Michael Fennell, made on the twentieth day of September, eighteen hundred and sixty. In advertising for proposals, and in making any new contract under the provisions of this act, the Board of Commissioners shall be governed by the

Committee  
to make  
estimate of  
work done.

To make  
report.

Proviso.

Proviso.

Time to  
make set-  
tlement.

To make new  
contract.

Conditions. provisions of an act entitled An Act to provide for the construction of the State Capitol in the City of Sacramento, approved March twenty-ninth, eighteen hundred and sixty, except that said Commissioners may reject any one, or more, bids, when in their opinion the same are unreasonably high, or when the bidder shall fail to give satisfactory bonds for the performance of his contract, or when in their opinion the best interests of the State require the rejection of such bids; *provided*, that no contract shall be made for an amount exceeding one hundred thousand dollars.

Proviso. **SEC. 5.** The sum of fifty thousand dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated, to be used by said Board of Commissioners in addition to the unexpended balance of the appropriation heretofore made, in carrying out any new contract which said Board may make under the provisions of this act.

To file papers with Secretary of State. **SEC. 6.** All papers required to be filed with the Board of Commissioners under the provisions of this act, and all papers relating to said settlement with said Fennell, shall be filed in the office of the Secretary of State.

To take effect. **SEC. 7.** This act shall take effect from and after its passage.

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CHAP. DXXX.—*An Act conferring additional powers on the Board of Supervisors of the City and County of San Francisco.*

[Approved May 20, 1861.]

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

Section of ordinance repealed.

**SECTION 1.** The Board of Supervisors of the city and county of San Francisco, are hereby authorized to repeal, in whole, or in part, the eighth section of title four, chapter four, of an ordinance passed by the Common Council of the city of San Francisco, and approved on the fourth day of November, eighteen hundred and fifty-two, entitled "An Ordinance to revise, codify, and amend, the general Ordinances of the City of San Francisco, and to reduce the same to one Ordinance," the said eighth section being in the words following, to wit: "All the space of land and water lying between Clay Street and Sacramento Street, and between Davis Street and the deep waters of the bay, as laid down upon the public maps, or plans, of the city, is set apart and dedicated to the public use as a free public dock, for ships and other vessels; *provided*, notwithstanding that nothing herein contained shall prevent the Common Council from amending, altering, or annulling, this grant."

May direct sale of property at auction.

**SEC. 2.** In the event that the aforesaid eighth section of the aforesaid ordinance should be repealed by the said Board of Supervisors, then, and in that event, the said Board is authorized to direct, by order passed for that purpose, that all the right, title, and interest, aforesaid, of said city and county, to, and in, the property described in the said eighth section of said ordi-

nance, or to, and in, any part of the same, shall be sold at public auction, on such notice and on such terms, as to time and mode of payment, as the said Board in its discretion may prescribe; and the President of the Board of Supervisors, in the event of such sale being had, is authorized as such President, to execute such deeds of conveyance to purchasers at said sale, as may be due by the terms and conditions thereof, which said deeds shall be operative to pass to the grantees respectively, all the right, title, and interest, of said city and county of San Francisco, to the premises described in the respective deeds.

SEC. 3. In the event that the sale provided for in section two of this act shall be made, then the said Board of Supervisors is authorized to appropriate and apply the proceeds thereof, in whole, or in part, to the payment, or settlement, in whole, or in part, of certain suits now pending in the District Courts of the Fourth and Twelfth Judicial Districts, against the city of San Francisco, and commonly known as the "City Slip Suits," and in payment, in whole, or in part, of all other claims having the same origin and character as the claims in the suits aforesaid. If the proceeds of the sale aforesaid should be inadequate to pay and satisfy the claims referred to in this section, under a final adjustment thereof by judgment, or otherwise, as provided in this act, then, and in that event, the said Board of Supervisors is further authorized to direct, by order, that all unsatisfied balances due upon said claims respectively, as adjudged, or adjusted, may be funded in the election of the person, or persons, to whom the said balances may be due; and said Board is further authorized to determine, by order, the time within which such election shall be made, the mode and manner in which it shall be manifested, the character of the securities to be issued by said city and county, in the payment of the aforesaid balances, the time, or times, when they shall, or may, be paid, or redeemed, the rate of interest they shall bear, and the mode in which, and the particular municipal officer, or officers, by whom, the said securities shall be executed and delivered in behalf of said city and county.

SEC. 4. This act to take effect from and after its passage.

CHAP. DXXXI.—*An Act to amend an Act entitled An Act to provide for the appointment and prescribe the duties of Guardians, passed April nineteenth, eighteen hundred and fifty.*

[Approved May 20, 1861.]

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

SECTION 1. Section one of said act is amended to read as follows:

Section 1. The Probate Judge of each county, when it shall appear necessary, or convenient, may appoint Guardians to the persons and estates, or either of them, of minors, who have no Guardian legally appointed by will, and who are inhabitants, or

Application  
of proceeds.

May fund  
balances.

To take  
effect.

To appoint  
Guardians.

residents, in the same county, or who shall reside without the State and have any estate within the county, such appointment may be made on the application, by petition, of a relative, or any person intrusted in, or befriending, such minor. Before making such appointment, the Judge shall cause such notice to be given to the relatives of the minor residing in the county, and to any person under whose care such minor may be, as he shall on due inquiry, deem reasonable.

SEC. 2. Section eight of said act is amended to read as follows :

**Bond.** Sec. 8. Before the order appointing any person Guardian, under this act, shall take effect, and before letters shall issue, the Judge shall require of each person a bond to the minor, with sufficient sureties, to be approved by the Judge, and in such sum as he shall order, and when the penal sum of the bond exceeds two thousand dollars, each of the sureties may become liable for portions thereof, making in the aggregate the whole penal sum, and said bond shall be conditioned that the Guardian shall faithfully execute the duties of his trust according to law, and the following conditions shall be deemed to form a part of such bond without being expressed therein :

**Conditions.** *First*—To make a true inventory of all the estate, real and personal, of his ward, that shall come to his possession, or knowledge, and to return the same within such time as the Judge shall order.

**Same.** *Second*—To dispose of and manage all such estates according to law, and for the best interest of the ward, and faithfully to discharge his trust in relation thereto, and also in relation to the care, custody, and education, of the ward.

**Same.** *Third*—To render an account, on oath, of the property, estate, and moneys, of the ward, in his hands, and all proceeds, or interests, derived therefrom, and of the management and disposition of the same, within three months after his appointment, and at such other times as the court shall direct, and at the expiration of his trust to settle his accounts with the Probate Judge, or with the ward, if he be of full age, or his legal representatives, and to pay over and deliver all the estate, moneys, and effects, remaining in his hands, or due from him, on such settlement, to the person, or persons, who shall be lawfully entitled thereto. Upon filing such bond, duly approved, letters of guardianship shall issue to the person appointed. In form, the letters of guardianship shall be substantially the same as letters of administration, and the oath of the Guardian shall be indorsed thereon, that he will perform the duties of his office as such Guardian according to law.

SEC. 3. Section ten of said act is hereby amended so as to read as follows :

**Guardian may be appointed by will.** Sec. 10. The father of any child, who is a minor, may, by his last will and testament, appoint a Guardian, or Guardians, of such child, whether born before, or after, the time of making such will, and in case of the death of the father, the mother of such child may, in like manner, appoint a Guardian, or Guardians, if such child shall not then have any legally appointed Guardian ; and every testamentary Guardian shall give bond and qualify, and shall have the same powers and perform the same

**To give bond**

duties with regard to the person and estate of such minor as Guardians appointed by the Probate Court, except as far as the said powers and duties may have been legally modified, enlarged, or changed, by the will by which such Guardian was appointed.

Sec. 4. Section nineteen of said act is hereby amended so as to read as follows:

Sec. 19. Every Guardian shall return to the Probate Court an inventory of the estate of his ward within three months after his appointment, and at such other times as the Probate Court may order, and he shall return to said court additional inventories whenever any further property belonging to said estate, not included in previous inventories, shall come to his hands, and if there be no estate he shall return that fact under oath. Each of such inventories shall be sworn to by the Guardian, and the property comprised therein shall be appraised by Appraisers who shall be appointed, and shall proceed in the manner provided by the laws regulating the settlement of the estates of deceased persons; and when so appraised it shall be recorded by the Clerk of the Probate Court in a proper book kept in his office for that purpose.

Duties of Guardians.

Appraisers.

Sec. 5. Section twenty of said act is amended so as to read as follows:

Sec. 20. When the income of the estate of any person under guardianship shall not be sufficient to maintain the ward and his family, or to educate the ward when a minor, his Guardian may sell his real, or personal, estate for that purpose, upon obtaining an order therefor, and proceeding therein as provided in this act.

May sell property in certain cases

Sec. 6. Section twenty-one of said act is amended so as to read as follows:

Sec. 21. When it shall appear to the satisfaction of the court, upon the petition of the Guardian, that it would be for the benefit of his ward that his real estate, or some part thereof should be sold, in order that the proceeds thereof may be put out at interest, or invested in some productive stock, or in the improvement, or security, of any other real estate of said ward, his Guardian may sell the same for such purpose upon obtaining an order therefor, and proceeding therein as provided in this act.

Sale of real estate.

Sec. 7. Section twenty-five of said act is amended so as to read as follows:

Sec. 25. If it shall appear to the court, or Judge, from such petition, that it is necessary, or would be beneficial to the ward, that such real estate, or some part of it, should be sold, or that the real and personal estate should be sold, the court, or Judge, shall thereupon make an order, directing the next of kin of the ward and all persons interested in the estate, to appear before such court, at a time and place therein specified, not less than four, nor more than eight, weeks from the time of making such order, to show cause why an order should not be granted for the sale of such estate. If it appear that it is necessary, or would be beneficial to the ward, to sell the personal estate, or some part of it, the same proceedings shall be thereupon had in reference to notice of the application, and to ordering a sale, and

Notice to next of kin.

making such sales, as are provided in relation to sales of personal estate by Executors, or Administrators.

SEC. 8. Section twenty-six of said act is amended to read as follows :

Copy of order to be served.

SEC. 26. A copy of the order shall be personally served on the next of kin of such ward, and on all persons interested in the estate, at least fourteen days before the hearing of the petition, or shall be published at least three successive weeks, in some newspaper printed in the county, to be designated by the court, or Judge; or if there be none printed in the county, then in such newspaper as may be specified by the court, or Judge, in such order.

SEC. 9. Section twenty-seven of said act is amended to read as follows :

SEC. 27. The Probate Court, at the time and place appointed in such order, or such other time as the hearing shall be adjourned to, upon proof of the due service, or publication, of the order, shall hear and examine the proofs and allegations of the petitioner, and of the next of kin, and all other persons interested in the estate who shall think proper to oppose the application.

SEC. 10. Section twenty-eight of said act is hereby amended to read as follows :

Examination of Guardians

SEC. 28. On such hearing the Guardian may be examined, on oath, and witnesses may be produced and examined by either party, and process to compel their attendance and testimony may be issued by the Probate Court, or Judge, in the same manner and with like effect as in other cases.

SEC. 11. Section thirty of said act is hereby amended so as to read as follows :

Order of sale

SEC. 30. If, after a full examination, it shall appear to the court either that it is necessary, or would be for the benefit of the ward, that his real estate, or some part of it, should be sold, such court may grant an order therefor, specifying therein for which of the causes, or reasons, mentioned in sections twenty and twenty-one of said act, said sale is necessary, or proper, and said court may, if the same has been prayed for in the petition, order such sale to be made at either public, or private, sale, upon like proceedings and in the same manner as provided by law in case of a sale of real estate by an Executor, or Administrator, and subject to the same proceedings in relation to the confirmation, or rejection, of the sale, or the resale, thereof.

SEC. 12. Section thirty-three of said act is hereby amended so as to read as follows :

Limit of order of sale.

SEC. 33. No order of sale, granted in pursuance of this act, shall be in force more than one year after granting the same.

SEC. 13. Section thirty-six of said act is amended to read as follows :

Probate Court may order investment of proceeds.

SEC. 36. The Probate Court, on the application of a Guardian, or of any person interested in the estate of any ward, after such notice to persons interested therein as the Probate Judge shall direct, may authorize and require the Guardian to invest the proceeds of sales, and, also, any other money in his hands, in real estate, or in any other manner that shall be most to the interest of all concerned therein, and the said Probate Court may make such further orders and give such directions as the case may re-



quire for managing, interesting, and disposing, of the estate and effects in the hands of the Guardian.

SEC. 14. Section forty-three of said act is amended to read as follows :

Sec. 43. When any minor, or other person, liable to be put under guardianship according to the provisions of this act, shall reside without this State, and shall have any estate therein, any friend of such person, or any one interested in his estate, in expectancy, or otherwise, may apply to the Probate Judge of any county, in which there may be any estate of such absent person, and after notice given to all interested, in such manner as the Judge shall order, by publication, or otherwise, and after a full hearing and examination, if it shall appear to him proper, he may appoint a Guardian for such absent person.

Non-resident minors, etc.

May appoint Guardians.

SEC. 15. All letters of guardianship hereafter issued, and all Guardian's bonds hereafter executed, under the provisions of this act, with the affidavits and certificates thereon, shall be forthwith recorded by the Clerk of the Probate Court having jurisdiction of the persons and estates of said wards, respectively, in a book kept by him in his office for that purpose, and said records and duly certified copies thereof shall have the same force and effect in all cases whatsoever, as the originals thereof would have.

To record letters of guardianship

SEC. 16. All matters which, under the provisions of this act, may be performed by the Probate Judge, may be performed by him at chambers, or as the act of the Probate Court, when holding such court; and any order, appointing a Guardian, shall be entered as, and become a decree of, the court. The provisions of the act in relation to the estates of deceased persons, so far as they relate to the practice in the Probate Court, or the District Court, shall also apply to proceedings under this act, where they do not conflict with any of the provisions of this act.

Requirements of act may be performed at chambers.

Act made applicable.

CHAP. DXXXII.—*An Act to provide for the Incorporation of Railroad Companies, and the management of the affairs thereof, and other matters relating thereto.*

[Approved May 20, 1861.]

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

SECTION 1. Any number of persons not less than ten, either in this State, or through any portion of the Territories of the United States, contiguous to this State, being subscribers to the stock of any contemplated railroad, may be formed into a corporation for the purpose of constructing, owning, and maintaining, such railroad, by complying with the following requirements: Whenever stock to the amount of at least one thousand dollars for each and every mile of the proposed railroad shall have been so subscribed, and ten per cent. in cash, of the amount so required to be subscribed, shall be actually and in good faith paid to a Treasurer, to be named and appointed by said subscribers

Formation of corporations

Conditions. from among their number, then the said subscribers, either in person, or by written proxy, after having received at least five days' notice from said Treasurer of a meeting of said subscribers for that purpose, may adopt articles of association, and may elect, from among the subscribers to said articles, not less than five, nor more than thirteen, Directors.

Form of articles of association.

SEC. 2. The said articles of association shall set forth the name of the incorporation, the number of years the same is to continue in existence, which shall not exceed fifty years, the amount of the capital stock of the company, which shall be divided into shares of one hundred dollars each, and which shall be the actual contemplated cost of constructing the road, together with the cost of the right of way, motive power, and every other appurtenance and thing, for the completion and running of said road, as nearly as can be estimated by competent Engineers, the names and number of the Directors to manage the affairs of the company, who shall hold their office until others are elected, as shall be provided by the by-laws of the company; the place from, and to which, the proposed road is to be constructed, and the counties into and through which it is intended to pass, and its length, as near as may be. Each subscriber to such articles of association shall personally subscribe thereto his name, place of residence, and the number of shares of stock taken by him in such company; *provided*, that in case a person desirous of becoming a subscriber, but compelled to be absent from the State at the time of subscribing to such articles of association, he having duly paid the ten per cent. required by law upon his subscription, may sign the same by written proxy, or power of attorney, to that effect; and there shall be indorsed, or attached, to the said articles so subscribed, an affidavit, made by any three of the Directors named therein, setting forth in substance that said amount of stock has been subscribed, and that ten per cent. in cash, thereon, has actually and in good faith been paid in as aforesaid, and that the subscribers to said articles are all known by one, or the other, of the said three Directors, to be subscribers thereto, and to be the persons so represented.

Proviso.

To file articles in office of Secretary of State.

SEC. 3. Articles of association formed in pursuance of the provisions of the foregoing sections, shall be filed in the office of the Secretary of State, and thereupon the persons who have, or may, subscribed the same, and all persons who may, from time to time, become stockholders in such company, shall be a body politic and corporate, by the name stated in such articles of association, and shall be capable in law to make all contracts, acquire real and personal property, purchase, hold, convey, any and all real and personal property whatever, necessary for the construction, completion, and maintenance, of such railroad, and for the erection of all necessary buildings and yards, or places and appurtenances, for the use of the same, and be capable of suing and being sued, and have a common, or corporate, seal, and make and alter the same at pleasure, and generally to possess all the powers and privileges for the purpose of carrying on the business of the corporation, that private individuals and natural persons now enjoy. A copy of any articles of association filed in pursuance of this act, and certified to be a copy by the

Powers and rights of corporations.

Secretary of State, or his Deputy, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of the facts stated therein; and such a copy, so certified, shall be kept in the office of the Secretary of the corporation, subject to examination during office hours by any person.

Certified copies to be evidence.

SEC. 4. The Directors named in the articles of association, shall meet and organize as a Board immediately after their election, or within five days after, having received notice of such election given by the Treasurer, named and designated in the first section of this act; and at the first meeting of the Board, after each annual election of Directors, they shall elect from among their number a President and a Treasurer, they shall also elect a Secretary, who, and their successors in office, shall be officers of the company, and shall hold their respective offices until their successors have been duly elected and qualified. The Secretary and the Treasurer, before they enter upon the discharge of their duties, shall each give a bond with sufficient surety for the faithful performance of their respective duties, to be approved by the Board of Directors. The temporary Treasurer, required by the first section of this act, shall pay over all moneys received by him, as such Treasurer, to the Treasurer elected by the Board of Directors, so soon as the latter has been qualified. The said Board of Directors and every succeeding Board, when deemed necessary, shall open books of subscription to the capital stock of the company, at such times, and in such places, upon such terms, and authorize such persons to receive and superintend the taking of such subscriptions, as they may direct, due notice of which shall be given; but no subscription of stock, except the original subscription, shall be binding on the company, or parties, so subscribing, until the same shall have been accepted and approved by a resolution of the Board. In case a greater amount of acceptable stock shall be subscribed than the whole capital required by such company, the Board of Directors shall distribute such capital stock so subscribed, as equally as possible among the subscribers; but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any one subscriber than by him subscribed for.

Duty of Directors.

Election of officers.

Bonds of officers.

Books of subscription.

SEC. 5. There shall be, after the first election of Directors, as prescribed by the first section of this act, annual meetings of the stockholders, held in one of the counties in which, or through which, such road is proposed to be, or may be, constructed, for the election of Directors, to serve for the ensuing year, notice of which, appointing a time and place, shall be given for the first annual election and every subsequent election thereafter, as prescribed by the by-laws of the company, or by a resolution of the Board of Directors, which notice shall be published not less than twenty days previous thereto, in a newspaper published in each county through, or into, which such road shall pass, or be intended to run, (if there be stockholders residing therein.) in which a newspaper shall be published; and if no newspaper is published therein, then by six written, or printed, notices, put up in the most public places in said county. Directors shall be elected from time to time, as a majority of the whole stock shall deter-

Meetings of stockholders.

Election of Directors.

mine, or as the by-laws shall designate, as may be determined in the formation of articles of association, in pursuance of the provisions of the first and second sections of this act, shall be chosen at such meetings of stockholders, by ballot, and by a majority of the votes of the stockholders being present in person, or by written proxy; and every such stockholder being so present, either in person, or by proxy, at any election for Directors, shall be entitled to give one vote for every share of stock which he may have owned for ten days next preceding such election; but no stockholder shall vote at any such election upon any stock, except such as he shall have owned for ten days. No person shall be a Director, unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for Directors, at the election at which he may be chosen. The Directors shall hold their office for one year, and until others are elected in their places. At least a majority of the Directors shall, at the time of their election, be residents of the State.

Qualifications of.

Term of office.

Called meetings.

SEC. 6. Meetings of stockholders may be called at any time during the interval between the annual meetings, by the Directors, or by any number of stockholders owning not less than one-third of the stock, by giving thirty days' public notice of the time and place of the meetings, in the manner provided in the next preceding section for the annual meetings; and when any such meeting is called by the stockholders, the particular object of such meeting shall be stated in such notice, and no other business shall be transacted at such meeting, when so called by the stockholders, as aforesaid, except such as shall be so stated in such notice; and if at any such meeting thus called, a majority in value of the stockholders are not represented in person, or by written proxy, such meeting shall be adjourned from day to day, not exceeding three days, without transacting any business; and if within said three days stockholders having at least a majority in interest of the stock, do not attend and participate in such meeting, then the meeting shall be dissolved. In case the capital stock shall at any time be greater than is necessary for completing, operating, and maintaining, the road, then the capital stock may be reduced, by a two-thirds' vote of the capital stock in interest, to the amount actually required.

May reduce stock.

Removal of officers.

SEC. 7. At all general meetings of the stockholders, two-thirds in value of the stockholders of the company being present in person, or by proxy, may remove any President, or any Director, of such company, and elect others in their stead; provided, notice of such intended removal shall have been given, as required in the two last preceding sections.

Delay in election of Directors.

SEC. 8. In case it shall happen at any time that an election of Directors shall not be made on the day designated by the by-laws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved, if, within ninety days thereafter they shall hold an election for Directors in such manner as shall be provided by the by-laws of the company. There shall also be a Vice-President of the company, should the Directors deem it necessary, to be chosen from the Board, and also, such subordinate officers as the company, by its by-laws, may designate, who need not necessarily be stockholders. The said officers shall be chosen at such times and for such

Vice-President.

terms, and the Directors may fix the compensation of each, and they shall give such security for the faithful performance of the duties of their respective offices as the Directors shall require, or as may be established by the by-laws of the company; and any such officers may be removed from office by the Board of Directors, and the vacancy filled by said Board for the remainder of the term of office; and the Directors of such company shall also have power to fill all vacancies in their own body, and of all officers of the company, occasioned by death, resignation, or any other cause whatever.

Compensation.

Bonds.

Vacancies.

Sec. 9. The Directors of any railroad company heretofore incorporated, or which may be incorporated hereafter, from and after its incorporation, or organization, in pursuance of the provisions of this act, or of any law now in force in this State, shall, for and on behalf of such company, manage the affairs thereof, make and execute contracts, of whatsoever nature, or kind, fully and completely to carry out the objects and purposes of such corporation, in such way and manner as they may think proper, and exercise generally the corporate powers of such company; and such Directors shall also have full power to make such by-laws as they may think proper, and alter the same from time to time, for the transfer of the stock and the management of the property and business of the company, of every description whatsoever, within the objects and purposes of such company, and for prescribing the duties of officers, artificers, and employes, of said company, and for the appointment of all officers, and all else that by them may be deemed needful and proper, within the scope and power of said company; *provided*, that such by-laws shall be approved by the stockholders, and shall not be inconsistent, or in conflict, with the laws of this State, or with the articles of association.

Powers of Directors.

Proviso.

Sec. 10. The Directors shall also cause to be kept a book, to be called "Record of Corporation Debts," in which the Secretary shall record all written contracts of the Directors, and a succinct statement of the debts of the company, the amount thereof, and with whom made, which book shall at all times be open to the inspection of any stockholder, or party in interest. When any contract, or debt, shall be paid, or discharged, the Secretary shall make a memorandum thereof, in the margin, or in some convenient place in the record, where the same is recorded. No contract shall be binding upon the company unless made in writing.

Record of corporation debts.

Duties of Secretary.

Sec. 11. The Secretary of the corporation, who may be elected by the Directors named in the articles of association, and every succeeding Secretary elected during the continuance of said corporation, shall keep, in a book provided for that purpose, a correct record of the proceedings at each meeting of the company, as well as of the Board of Directors, such record showing the name of each Director present at the opening of each meeting of the Board, and at what stage of the proceedings any Director, previously absent, may appear, and also at what stage of the proceedings any Director may obtain leave of absence. The records shall also show the name of each Director voting against any proposition whenever any Director may require the same to be placed upon the record. Prior to the adjournment of

Record of proceedings.

To read record prior to adjournment.

Further duties of Secretary.

Same.

Personal estate of stockholders

Transfer of stock.

Liabilities, debts, etc.

Proviso.

each meeting of the company, or of the Board of Directors, the record of the proceedings of such meeting shall be read and approved; and he shall also keep such other books as may be deemed necessary, or prescribed by the Directors, in which all the business transactions of the company shall be plainly and accurately kept; he shall keep a book to be labeled "Book of Stockholders," which shall contain the names of all persons, alphabetically arranged, who are, or shall have been, stockholders of said company, and showing their places of residence, if known, the number of shares of stock, held by them respectively, the time when they, respectively, became the owners of such shares, the amount of cash actually paid to the company by them, respectively, for their stock, as also the time when they may have ceased to be stockholders, which book, during the office hours of said Secretary, shall be open for the inspection of stockholders and creditors of the company, and their personal representatives at the office of said Secretary. There shall also be kept by the Secretary, a transfer book, in which all transfers of stock shall be duly entered, and no transfer of stock of such company shall be valid, for any purpose whatever, except as between the parties thereto, until it shall have been entered therein by an entry showing to, and by whom, transferred, the numbers and designation of the shares, and the date of transfer, and duly attested by said Secretary; and said book shall be presumptive evidence of the facts therein stated.

SEC. 12. The stock of such company shall be deemed personal estate, and shall be transferable in the manner provided by the preceding section, and upon the books of the company, upon proper assignment and delivery to the assignee of the receipts for the installments paid on such stock, or the certificates of stock, when fully paid; but no shares shall be transferable until all previous calls, or installments, thereon, shall have been fully paid in; nor shall any transfer of the stock of such company be valid, except as between the parties by whom, and to whom, the same is transferred, unless at least twenty per cent. has been paid thereon, and certificates issued therefor, until the same is approved by the Board of Directors. Any stockholder transferring his shares of stock in manner aforesaid, and in compliance with the by-laws of the company, and the same being approved by the Board of Directors as aforesaid, shall, from and after the date of such approval, cease to be a stockholder in such company, and shall not be liable to any future calls from the Directors, nor for any debts that may be contracted by said company thereafter. But this shall not release him from his proportion of debts and liabilities contracted by the company prior to his ceasing to be a stockholder; but each stockholder of such company shall be individually liable to the creditors of such company for his proportion, that is to say, in proportion to the amount of stock by him held, for all the debts and liabilities of such company, except as above provided; *provided*, that in no case shall judgment be rendered against an individual stockholder, or his private property be levied upon for the payment of corporate debts, while corporate property can be found with which to satisfy the same, and in no case only to the amount of such stockholder's proportion of liability, as before provided;

but it will be sufficient proof that no corporate property can be found if an execution has issued on a judgment against the corporation, and a demand made thereon, of some one of the last acting officers of the corporation, for property on which to levy, and he neglects, or refuses, to point out any such property, and the stockholders likewise so neglect, or refuse, and the said execution is returned by the officer who holds the same for service, to the court from whom it was issued, indorsed, in substance, "that no property belonging to said corporation can be found to levy upon sufficient to satisfy said execution, or any part thereof;" but if any stockholder of such corporation, in any stage of the cause, shall satisfy the court by affidavit, or otherwise, of such property subject to levy, all proceedings against any individual stockholder shall be stayed until the property of the corporation can be levied upon and sold; the court may subsequently render judgment, and order execution against any, or all, of the individual stockholders, for their proportion; that is to say, in proportion to the amount of stock held by each for any balance of the debts and liabilities of such corporation which may be found due after exhausting the corporate property of such corporation as before provided. When the private property of a stockholder is taken for a corporate debt, or he may otherwise pay, or discharge, the same, without levy and sale of his property, he may maintain an action against the corporation for indemnity, and against any of the stockholders for contribution.

Sec. 13. It shall be lawful for the Directors of such company to call in and demand from the stockholders the sums by them subscribed, in equal installments of not more than ten per cent. per month, unless otherwise stipulated in the articles of subscription, at such times as they may deem proper. Notice of each assessment shall be given to the stockholders personally, or shall be published once a week, for at least four weeks, in a newspaper published at the place designated as the principal place of business of the corporation, or if none is published there, in some newspaper nearest to such place, which notice shall be substantially in the following form:

"NOTICE

Is hereby given that an assessment of — dollars per share on the stock of — Company is due and payable at the office of the company in —, [and at such other places as the Directors may designate, naming them,] within thirty days from date. All shareholders are requested to make payment on, or before, that time, or such assessments will be promptly collected in the manner prescribed by law.

Secretary."

If, after such notice has been given, any stockholder shall make default in the payment of the assessment upon the shares held by him, so many of such shares may be sold as will be necessary for the payment of the assessment on all the shares held by him. The sale of said shares shall be made as prescribed in the by-laws of the company; *provided*, that no sale shall be made

Same. except at public auction to the highest bidder, and at such sale, the person who will agree to pay the assessment so due, together with the expense of advertisement and the other expenses of sale for the smallest number of whole shares, shall be deemed to be the highest bidder; *provided*, further, that the assessments for the first twenty per cent. payable on any shares of stock, may, at the option of the Directors, be collected by suit, to be brought before any court having jurisdiction, for the recovery of the amount due from any stockholder, from time to time. All stockholders shall be liable to such sale, and to recovery by suit at law, as aforesaid, for installments due, or required to be paid by such Directors, as prescribed by this act.

Certificates of stock. SEC. 14. Certificates of stock shall be issued, signed by the President and Secretary, in such manner as may be prescribed by the by-laws of the company, for all stock fully paid up, from time to time, in compliance with the requirements of such Directors, or that may be fully paid in advance of such requirements by the voluntary act of any stockholder of such company.

May borrow money. SEC. 15. Such companies, after at least ten per cent. on all their capital stock has been paid, in cash, into the treasury of the corporation, shall have power to borrow, from time to time, on the credit of the corporation, and under such restrictions as two-thirds in interest of the stockholders may impose, such sum, or sums, of money, not exceeding in all the amount of its capital, as may be necessary for the construction and equipment of their road, at a rate of interest not exceeding ten per cent. per annum, and to execute bonds, or promissory notes, therefor, in sums of not less than one thousand dollars in any one note, or bond, and to receive said notes, or bonds, may mortgage their corporate property and franchise, and pledge the income of the company; and the Directors of such company shall also provide in such manner as to them may seem best, a Sinking Fund, to be specially applied to the redemption of such bonds, on, or before, their maturity, and may also confer on any holder of any bond so issued for money borrowed, or in payment of any debt, or contract, for the construction and equipment of such road as aforesaid, the right to convert the principal due, or owing thereon, into stock of such company, at any time within eight years from the date of such bond, under such regulations as the company may adopt.

Sinking Fund. SEC. 16. The President and Secretary and a majority of the Directors, within thirty days after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of capital so fixed and paid in, which certificate shall be signed by the President and Secretary, and a majority of the Directors, and sworn to by such President and Secretary, and they shall, within the said thirty days, file the same in the office of the Secretary of State.

Capital paid in, certificate of. SEC. 17. Every railroad corporation shall have power—  
Powers and rights of company. *First*—To cause such examination 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 purposes, by their officers, agents, and employes, to enter upon the lands, or waters, of any person, but subject to responsibility for all damages which they shall do thereto.



*Second*—To receive, hold, take, and convey, by deed, or otherwise, the same as a natural person might, or could, do, such voluntary grants and donations of real estate, and other property of every description, as shall be made to it, to aid and encourage the construction, maintenance, and accommodation, of such railroad. Same.

*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, all such lands, and real estate, and other property, as the Directors may deem necessary and proper for the construction and maintenance of such railroad, and for the stations, depots, and other accommodations and purposes, deemed necessary to accomplish the objects for which the corporation is created. Same.

*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 making embankments, excavations, ditches, drains, culverts, or otherwise, and procuring timber, stone, and gravel, or other materials, may take as much more land whenever they may think proper, as may be necessary for the purposes aforesaid, in the manner hereinafter provided, for the proper construction and security of the road. Same.

*Fifth*—To construct their road across, along, or upon, any stream of water, water-course, roadstead, bay, navigable stream, street, avenue, or highway, or across any railway, canal, ditch, or flume, which the route of its road shall intersect, cross, or run along, in such manner as to afford security for life and property; but the corporation shall restore the stream, or water-course, road, street, avenue, highway, railroad, canal, ditch, or flume, thus intersected, to its former state, as near as may be, or in a sufficient manner, not to have unnecessarily impaired its usefulness, or injured its franchises. Same.

*Sixth*—To cross, intersect, join, and unite, its railroad with any other railroad, either before, or after, constructed, at any point upon its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings, and switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is, or shall be hereafter, intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connection, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points, or the manner, of such crossings, intersections, and connections, the same shall be ascertained and determined by Commissioners, to be appointed as is provided hereinafter in respect to the taking of lands, but this section is not to affect the rights and franchises heretofore granted. Same.

*Seventh*—To purchase lands, timber, stone, gravel, or other materials, to be used in the construction and maintenance of its road, or take them in the manner provided by this act; may change the line of its road, in whole, or in part, whenever a majority of the Directors shall so determine, as is provided herein. Same.

after; but no such change shall vary the general route of such road, as contemplated in the articles of association of such company.

*Eighth*—To receive, by purchase, donation, or otherwise, any lands, or other property, of any description, and to hold and convey the same in any manner the Directors may think proper, the same as natural persons might, or could, do, that may be necessary for the construction and maintenance of its road, or for the erection of depots, turnouts, workshops, warehouses, or for any other purposes necessary for the conveniences of such companies, in order to transact the business usual for such railroad companies.

*Ninth*—To take, transport, carry, and convey, persons and property, on their railroad, by the force and power of steam, of animals, or any mechanical power, or by any combination of them, and receive tolls, or compensation, therefor.

*Tenth*—To erect and maintain all necessary and convenient buildings, stations, depots, and fixtures, and machinery, for the accommodation and use of their passengers, freight, and business, and obtain and hold the lands and other property necessary therefor.

*Eleventh*—To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor, within the limits prescribed by law.

*Twelfth*—To regulate the force and speed of their locomotives, cars, trains, or other machinery, used and employed on their road, and to establish, execute, and enforce, all needful and proper rules and regulations, fully and completely, for the management of its business transactions, usual and proper for railroad companies.

*Thirteenth*—To possess and be subject to all of the provisions of chapter one, of an act entitled An Act concerning Corporations, passed April twenty-second, A. D. eighteen hundred and fifty, so far as such provisions are not in conflict, or inconsistent, with the provisions of this act.

**May change line of road.** *Sec. 18.* If at any time after the location of the line of such railroad, in whole, or in part, and the filing of the map thereof, as provided by this act, it shall appear to the Directors of such company that the same may be improved, such Directors may, from time to time, alter, or change, the line, in any manner they may think proper, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of the land embraced in such new location, that may be required for the construction and maintenance of such road on such new line, either by agreement with the owner, or owners, of such lands, or by such proceedings as are authorized under the provisions of this act, and use and enjoy the same in place of the line for which the new is substituted; but nothing in this act shall be so construed as to confer any powers on such companies to so change their road as to avoid any point named in their articles of association, except as provided in section seventeen, subdivision seven, of this act.

*Sec. 19.* Whenever the track of such railroad shall cross a railroad, or highway, such railroad, or highway, may be carried

under, over, or on a level with, the track, as may be most expedient; and in cases where an embankment, or cutting, shall make a change in the line of such railroad, or highway, desirable, with a view to a more easy ascent, or descent, the said company may take such additional lands and materials, if needed, for the construction of such road, or highway, on such new line, as may be deemed requisite by said Directors. Unless the lands and materials so taken shall be purchased, or voluntarily given, for the purposes aforesaid, compensation therefor shall be ascertained, in the manner in this act provided, as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made, to become part of such intersecting road, or highway, in such manner and by such terms, as the adjacent parts of such highway may be held for highway purposes.

Crossing  
railroads, or  
highways.

May take  
and use  
lands, etc.

Compensation.

SEC. 20. The right of way is hereby given and granted to all railroad companies that are now organized, or may be organized, under the provisions of this act, to locate, construct, and maintain, their roads, or any part, or parcel, thereof, over and through any of the swamp, or overflowed, lands belonging to this State, or any other public lands which are now, or may be, the property of this State, at the time of constructing said railroad; and the said railroad companies are hereby authorized to survey and mark through the said lands of the State, to be held by them for the track of their respective railroads, one hundred feet in width for the whole length the said roads may be located over the lands of the State; and in cases where deep excavations, or heavy embankments, or other cuttings, or structures, whatever, or ditches, drains, canals, culverts, or other structure, to protect the road-bed, and to facilitate the use and enjoyment of the same, is, or may be, required for the grade, or other uses, of said roads, then at such places a greater width may be taken by such company, and which is hereby given, not exceeding two hundred feet wide. And the right is hereby further given and granted to said companies to locate, occupy, and hold, all necessary sites and grounds for watering places, depots, or other buildings, for the convenient use of the same, along the line of said road, or roads, so far as the places convenient for the same may fall upon the lands be longing to the State, except within the limits of any incorporated city, or town, or within three miles thereof, where the same shall be taken, on paying to the State the value of the same; and, *provided*, that no one depot, watering place, machine, or work, shop, or other buildings, for the convenient use of such roads, shall cover over two square acres each, and that said sites, or places, on the lands of this State, shall not be nearer to each other than five miles, along the lines of said roads; the right is hereby further given and granted to said companies to take from any of the lands belonging to this State all such materials of earth, wood, stone, or other materials whatever, as may be necessary, or convenient, from time to time, for the first construction, or equipment, of said road, or roads, or any part thereof; *provided*, that the grants herein made, as well of the use of the land of this State as for the materials for the construction and equipment of said road, or roads, shall cease and determine as respects each particular road which shall not have been begun

Right of way  
granted.

Width of  
right of way.

Depots, etc.

Proviso.

Proviso.

and completed within the times limited in section thirty-nine of this act; and, *provided*, further, that if any road, at any time after its location, shall be discontinued, or abandoned, by said company, or companies, or the location of any part thereof be so changed as not to cover the lands of the State thus previously occupied, then the lands so abandoned, or let, shall revert to this State; and, *provided*, further, that when the location of the route of either of said railroads, or sites, or places, for depots, watering places, machine, or work, shops, or other buildings, for the convenient use of the same, shall be selected, the Secretary of the said company shall transmit to the Surveyor General, and to the Controller of this State, and to the Recorder of the county in which the lands so selected are situated, to each of said officers a correct plat of the location of said railroad, or sites, or places, before such selection shall become operative. And when any such company shall, for its purposes aforesaid, require any of the land belonging to any of the counties, cities, or towns, in this State, the county, city, and town, officers, respectively, having charge of such lands, may grant and convey such land to such company, for a compensation which shall be agreed upon between them, or may donate and convey the same without any compensation; and if they shall not agree upon the sale and price, the same may be taken by the company, as is provided in other cases of taking lands by the provisions of this act.

Proviso.

Conveyance  
of land, etc.  
by cities.

Cities may  
make grants

Proviso.

SEC. 21. Any county, city, or town, in this State, shall have, and are hereby fully empowered, by and through a two-thirds' vote of the Board of Supervisors, the Common Council, or any other officers having a supervisory, or other, control of such county, city, or towns, respectively, to give, grant, or donate, to any railroad company now organized, or that may be hereafter organized, under the laws of this State, the use of any of the streets, or highways, which may be absolutely necessary in order to enable any such company to reach an accessible point for a depot in any such county, city and county, city, or town, or to pass through the same on as direct a route as possible and accommodate the traveling and commercial interests thereof; *provided*, however, the provisions of this section shall not apply to any street railroad now constructed, or hereafter to be constructed, in any of the incorporated cities of this State; nor shall any railroad company, who may avail themselves of the provisions of this section, ever use their road for street railroad purposes, or for the purpose of carrying passengers for a consideration, from one point to another, in the same city; nor shall any city, or town, donate any public square, or any land set apart, or public square, to the use of any one company; and, *provided*, further, that nothing in this section contained, shall be deemed to apply to the city of Sacramento within the corporate limits thereof.

Surveys.

SEC. 22. Any railroad company, organized under the provisions of this act, or any railroad company now organized under any law of this State, which shall accept the provisions of this act, as herein provided, is hereby authorized to enter upon any land for the purpose of surveying the line of its proposed railroad, the company being responsible for any damage occasioned by such entry; and such company is also authorized to acquire,

purchase, and hold, any real estate, or any right, title, or interest, therein, which may be necessary, or proper, for the purpose of the construction, or maintenance, of the track, or tracks, water-stations, depots, machine, or work, shops, turn-tables, or any other building, or structure, necessary for such railroad; but such company shall not hold such real estate, or any right, title, or interest, therein, acquired, or used solely, or mainly, for the construction, or maintenance, of the track, or tracks, of said railroad, beyond the time of the legal existence of said company, nor after the location of said track, or tracks, has been changed therefrom, nor after the said company shall have failed, or ceased, to use the same, for the maintenance of such track, for the space of five years continuously; but in each of such cases, the said real estate, and all the right, title, and interest, therein, shall revert to the person, or persons, and his, or their, assigns, from whom the same was acquired by said company.

General rights and powers.

SEC. 23. If it shall become necessary for any of the purposes aforesaid, for such company to acquire any real estate, or any right, title, or interest, therein, which is the property of an infant, idiot, or insane person, the Guardian, Executor, or Administrator, as the case may be, may sell and convey the same to said company, but neither such sale, nor conveyance, shall be valid, for any purpose, until the same shall have been approved by the Judge of the proper Probate Court; and said Judge is hereby authorized to examine such deeds and conveyances, and if he shall deem the same just and proper, he shall approve the same, and, thereupon, such conveyances shall have the same force and effect, for the purposes in this section mentioned, as if the same had been executed by persons competent to convey lands, in their own names. If such company cannot contract for the purchase of any real estate, or any right, title, or interest, therein, necessary for any of the purposes aforesaid, from the person, or persons, owning the same, then such company may acquire the same, for the purposes in this section expressed, by means of the special proceedings prescribed in this act.

Guardians may convey real estate to company.

SEC. 24. Said special proceedings shall be conducted substantially as follows: The said company shall file in the Clerk's office of the County Court, or the District Court, in the county in which said real estate is situated, a petition, verified according to law, stating therein the name of the company, the time when it was incorporated, that it still continues in legal existence, the principal termini of the proposed railroad, the descriptions, by metes and bounds, or by some accurate designation of the tract, or tracts, of land, which said company desire to appropriate for the purposes in the foregoing section mentioned, that said tract, or tracts, of land, are necessary for said purposes, that the line of said railroad has been surveyed, and a map thereof made (a copy of which shall be filed with said petition), that said line has been adopted as the route of said railroad, and the names of the persons in possession of said tract, or tracts, of land, and of those claiming any right, title, or interest, therein, as far as the same can be ascertained by reasonable diligence.

Special proceedings to acquire real estate.

Petition.

SEC. 25. The persons in occupation of said tract, or tracts, of land, and those having any right, title, or interest, therein, whether named in the petition, or not, shall be defendants there-

Rights of defendants.

to, and may appear and show cause against the same, and may appear and be heard before the Commissioners herein provided for, and in proceedings subsequent thereto, in the same manner as if they had appeared and answered said petition.

Hearing of petition.

SEC. 26. The said court, or the Judge thereof, either in term time, or vacation, shall, by order, appoint the time for the hearing of said petition, and such hearing may be had, and all orders in said proceedings may be made, by the said court, or the Judge thereof, either in term time, or vacation.

To notify owners.

SEC. 27. The said company shall cause all the occupants and owners of said tract, or tracts, of land, so far as the same can be ascertained by reasonable diligence, who reside in said county, to be personally notified of the pendency of the said petition, at least ten days before the hearing thereof, and if any of said occupants, or owners, are unknown, or do not reside in said county and have not been personally notified of the pendency of said petition, said company shall cause a notice, stating the filing of said petition, the object thereof, the tracts of land sought to be appropriated, and the time and the place of the hearing of said petition, to be published for four successive weeks previous to the time of hearing of said petition, in a newspaper published in said county, or if none is published in said county, then in a newspaper published nearest to said county.

Publication of notice.

Defendants may appear.

SEC. 28. The defendants to said petition may appear and show cause against said petition, on, or before, the time for the hearing thereof, or such other time as the hearing may be continued to, and upon satisfactory proof being made that the defendants have been duly notified of the pendency of said petition, as herein prescribed, and upon the hearing of the allegations and proofs of the said parties, if the said court, or Judge, shall be satisfied that the said lands, or any part thereof, are necessary, or proper, for any of the purposes mentioned in said petition, then such court, or Judge, shall appoint three competent and disinterested persons as Commissioners, one of whom shall be selected from among the persons, if any, named for that purpose, by said company, and one shall be selected from among the persons, if any, named on the part of any of the defendants, to ascertain and assess the compensation to be paid to the person, or persons, having, or holding, any right, title, or interest, in, or to, each of said tracts of land, for and in consideration of the appropriation of such land to the use of said company. If any vacancy occur among said Commissioners, by reason of any one, or more, of them refusing, or neglecting, to act, or by any other means, one, or more, Commissioners may be appointed by said court, or Judge, to fill such vacancy, upon notice being given of such vacancy, as the said court, or Judge, may direct.

To appoint Commissioners.

Vacancy.

Meeting of Commissioners.

SEC. 29. The said court, or Judge, shall appoint the time and place for the first meeting of said Commissioners, and the time for the filing of their report, and may give such further time as may be necessary for that purpose, if they shall not have then completed their duties. The said Commissioners, or a majority of them, shall meet at the time and place as ordered, and before entering on their duties shall be duly sworn to honestly, faithfully, and impartially, perform the duties imposed upon them; and any one of them may issue subpoenas for witnesses for either

of said parties, and may administer oaths; and said Commissioners may adjourn from place to place, and from time to time, as may be necessary for the proper discharge of their duties. Powers and duties of.

SEC. 30. The said Commissioners shall proceed to view the several tracts of land, as ordered by said court, or Judge, and shall hear the allegations and proofs of said parties, and shall ascertain and assess the compensation for the land sought to be appropriated, to be paid by said company to the person, or persons, having, or holding, any right, title, or interest, in, or to, each of the several tracts of land; and in ascertaining and assessing such compensation, they shall take into consideration and make allowance for any benefit, or advantage, that in their opinion will accrue to such person, or persons, by reason of the construction of the railroad as proposed by said company; and they shall on, or before, the time, or times, as ordered by said court, or Judge, file in the said Clerk's office their report signed by them, setting forth their proceedings in the premises; and they may include all of said tracts in one report, or they may make several reports, including one, or more, of said tracts of land, if the court, or Judge, shall so order, or if they shall deem it proper. Compensation. To file report.

SEC. 31. The said company, or any of said defendants, if dissatisfied with the report, may, within twenty days after the time for the filing of said report, and after ten days' notice to the parties interested, move to set aside the report and to have a new trial as to any tract of land; and upon good cause shown therefor, the said court, or Judge, shall set aside the report as to such tract of land, and may recommit the matter to the same, or to other, Commissioners, who shall be ordered to proceed in like manner as those first appointed; but such matter shall not be more than twice recommitted to Commissioners. New trial.

SEC. 32. Upon the expiration of twenty days after the filing of said report, or reports, or at such further time as may be appointed therefor, if the motion and notice shall not have been made and given, as aforesaid, and if the proceedings of said Commissioners appear to have been correctly and properly done, the said court, or Judge, shall confirm each of said reports, and certify the same thereon. Confirmat'n of reports.

SEC. 33. Each of said reports and the certificates thereon, upon the compensation therein named being paid, shall be recorded in the Recorder's office of said county, by said company. The said court, or Judge, may make all such orders as may be necessary, or proper, in the special proceedings provided for in this act, and shall cause the pleadings and proceedings to be amended whenever justice shall require it to be done, and shall direct the manner of the service of all orders and notices not herein specially provided for. Costs in such special proceedings shall be taxed by the Clerk, at the rates prescribed in the fee bill for said county, in civil actions, and shall be paid by said company, except in case where a defendant shall move for a new trial, and the compensation assessed by the Commissioners shall not be increased more than ten per cent. upon the previous assessment, in which case such defendant shall pay the cost. Record of reports. Costs.

SEC. 34. If the title attempted to be acquired by virtue of the provisions of this act shall be found to be defective from any Defective title.

cause, such company may again institute proceedings to acquire the same, as in this act prescribed.

Passage  
of title to  
company.

SEC. 35. Upon the report of the Commissioners being filed for record, as above provided for, and upon the payment, or tender, of the compensation and costs, as prescribed in this act, the real estate, or the right, title, or interest, therein described in such report, shall be, and become, the property of said company, for the purposes of its incorporation, and shall be deemed to be acquired for, and appropriated to, public use.

Payment  
or tender

SEC. 36. Such company shall, within thirty days after the final confirmation of the report as aforesaid, pay, or tender, the sum of money ascertained and assessed by said Commissioners as, and for, the compensation of each tract of land described in said report, of which the compensation was ordered, by said court, or Judge, to be ascertained and assessed as aforesaid; and said payment, or tender, may be made to the person, or persons, owning said tract of land, or having, or holding, any right, title, or interest, therein, according to the amount, or extent, of the right, title, or interest, owned, or held, therein, by such person, or persons, or said payment may be made to the said Clerk for said persons, and the same shall be deemed and taken as a payment to such person, or persons, and shall be as effectual for all purposes whatsoever as if the said sum of money had been personally paid to each and all of the persons entitled thereto.

Court to  
order pay-  
ment.

SEC. 37. The said court, or Judge, shall at the time of the payment of the said sum of money to the said Clerk, or at such other time, or times, as may be ordered, direct and order the same to be paid over to the person, or persons, who shall upon satisfactory proof, appear to be entitled thereto.

Definition  
of "person."

SEC. 38. In all the proceedings in relation to the sale, or appropriation, of real estate, and ascertaining and receiving the compensation therefor, for railroad purposes, as prescribed in this act, the term "person" shall be deemed to include municipal, or other corporations.

Duties of  
Clerk.

SEC. 39. The minutes of the proceedings, had before such Judge, shall be entered by said Clerk, in the same manner, and with the same force and effect, as if the proceedings were had before said court in term time.

Companies  
may con-  
solidate.

SEC. 40. It shall be lawful for two, or more, railroad companies to amalgamate and consolidate their capital stock, debts, property, assets, and franchises, in such manner as may be agreed upon by the Board of Directors of such companies so desiring to amalgamate and consolidate their interests; but no such amalgamation, or consolidation, shall take place, without the written consent of three fourths of the value of all stockholders in interest of each company, and no such amalgamation, or consolidation, shall, in any way, relieve such companies, or the stockholders, thereof, from any and all just liabilities; and in case of such amalgamation, or consolidation, due notice of the same shall be given, by advertising, for one month, in at least one newspaper in each county, if there shall be one published therein, into, or through, which such roads shall run, and also for the same length of time, in one paper published in Sacramento, and in two papers published in San Francisco, and when the consolidation and amalgamation is completed, a copy of the new arti-

Publication  
of notice.



cles of association shall be filed in the office of the Secretary of State. It shall be the duty of the railroad company to make and maintain a good and sufficient fence on either, or both, sides of their property; and in case any company do not make, and maintain such fence, if their engine, or cars, shall kill, maim, or destroy, any cattle, or other domestic animals, when they stray upon their line of road, where it passes through, or along side of, the property of the owners thereof, they shall pay to the owner, or owners, of such cattle, or other domestic animals, a fair market price for the same, unless the owner, or owners, of the animal, or animals, so killed, maimed, or destroyed, shall be negligent, or at fault. In any case where the railroad company have heretofore, or may hereafter, pay to the owner, or owners, of the land through which, or along side of which, their road is, or may be, located, an agreed price for making and maintaining such fence, or whenever the cost of such fence has been, or may be, included in the award of damages allowed and paid for the right of way for such railroad, such company shall be entirely relieved and exonerated from all claims, or awards, of damages arising out of the killing, or maiming, any animals as aforesaid, in favor of all persons, or their successors, or assigns, who shall thus fail to construct and maintain such fence. And the owner, or owners, of such animals, shall become responsible to the railroad company for any damage, or loss, which may accrue to such company, from such animals being upon their railroad track, by reason of the non-construction of such fence by said owner, unless it can be proven that such loss, or damage, accrued by reason of the negligence of such company, its officers, agents, or employes.

Copy to be filed.

To pay damages.

Not liable in certain cases.

Company may recover damages.

SEC. 41. A bell, of at least twenty pounds' weight, shall be placed on each locomotive engine, and be rung at a distance of at least eighty rods from the place where the railroad shall cross any street, road, or highway, and be kept ringing until it shall have crossed such street, road, or highway, under a penalty of one hundred dollars for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer, and the other half to the State; and said corporation shall also be liable for all damage which shall be sustained by any person, by reason of such neglect.

Regulations of trains.

Penalty.

SEC. 42. A check shall be affixed to every package, or parcel, of baggage, when taken for transportation by the Agent, or employe, of such railroad company, and a duplicate thereof given to the passenger or person delivering the same in his behalf; and if such check be refused on demand, the railroad company shall pay to such passenger the sum of twenty dollars, to be recovered in an action for debt; and, further, no fare or toll shall be collected, or received, from such passenger, and if such passenger shall have paid his, or her, said fare, the same shall be returned by the Conductor in charge of the train, and on producing said check, if his, or her, baggage shall not be delivered to him, or to her, by the Agent, or employe, of said railroad company, he, or she, may, himself, or herself, be a witness in any suit brought by him, or her, to recover the value thereof, to prove the contents and value of said baggage.

Checks.

Damages.

SEC. 43. Every railroad company in this State shall, within a reasonable time after their road shall be finally located, cause to

Map and profile to be filed.

be made a map and profile thereof, and of the land taken and obtained for the use thereof, and the boundaries of the several counties through which said road may run, and file the same in the office of the Secretary of State; and also, like maps of the parts thereof located in different counties, and file the same in the office of the Clerk of the county in which said parts of said road shall be, there to remain as of record forever. The said maps and profiles shall be certified by the Chief Engineer, the acting President, and Secretary, of such company, and copies of the same so certified and filed as aforesaid, shall be kept in the office of the Secretary of the company, subject to examination by all parties interested.

Annual report to be verified.

SEC. 44. Every such railroad corporation shall make an annual report to the Secretary of State of the operations of the year ending on the thirty-first day of December, which report shall be verified by the oaths of the President, or acting Superintendent of operations, the Secretary, and Treasurer, of such corporation, and filed in the office of the Secretary of State by the twentieth day of February, in each year, and shall state—

Form of report.

*First*—The capital stock and the amount actually paid in.

*Second*—The amount expended for the purchase of lands for the construction of the road, for buildings, and for engines, and cars, respectively.

*Third*—The amount and nature of its indebtedness, and the amount due the corporation.

*Fourth*—The amount received from the transportation of passengers, of property, of mails, express matter, and from other sources.

*Fifth*—The amount of freight, specifying the quantity in tons.

*Sixth*—The amount paid for repairs of engines, cars, buildings, and other expenses, in gross, showing the current expenses of running such road.

*Seventh*—The number and amount of dividends, and when paid.

*Eighth*—The number of engine-houses and shops, of engines and cars, and their character.

Duties of company.

SEC. 45. Every such company shall start and run their cars for the transportation of persons and property, at such regular times as they shall fix by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, offer, or to be offered, for transportation, at the place of starting, and the junction of other railroads, and at siding and stopping places, established for receiving and discharging way-passengers and freight, and shall take, transport, and discharge, such passengers and property at, from, and to, such places, on the due payment of tolls, freight, or fare, therefor.

Company to pay damages

SEC. 46. In case of refusal by such company, or their Agents, so to take and transport any passengers, or property, or to deliver the same at the regular appointed place, such company shall pay to the party aggrieved all damages which shall be sustained thereby, with costs of suit.

Arrangem't of trains.

SEC. 47. It shall be unlawful to place baggage, freight, merchandise, or lumber, cars, in the rear of passenger cars, and for any violation of the provisions of this section the company shall

be liable, upon complaint, to the party complaining, in the sum of five hundred dollars, and the person, Agent, Director, or officer, so causing the cars to be placed, shall be guilty of a misdemeanor, and upon conviction of such offense shall be fined in any sum not exceeding five hundred dollars, or imprisonment in the county jail for three months, or both such fine and imprisonment; and should any accident happen to life, or limb, by such unlawful arrangement of cars, the person, Agent, Director, or officer, who so directed, or suffered, such arrangement, shall be guilty of felony, and upon conviction thereof shall be imprisoned in the penitentiary for any term not less than three, and not more than ten, years.

Misdemeanor.

Penalty.

SEC. 48. In case any passenger on any railroad shall be injured on the platform of a car, or on any baggage, wood, gravel, or freight, cars, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, or in violation of verbal instructions given by any officer of the train, such company shall not be liable for the injury; *provided*, said company at the time furnished room inside its passengers cars, sufficient for the accommodation of its passengers.

When liable

SEC. 49. If any passenger shall refuse to prepay his fare, or toll, upon demand, it shall be lawful for the Conductor of the train and the employes of the company, to put him out of the cars at any stopping place the Conductor shall elect.

Conductor may eject passengers.

SEC. 50. Every Conductor, Baggage-Master, Engineer, Brake-man, or other employe of any such railroad company, employed in a passenger train, or at stations for passengers, shall wear upon his hat, or cap, or in some conspicuous place on the breast of his coat, a badge, which shall indicate his office, or station, and the initial letters of the name of the company by which he is employed. No Collector, or Conductor, without such badge, shall demand, or be entitled to receive, from any passenger, any fare, toll, or ticket, or exercise any of the powers of his office, or station; and no other of said officers, or employes, without such badge, shall have any authority to meddle, or interfere, with any passenger, or property.

Officers to wear badge.

SEC. 51. It shall be unlawful for any such railroad company to charge more than ten cents per mile for each passenger, and fifteen cents per mile for each tun of freight transported on its road; and for every transgression of such limitation, the company shall be liable to the party suffering thereby treble the entire amount of fare, or freight, so charged to such party; *provided*, that in no case shall the company be required to receive less than twenty-five cents for any one lot of freight for any distance.

Rate of charges.

Proviso.

SEC. 52. If any person shall, while in charge of a locomotive engine, running upon any railroad for such company, or while acting as a Conductor of a car, or train of cars, on any such railroad, be intoxicated, he shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail not exceeding six months.

Penalty for intoxication.

SEC. 53. If any person, or persons, shall willfully do, or cause

Injuries to works of company.

Penalty.

to be done, any act, or acts, whatever, whereby any building, construction, or work, of any kind, of any such company, or any engine, machine, or structure, or any matter, or thing, appertaining to the same, or to the track of said road, or any property, or thing, belonging to, or appertaining to, such railroad, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, such person, or persons, so offending, shall be guilty of a misdemeanor, and shall forfeit and pay to said company treble the amount of damages sustained by means of such offense, besides a fine not exceeding 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; and if, by reason of any unlawful acts, any accident should happen to life, or limb, of any person riding, or being, in the cars of such railroad, then such person, or persons, shall be 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. It shall be unlawful for any person, or persons, engaged in mining, or other pursuits, to tunnel, drift, or in any manner excavate, under, or upon, any land belonging to any railroad company, without the consent of such company; and any person so offending shall be liable to the fine and punishment hereinbefore mentioned, whether injury results to any person by reason thereof, or not.

Per centage to be expended.

Sec. 54. If such railroad company shall not, within two years after the filing of its original articles of association, begin the construction of its road, and expend thereon at least five per cent. on the amount of its capital stock, and finish the road and put it in full operation within six years, its act of incorporation shall be void.

False notice or report.

Penalty.

Sec. 55. If any certificate, or report, made, or public notice given, by the officers of such company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they are stockholders, or officers, thereof, and shall likewise be guilty of a misdemeanor, and shall be fined in any sum not exceeding one thousand dollars, in any court having jurisdiction, and disqualified from holding any office of trust, or profit, in such company.

Payment of dividends when insolvent.

Liability of Directors.

Sec. 56. If the Directors of such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall thereafter be contracted, so long as they shall respectively remain in office; *provided*, that if any of the Directors shall be absent at the time of making the dividend, or shall object thereto, and shall, within thirty days thereafter, or after their return, if absent, file a certificate of their absence, or objection, with the Secretary of the company and with the Clerk of the county, or District Court of the county, in which the principal office of said company is located, they shall be exempt from said liability. All the existing railroad companies in this State may acquire, and may be possessed, of all the powers, rights, and benefits, conferred by this

act, fully and completely, by filing a written acceptance thereof in the office of the Secretary of State, signed by all the Directors of such company, and attested by the President and Secretary thereof, with the seal of such company affixed thereto; and the acceptance of any part of this act shall be deemed and taken to be an acceptance of the whole act, and a surrender of the act, or acts, under which such company may be organized; thereupon, such company shall possess all of such powers, rights, and benefits, so accepted, and be subject to all of the obligations and restrictions herein specified, as fully and completely as they would have had and been if organized under this act

Acceptance to be filed in office of Secretary of State.

SEC 57 All railroads built by companies incorporated under the provisions of this act, shall be constructed with the best quality of iron rail, known as T rail, or H rail, or other patterns of equal utility, until otherwise provided by law; *provided*, the provisions of this section shall not apply to tracks laid down in the streets of incorporated cities, or towns.

Kind of rails to be used.

SEC 58 Corporations may be formed under this act for the purpose of constructing, running, operating, and maintaining, a street railroad, or railroads, being wholly within the limits of a city and county, city, or town, under a franchise, or franchises, granted to such corporation, or to their assignors, by an act, or acts, of the Legislature of California. Such corporations shall be subject only to the provisions of sections one to sixteen of this act, both inclusive; of subdivisions two, three, four, five, ten, and thirteen, of section seventeen, and to the provisions of sections fifty-five, fifty-nine, and sixty, and shall have all the rights and powers in such sections and subdivisions granted, and no others of those in this act conferred; but, notwithstanding anything in this act to the contrary provided, such corporations shall also have all the rights, powers, and privileges, conferred by the act, or acts, granting the franchise, or franchises, in this section before mentioned.

Street railroads.

SEC 59 An act entitled An Act to provide for the incorporation of Railroad Companies, approved April twenty-second, eighteen hundred and fifty-three, and all acts supplementary to, or amendatory thereof, are hereby repealed; *provided*, however, that this section shall not take effect until the expiration of sixty days from the passage of this act, nor shall the same affect any rights, powers, franchises, or privileges, obtained, or now enjoyed, by any person, or persons, or company, under any law of this State heretofore in force.

Repealing clause.

SEC 60 This act shall take effect and be in force, from and after its passage.

To take effect.

CHAP. DXXXIII.—*An Act authorizing the Issuance of certain Bonds to Clark, Dodge & Co.*

[Approved May 20, 1861.]

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

To issue  
bonds.

Bond of  
indemnity.

SECTION 1. The Treasurer of State is hereby authorized and directed to issue to Clark, Dodge & Company, of the city of New York, or to their Agent, State bonds equal in amount to the principal and interest now due on civil bonds numbered five hundred and fifty-two (552) and five hundred and fifty-three (553), the principal of each being one thousand dollars (\$1000); *provided*, that before such bonds be issued the said Clark, Dodge & Company file with the State Treasurer a bond of indemnity, to be approved by said Treasurer in the sum of five thousand dollars, conditioned that the said sum shall be paid to the State of California, in the event of genuine bonds, bearing the same number and date, being presented for payment to the State authorities

To take  
effect.

SEC. 2. This act shall be in force from and after its passage.

CHAP. DXXXIV.—*An Act to amend an Act entitled An Act to regulate the settlement of the Estates of Deceased Persons, passed May first, eighteen hundred and fifty-one, and other Acts amendatory thereto.*

[Approved May 20, 1861.]

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

Proof of  
wills.

SECTION 1. Section two of said act is amended so as to read as follows :

Sec 2. Wills shall be proved and letters testamentary, or of administration, shall be granted.

*First*—In the county of which the deceased was a resident at, or immediately previous to, his death, in whatever place his death may have happened.

*Second*—In the county in which he may have died, leaving estate therein, and not being a resident of the State

*Third*—In the county in which any part of his estate may be, he having died out of the State, and not having been a resident thereof at the time of his death.

*Fourth*—In the county in which any part of his estate may be, he not being a resident of the State, and not leaving estate in the county in which he died.

*Fifth*—In all other cases, in the county where application shall first be made.

SEC. 2. Section three of said act is amended so as to read as follows :

Sec. 3. When the estate of the deceased is in more than one

county, he having died out of the State, and not having been a resident thereof at the time of his death, or being such non-resident, and dying within the State, and not leaving estate in the county where he died, the Probate Court of that county in which application is first made for letters testamentary, shall have exclusive jurisdiction of the settlement of the estate.

Jurisdiction  
of Probate  
Court.

SEC. 3. Section six of said act is amended so as to read as follows:

Sec. 6. If he intends to decline the trust, he shall, at the same time, file his renunciation in writing. If he shall neglect for ten days to file his renunciation, such neglect shall be equivalent to a renunciation, unless for cause shown, the Probate Court, or Judge, shall extend the time; if he intends to accept, he shall present with the will a petition, setting forth the facts necessary to give jurisdiction, and when the same is known to the petitioner, the names, ages, and residence, of the heirs and devisees of the deceased, and the probable value and the character of the property of the estate, and praying that the will be admitted to probate, and that letters testamentary be issued to him. If the jurisdictional facts existed, but are not fully set forth in the petition, and the same shall be afterwards proved in the course of the administration, the probate of the will and the subsequent proceedings shall not, on account of such want of jurisdictional averments, be held void.

Petition to  
accompany  
will.

SEC. 4. Section twelve of said act is amended so as to read as follows:

Sec. 12. Applications for the probate of a will and for the issuance of letters, may be made to the Probate Judge out of term time, or at chambers, and he may also, out of term time, or at chambers, issue all necessary orders and writs to enforce the production of any will. He may also appoint a special term for the hearing of any such application.

Business at  
chambers.

SEC. 5. Section thirteen of said act is amended so as to read as follows:

Sec. 13. When any will shall have come into the possession of the Probate Court, and a petition for the probate thereof and for the issuance of letters testamentary, or letters of administration, with the will annexed, shall have been filed, the court, or Judge, shall appoint a time for proving it, which shall not be less than ten, nor more than thirty, days, and shall cause notice to be given thereof by the Clerk, by publication in some newspaper, if there is one printed in the county, if not, by notices posted in three public places in the county.

Time for  
proof of  
wills.

SEC. 6. Section sixteen of said act is amended so as to read as follows:

Sec. 16. The court may also direct subpoenas to be issued to the subscribing witnesses to the will, if they reside in the county.

Witnesses.

SEC. 7. Section seventeen of said act is amended so as to read as follows:

Sec. 17. At the time appointed, or at any time to which the hearing may be continued, upon proof being made by affidavit, or otherwise, to the satisfaction of the court, that notice has been given as required in the preceding sections, the court shall proceed to hear the testimony in proof of the will.

Testimony.

SEC. 8. Section eighteen of said act is amended so as to read as follows:

**Contestants.** Sec. 18. Any person interested may appear and contest the will. If it appears that there are minors, or persons, residing out of the county, who are interested in the estate, the court shall appoint some Attorney to represent them.

SEC. 9. Section twenty of said act is amended so as to read as follows:

**Rules for contestants.** Sec. 20. If 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 under influence, or fraudulent representations, or for any other cause affecting the validity of such will, such issue, or issues, shall, at the request in writing, of either of the parties interested, be certified immediately to the District Court of the proper county, for trial by jury, otherwise the same shall be tried by the Probate Court. Such request in writing, shall be filed at least three days before any day set for the trial of the issue in 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.

**Request.**

**Issue.**

**Special verdict.**

SEC. 10. Section twenty-eight of said act is amended so as to read as follows:

**Time of hearing.** Sec. 28. When a copy of the will and the probate thereof, duly authenticated, shall be produced by the Executor, or by any other person interested in the will, with a petition for letters, the same shall be filed in court, and the court, or Judge, shall appoint a time of hearing, and notice shall be given in the same manner as in the case of an original will for probate.

SEC. 11. Section twenty-nine of said act is amended so as to read as follows:

**Admission to probate.** Sec. 29. If, on the hearing, it shall appear to the court that the instrument ought to be allowed as the will of the deceased, the authenticated copy shall be admitted to probate and recorded the same as in case of other wills, and the will shall have the same force and effect as if it had been originally approved and allowed in the same court.

SEC. 12. Section thirty-five of said act is amended so as to read as follows:

**Costs.** Sec. 35. The fees and expenses shall be paid by the party contesting the validity of the will, or the probate, if the will, or probate, be confirmed. If the probate be revoked, the party who shall have resisted the revocation shall pay the costs and the expenses of the proceedings, or the same shall be paid out of the property of the deceased, as the court shall direct.



Sec. 13. Section forty-two of said act is amended so as to read as follows:

Sec. 42. No person shall be deemed competent to serve as Executor who at the time of the will is proved, shall be—

*First*—Under age of majority; or,

*Second*—Who shall be convicted of an infamous crime; or,

Persons incompetent as Executors

*Third*—Who, upon proof, shall be adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding, or integrity. If any such person be named as the sole Executor in any will, or if all the persons named as Executors are incompetent, or shall renounce, or fail, to apply for letters, or to appear and qualify, letters of administration, with the will annexed, shall be issued.

Sec. 14. Section forty-three of said act is amended so as to read as follows:

Sec. 43. Any person interested in a will, may file objections in writing, to the granting of letters testamentary to the persons named as Executors, or any of them, and the objections shall be heard and determined by the court; a petition may also be filed for the issuance of letters of administration with the will annexed.

Interested parties may file objections.

Sec. 15. Section forty-four of said act is amended so as to read as follows:

Sec. 44. When an unmarried woman, who shall have been appointed Executrix, shall marry, her marriage shall extinguish her authority; when a married woman is nominated as Executrix, she may be appointed and serve in every respect as if she were a *feme sole*.

Executrix marrying to extinguish authority.

Sec. 16. Section forty-seven of said act is amended so as to read as follows:

Sec. 47. When all the Executors named shall not be appointed by the court, such as are appointed shall have the same authority to perform every act, and discharge every trust, required by the will, and their acts shall be as effectual for every purpose as if all were appointed and should act together; where there are two Executors, or Administrators, the act of one alone shall be effectual, if the other is absent from the State, or for any cause is laboring under any legal disability from serving, or if he should have given his co-Executor, or co-Administrator, authority under seal, to act alone, or for both; and where there are more than two Executors, or Administrators, the act of a majority shall be sufficient.

Acts of a portion of Executors valid.

Sec. 17. Section fifty-two of said act is amended so 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 such 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.

To whom letters may be granted.

*Seventh*—Any other of the kindred entitled to share in the distribution of the estate.

*Eighth*—The creditors.

*Ninth*—Any of the kindred not above enumerated within the fourth degree of consanguinity

*Tenth*—The Public Administrator.

*Eleventh*—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.

SEC. 18. Section fifty-five of said act is amended so as to read as follows:

Sec. 55. No person shall be entitled to letters of administration who shall be—

*First*—Under the age of majority; or,

*Second*—Who shall have been convicted of any infamous crime;

or,

*Third*—Who, upon proof, shall be adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of integrity, or understanding.

SEC. 19. Section fifty-eight of said act is amended so as to read as follows:

Sec. 58. Applications for letters of administration shall be made by petition in writing, signed by the applicant, or his counsel, and filed with the Clerk of the court; the petition must state the facts essential to give the court jurisdiction of the case, and when the same is known to the Administrator, he shall state the names, ages, and residence, of the heirs of the deceased, and the value and character of the property; if the jurisdictional facts existed, but are not fully set forth in the petition, and the same shall be afterwards proved in the course of administration, the decree of administration, and the subsequent proceedings, shall not, on account of such want of jurisdictional averments, be held void.

SEC. 20. Section sixty-one of said act is amended so as to read as follows:

Sec. 61. Any person interested may contest the application, by filing a written opposition thereto, on the ground of the incompetency of the applicant, or may assert his own rights to the administration, and pray that letters be issued to himself, after proper petition filed and due notice given.

SEC. 21. Section sixty-five of said act is amended so as to read as follows:

Sec. 65. Before letters of administration shall be granted on the estate of any person who is represented to have died intestate, the fact of his dying intestate shall be proved by the testimony of the applicant, and the court may also examine any other person concerning the time, place, and manner, of the death, the place of his residence at the time of his death, the value and character of his property, and whether, or not, the deceased left any will, and may compel any person to attend as a witness for that purpose.

SEC. 22. Section sixty-six of said act is amended so as to read as follows:

Persons not eligible as Administrators.

Applications, how made.

Contesting applications

Proofs.

Sec. 66. Administration may be granted to one, or more, competent persons, although not entitled to the same, at the request of the person entitled; the request shall be in writing, and shall be filed in the court. When the person entitled is a non-resident of the State, affidavits, or depositions, taken *ex parte*, before any officer authorized by the laws of this State to take acknowledgments and administer oaths, out of this State, may be received as *prima facie* evidence of the identity of the party, if free from reasonable suspicion, and the fact be established to the satisfaction of the court.

Letters may be granted to others than those entitled.

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Sec. 23. Section sixty-eight of said act is amended so as to read as follows:

Sec. 68. When any such petition is filed the Clerk shall issue a citation to the Administrator to appear and answer the petition on some day of term of the court, or at any special term that may be appointed by the court, or Judge.

Petition, etc.

Sec. 24. Section seventy-two of said act is amended so as to read as follows:

Sec. 72. Before letters testamentary, or of administration, shall be issued to the Executor, or Administrator, he shall take and subscribe an oath, or affirmation, before the Probate Judge, or Clerk, that he will perform, according to law, the duties of Executor, or Administrator; such oath shall be attached to the letters. All letters testamentary and of administration issued to, and all bonds executed by, Executors, or Administrators, with the affidavits and certificates thereon, as provided for in this act, shall be forthwith recorded, by the Clerk of the court having jurisdiction of the estates, respectively, in a book to be kept by him in his office for that purpose, and the said records and duly certified copies taken therefrom, shall have the same force and effect in all cases whatsoever as the original papers would have.

Executors to make oath.

Papers to be filed with Clerk.

Sec. 25. Section seventy-six of said act is amended so as to read as follows:

Sec. 76. In all cases where bonds are required by this act, the sureties must justify, on oath, before the Judge of some court having a seal, to the effect that they are householders, or freeholders, residents within the 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 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 the bond.

Sureties to justify.

Same.

Sec. 26. Section eighty-four of said act is amended so as to read as follows:

Sec. 84. When either, or all, of the sureties of any Executor, or Administrator, shall desire to be released from responsibility, on account of his future acts, they may make application to the Probate Court, or Judge, for relief, and the court, or Judge, shall cause a citation to the Executor, or Administrator, to be issued, requiring him to appear at a time and place, to be therein specified, and to give other security, which citation shall be served

Release of sureties.

personally. If he has absconded, or if he has left, or removed, from the State, or if he cannot be found, after due diligence and inquiry, service may be made by leaving a copy at his last place of residence, if the same can be ascertained, and by such publication as the court, or Probate Judge, may order.

SEC. 27. Section eighty-six of said act is amended so as to read as follows :

Letters may  
be revoked.

SEC. 86. If the Executor, or Administrator, neglect, or refuse, to give new sureties, to the satisfaction of the Judge, on the return of the citation, or within such reasonable time as the Judge shall allow, not exceeding five days, unless the surety, or sureties, making the application, shall consent to a longer extension of time, the court, or Judge, shall by order revoke the letters granted.

SEC. 28. Section ninety-two of said act is amended so as to read as follows :

Duties of  
Special Ad-  
ministrators.

SEC. 92. The Special Administrator shall collect and preserve for the Executor, or Administrator, all the goods, chattels, debts, and effects, of the deceased, all incomes, rents, issues, and profits, claims, and demands, of the estate, shall take the charge and management of, enter upon and preserve from damage, waste, and injury, the real estate, and for any such and all necessary purposes, may commence and maintain, or defend, suits and other legal proceedings, as an Administrator; he may sell such perishable property as the Probate Court may order to be sold, and may exercise such other powers as may have been conferred upon him by his appointment, but in no case shall he be liable to an action by any creditor on a claim against the deceased.

SEC. 29. Section one hundred and six of said act is amended so as to read as follows :

Appraisement.

SEC. 106. For the purpose of making the appraisement, the Probate Judge, or court, shall appoint three disinterested persons, any two of whom may act, and who shall be entitled to receive a reasonable compensation for their services, to be allowed by the court, or Judge; their compensation, as allowed, shall be in the form of a bill of items of their services, including all necessary disbursements, which shall be sworn to by them, and filed with the inventory, and which shall not exceed five dollars per day. If only one day's services are charged, the bill need not be sworn to. If any part of the estate shall be in any other county than that in which letters issued, Appraisers thereof may be appointed, either by the Probate Judge having jurisdiction of the case, or by the Probate Judge of such county.

Pay of Ap-  
praisers.

SEC. 30. Section one hundred and seven of said act is amended so as to read as follows :

Oath of  
Appraisers.

SEC. 107. Before proceeding to the execution of their duty, the Appraisers, before any officer authorized to administer oaths, shall take and subscribe an oath, to be attached to the inventory, that they will truly, honestly, and impartially, appraise the property which shall be exhibited to them, according to the best of their knowledge and ability; they shall then proceed to estimate and appraise the property; each article shall be set down separately, with the value thereof, in dollars and cents, in figures, opposite to the articles, respectively; the inventory shall contain all the estate of the deceased, real and personal, a statement of

Inventory.

all debts, partnerships, and other interests, bonds, mortgages, notes, and other securities, for the payment of money belonging to the deceased, specifying the name of the debtor in each security, the date, the sum originally payable, the indorsements thereon, if any, with their dates, and the sum which in the judgment of the Appraiser may be collected on each debt, interest, or security; the inventory shall show, so far as the same can be ascertained by the Executor, or the Administrator, what portion of the property is community property, and what portion is the separate property of the deceased.

SEC. 31. Section one hundred and eleven of said act is amended so as to read as follows:

Sec. 111. The inventory shall be signed by the Appraisers, and the Executor, or Administrator, shall take and subscribe an oath before the Probate Judge, or the Clerk of the court, or any officer authorized to administer oaths, that the inventory contains a true statement of all the estate of the deceased which has come to his knowledge and possession, and particularly of all money belonging to the deceased, and of all just claims of the deceased against the Executor, or Administrator. The oath shall be indorsed upon, or annexed to, the inventory.

To make oath to inventory.

SEC. 32. Section one hundred and twelve of said act is amended so as to read as follows:

Sec. 112. If any Executor, or Administrator, shall neglect, or refuse, to return the inventory within the time prescribed, or within such further time, not exceeding two months, as the court, or Judge, shall for reasonable cause allow, the court may with, or without, notice, revoke the letters testamentary, or of administration, and the Executor, or Administrator, shall be liable on his bond for any injury sustained by the estate by his neglect.

Letters may be revoked for neglect of Admin'r.

SEC. 33. Section one hundred and eighteen of said act is amended so as to read as follows:

Sec. 118. If the person so cited, refuse to appear and submit to such examination, or to answer such interrogatories as may be put to him, or her, touching the matters of such complaint, the court may, by warrant for that purpose, commit him, or her, to the county jail, there to remain in close custody until he, or she, submit to the order of the court, or be discharged according to law; and if, upon such examination, it shall appear that such person has concealed, embezzled, smuggled, conveyed away, or disposed of, any moneys, goods, or chattels, of the deceased, or that he has in his possession, or knowledge, any deeds, conveyances, bonds, contracts, or other writings, which contain evidences of, or tend to disclose, the right, title, interest, or claim, of the deceased to any real, or personal, estate, claim, or demand, or any lost will, of the deceased, the Probate Court may make an order requiring such person to disclose his knowledge thereof to said Administrator, and may commit said person to the county jail, there to remain until said order is complied with, or be discharged, according to law; and all such interrogatories and answers shall be in writing, and shall be signed by the party examined, and filed in the Probate Court. The order for such disclosure, made upon such examination, shall be *prima facie* evidence of the right of such Administrator to such property in

Citation.

Penalty.

Embezzlement, etc.

May be compelled to disclose.

Liabie for  
double  
damages.

any action that may be brought for the recovery thereof; and any judgment recovered therein, shall be for double the value of the property as assessed by the court, or jury, or for return of the property and damages, in addition thereto, equal to the value of such property. In addition to the examination of the party, witnesses may be produced and examined on either side.

SEC. 34. Section one hundred and twenty-one of said act is amended so as to read as follows :

Property to  
be set apart  
for use of  
family.

SEC. 121. Upon the return of the inventory, or at any subsequent time, during the administration, the court, or Probate Judge, may, of his own motion, or on application, set apart for the use of the family of the deceased, all personal property which is by law exempt from execution, and the homestead as designated by the general homestead law, or by section one hundred and twenty-four of this act.

SEC. 35. Section one hundred and twenty-two of said act is amended so as to read as follows :

May make  
extra  
allowance.

SEC. 122. If the amount set apart be insufficient for the support of the widow and child, or children, the Probate Court, or Judge, shall make such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances, during the progress of the settlement of the estate; which, in case of an insolvent estate, shall not be longer than one year after granting letters of administration.

SEC. 36. Section one hundred and twenty-three of said act is amended so as to read as follows :

Payment of  
allowance.

SEC. 123. Any allowance made by the court, or Judge, in accordance with the provisions of this chapter, shall be paid by the Administrator, in preference to all other charges, except funeral charges and expenses of administration.

SEC. 37. Section one hundred and twenty-six of said act is amended so as to read as follows :

Estates less  
than \$500,  
etc.

SEC. 126. If, on the return of the inventory of any intestate estate, it shall appear that the value of the whole estate does not exceed the sum of five hundred dollars, the Probate Court, by a decree for that purpose, shall assign for the use and support of the widow and minor child, or children, if there be no widow, the whole of the estate, after the payment of the funeral charges and expenses of the administration, and there shall be no further proceedings in the administration unless further estate be discovered; and when it shall appear that the value of the whole estate does not exceed the sum of one thousand dollars, it shall be, in the discretion of the Probate Court, to dispense with the regular proceedings, or any part thereof, prescribed in this act, for the purpose of a summary administration of the estate, and to order distribution of the estate at the end of six months, after the issuance of letters; *provided*, that notice to creditors shall have been given to present their claims within four months after the first publication of such notice.

Proviso.

SEC. 38. Section one hundred and twenty-eight of said act is amended so as to read as follows :

Notice to  
creditors.

SEC. 128. Every Executor, or Administrator, shall, immediately after his appointment, cause to be published in some newspaper published in the county, if there be one, if not, then in such newspaper as may be designated by the court, a notice to

the creditors of the deceased, requiring all persons having claims against the deceased, to exhibit them with the necessary vouchers, within ten months after the first publication of the notice, to such Executor, or Administrator, at the place of his residence, or transaction of business, to be specified in the notice; such notice shall be published as often as the Judge, or court, shall direct, but not less than once a week for four weeks; the court, or Judge, may also direct additional notice by publication, or posting. In case such Executor, or Administrator, resign, or be removed, before the expiration of the ten months after the first publication of such notice, his successor shall give such notice only for the unexpired portion of the ten months.

Additional notice.

SEC. 39. Section one hundred and twenty-nine is amended so as to read as follows:

Sec. 129. After the notice shall have been given as required by the preceding section, a copy thereof with the affidavit, or affidavits, of due publication, or of publication and posting, may be filed, and upon such affidavit, or affidavits, or upon other testimony to the satisfaction of the court, a decree shall be made showing that due and legal notice to creditors has been given, and directing that such decree be entered in the minutes of the court.

Copy to be filed.

SEC. 40. Section one hundred and thirty-one of said act is amended so as to read as follows:

Sec. 131. Every claim presented to the Administrator shall be supported by the affidavit of the claimant that the amount is justly due, that no payments have been made thereon, and that there are no offsets to the same, to the knowledge of the claimant, or other affiant; *provided*, that when the affidavit is made by any other person than the claimant, he shall set forth in the affidavit the reasons it is not made by the claimant. The oath may be taken before any officer authorized to administer oaths. The Executor, or Administrator, may also require satisfactory vouchers, or proofs, to be produced in support of the claim; the amount of interest shall be computed, and included in the statement of the claim, and the rate of interest determined. In case the estate is insolvent, no claim contracted after the passage of this act shall bear greater interest than ten per cent. per annum, from and after the time of issuing letters.

Claims, etc.

Proviso.

Insolvent estates.

SEC. 41. Section one hundred and thirty-two, of said act, is amended so as to read as follows:

Sec. 132. When a claim accompanied by the affidavit required in the preceding section, has been presented to the Executor, or Administrator, he shall indorse thereon his allowance, or rejection, with the day and date thereof; if he allow the claim it shall be presented to the Probate Judge for his approval, who shall, in the same manner, indorse upon it his allowance, or rejection. If the Executor, or Administrator, or the Judge, refuse, or neglect, to indorse such allowance, or rejection, for ten days after the claim shall have been presented to him, such refusal, or neglect, may be deemed equivalent to a rejection; and if the presentation be made by a Notary, the certificate of such Notary, under seal, shall be *prima facie* evidence of such presentment and rejection; if the claim be presented to the Executor, or Administrator, before the expiration of the time lim-

Allowance of claims

Rejection of evidence

ited for the presentation of claims, the same may be held valid, though acted upon by the Executor, or Administrator, and by the Judge, after the expiration of such time.

SEC. 42. Section one hundred and thirty-three of said act is amended so as to read as follows:

Approved  
claims to  
be filed.

Sec. 133. Every claim which has been allowed by the Executor, or Administrator, and approved by the Probate Judge, shall, within thirty days thereafter, be filed in the Probate Court, and be ranked among the acknowledged debts of the estate, to be paid in due course of administration. If the claim be founded on a bond, bill, note, or other instrument, the original instrument shall be presented, and the allowance and approval, or rejection, shall be indorsed thereon, or be attached thereto; if the claim, or any part thereof, be secured by a mortgage, or other lien, such mortgage, or other evidence of lien, shall be attached to the claim and filed therewith, unless the same be recorded in the office of the Recorder of the county in which the land lies, in which case it shall be sufficient to describe the mortgage, or lien, and refer to the date, volume, and page, of its record; and in all cases it shall be permitted to the claimant to withdraw his claim from file, on leaving a certified copy, with a receipt indorsed thereon, by himself, or his Agent. A brief description of every claim filed shall be entered by the Clerk, in the register, showing the name of the claimant, the amount and character of the claim, rate of interest, and date of approval; *provided*, if such original instrument be lost, or destroyed, then, in lieu thereof, the claimant shall be required to file his affidavit particularly describing such instrument, and stating the loss, or destruction, thereof, upon which affidavit the indorsement hereinbefore mentioned shall be made.

Claims  
secured by  
liens, etc.

Lost claims.

SEC. 43. Section one hundred and forty-one of said act is amended so as to read as follows:

Execution  
not to issue  
after death.

Sec. 141. When any judgment has been rendered against the testator, or intestate, in his life, no execution shall issue thereon after his death; but a certified copy of such judgment shall be presented to the Executor, or Administrator, and be allowed and filed, or rejected, as any other claim, but need not be supported by the affidavit of the claimant, and if justly due and unsatisfied, shall be paid in due course of administration; *provided*, however, that if the execution shall have been actually levied upon any property of the deceased, the same may be sold for the satisfaction thereof, and the officer making the sale shall account to the Executor, or Administrator, for any surplus in his hands. The Executor, or Administrator, may, however, require the affidavit of the claimant, or other satisfactory proof, that the judgment, or any portion thereof, is justly due and unsatisfied.

Proviso.

SEC. 44. Section one hundred and forty-two of said act is amended so as to read as follows:

May refer  
doubtful  
claims.

Sec. 142. If the Executor, or Administrator, doubt the correctness of any claim presented to him, he may enter an agreement, in writing, with the claimant, to refer the matter in controversy to some disinterested person to be approved by the Probate Judge. Upon filing the agreement and approval of the Probate Judge, in the office of the Clerk of the District Court for the county in which the letters testamentary, or of adminis-



tration, were granted, the Clerk shall, either in vacation, or in term, enter a minute of the order referring the matter in controversy to the person so selected; or, if the parties consent, a reference may be had in the Probate Court, and the report of the Referee, if confirmed, shall establish, or reject, the claim, the same as if it had been allowed, or rejected, by the Executor, or Administrator, and the Probate Judge.

Reference.

SEC. 45. Section one hundred and forty-three of said act is amended so as to read as follows:

Sec. 143. The Referee shall thereupon proceed to hear and determine the matter, and make his report thereon to the court, in which his appointment shall have been entered; the same proceedings shall be had in all respects, and the Referee shall have the same powers, be entitled to the same compensation, and be subject to the same control, as in other cases of reference. The court may remove the Referee, or appoint another in his place, or may set aside, or confirm, the report and adjudge costs, as in actions against Executors and Administrators, and the judgment of the court thereon shall be valid and effectual, in all respects, as if the same had been rendered in a suit commenced by ordinary process.

Trial by Referee.

SEC. 46. Section one hundred and forty-eight of said act is amended so as to read as follows:

Sec. 148. No sale of any property of an estate of a deceased person shall be valid, unless made under order of the Probate Court, except as otherwise provided in this act, or other acts.

No sale valid except by order of Probate Court.

SEC. 47. Section one hundred and fifty of said act is amended so as to read as follows:

Sec. 150. At any time after receiving letters the Executor, or Administrator, or Special Administrator, may apply to the court, or Judge, for an order to sell the perishable property of the estate, and so much other property as may be necessary to be sold, to pay the allowance made to the family of the deceased; if there be a delay in obtaining such order, such property may be sold without an order of sale; *provided*, that the Executor, or Administrator, or Special Administrator, shall be held responsible for such property, unless, after making a sworn return, and on a proper showing, the court shall approve such sale. If claims against the estate have been allowed, and a sale of property shall be necessary for their payment, or of the expenses of the administration, the Executor, or Administrator, may also apply for an order to sell so much of the personal property as shall be necessary. Upon filing his petition, notice of at least five days shall be given of the hearing of the application, either by posting notices, or by advertising; he may also make a similar application, either in vacation, or term, from time to time, so long as any personal property remains in his hands and a sale thereof is necessary, and if he deem it for the best interest of the estate, he may, at any time, after the filing of the inventory, make an application, in like manner, and after giving like notice, for an order to sell the whole of the personal property belonging to the estate.

Perishable property.

Proviso.

Order to sell personal property.

SEC. 48. Section one hundred and fifty-one of said act is amended so as to read as follows:

Sec. 151. If it appears that a sale is necessary, or for the best interest of the estate, the court, or Judge, shall order it to be

Order of sale made; in making such sales the court, or Judge, shall order such articles as are not necessary for the support and subsistence of the family of the deceased, or are not specially bequeathed, to be first sold; articles so bequeathed shall not be sold until the residue of the personal estate has been applied to the payment of the debts.

SEC. 49. Section one hundred and fifty-two of said act is amended so as to read as follows:

Sale of personal property.

Sec. 152. 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 shown, the Probate Court, or Judge, shall order a private sale, or a shorter notice; 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.

SEC. 50. Section one hundred and fifty-three of said act is amended so as to read as follows:

Publication of notice.

Sec. 153. The notice shall be given by notices posted in three public places in the county, or by publication in a newspaper, if the Judge shall so order, in which shall be specified the time and place of sale.

SEC. 51. Section one hundred and fifty-four of said act is amended so as to read as follows:

To sell real estate.

Sec. 154. When the personal estate in the hands of the Executor, or Administrator, shall be insufficient to pay the allowance of the family, the debts that may be outstanding against the deceased, and the debts, expenses, and charges, of the administration, the Executor, or Administrator, may sell the real estate for that purpose, upon the order of the Probate Court.

SEC. 52. Section one hundred and fifty-five of said act is amended so as to read as follows:

Petition.

Sec. 155. To obtain such order he shall present a petition to the Probate Court, or to the Judge, at chambers, setting forth the amount of personal estate that has come to his hands, and how much thereof, if any, remains undisposed of, the debts outstanding against the deceased, as far as can be ascertained, or estimated, the amount due upon the family allowance, or that will be due after the same shall have been in force for one year, the debts, expenses, and charges, of the administration already accrued, and an estimate of what will, or may, accrue, during the administration, a description of all the real estate of which the testator, or intestate, died, seized, or in which he had any interest, and in which the intestate has acquired any interest, and the condition and value of the respective portions and lots, and whether the same be community, or separate, property, the names and ages of the devisees, if any, and of the heirs of the deceased, which petition shall be verified by the oath of the party presenting the same; if the inventory and appraisement on file contain a full description of the personal estate of the deceased and of all the real estate of which the testator, or intestate, died, seized, or in which he had any interest, or in which the estate has acquired any interest, such inventory, by a proper reference, may

Form of.

To be verified.

be made a part of the petition for a description of the personal estate, or real estate, or both, and if the same be full as to all property, except property subsequently discovered, or subsequently received, such reference may be had to the inventory, and the additional property may be set forth in the petition; if all the matters above enumerated cannot be ascertained, the same shall be so stated in the petition.

SEC. 53. Section one hundred and fifty-six of said act is amended so as to read as follows:

Sec. 15<sup>3</sup>. If it shall appear to the court, or Judge, by such petition, that it is necessary to sell the whole, or some portion, of the real estate for the purposes mentioned in section one hundred and fifty-five of this act, or any, or either, of them, such petition shall be filed, and an order shall thereupon be made, directing all persons interested in the estate to appear before the court at a time and place specified, not less than four, nor more than ten, weeks from the time of making such order, to show cause why an order should not be granted to the Executor, or Administrator, to sell so much of the real estate of the deceased as shall be necessary.

Order to persons interested to appear.

SEC. 54. Section one hundred and fifty-seven of said act is amended so as to read as follows:

Sec. 157. A copy of such order to show cause shall be personally served on all persons interested in the estate, at least ten days before the time appointed for hearing the petition, or shall be published at least four successive weeks in some newspaper, as the court, or Judge, shall order; *provided*, however, if all persons interested in the estate shall signify in writing their assent to such sale, the notice may be dispensed with.

Copy to be served.

SEC. 55. Section one hundred and fifty-eight of said act is amended so as to read as follows:

Sec. 158. The Probate Court, at the time and place appointed in such order, or at such other time as the hearing may be adjourned to, upon satisfactory proof of the due service, or publication, of a copy of the order, by affidavit, or otherwise, or upon filing the consent in writing to such sale, of all parties interested, shall proceed to the hearing of such petition; and if such consent be not filed, shall hear and examine the allegations and proofs of the petitioners, and of all persons interested in the estate, who may oppose the application; all claims against the deceased, not before presented, provided the period of presentation, as provided in this act, shall not have elapsed, may be presented, and shall be passed upon at the hearing; and if approved by the Executor, or Administrator, and the Probate Judge, shall not be subject to review except on appeal.

Hearing.

Presentat'n of claims.

SEC. 56. Section one hundred and fifty-nine of said act is amended so as to read as follows:

Sec. 159. If any of the devisees, or heirs, of the deceased, are minors, and have a general Guardian in the county, a copy of the order shall be served upon the Guardian at least ten days before the actual hearing. If they have no Guardian the court, or Judge, shall, at the time of filing the petition, or before proceeding to act upon the petition, appoint some disinterested person their Attorney, for the sole purpose of appearing for them

Minors.

Guardians.

and taking care of their interest in the proceedings. The court may, also, upon the hearing, if it be deemed necessary, appoint such Attorney for the heirs, or devisees, if they are unrepresented, whether minors, or otherwise, and may likewise appoint an Attorney for the creditors, if they are unrepresented. If such

Appearance.

Guardian of the minors, or such Attorney for minors, or others, appear on the hearing, such appearance shall be evidence of service of notice upon such Gaardian, or Attorney.

SEC. 57. Section one hundred and sixty-one of said act is amended so as to read as follows:

Sec. 161. If it shall appear to the court that it is necessary to sell a part of the real estate, and that by a sale of such part, the residue of the estate, real, or personal, or some specific part thereof, would be greatly injured, or diminished, or subjected to expense, or rendered unprofitable, the court may authorize the sale of the whole estate, or of such part thereof as may be necessary, and most for the interest of all concerned.

To sell real estate.

SEC. 58. Section one hundred and sixty-two of said act is amended so as to read as follows:

Order of sale

Sec. 162. If the court shall be satisfied, after a full hearing upon the petition and an examination of the proofs and allegations of the parties interested, that a sale of the whole, or some portion of the real estate, is necessary for any of the causes mentioned in section one hundred and fifty-five and section one hundred and sixty-one, of this act, or if such sale be assented to by all the persons interested, an order of sale shall be made, authorizing the Executor, or Administrator, to sell the whole, or so much and such parts of the real estate described in the petition, as the court shall judge necessary or beneficial.

SEC. 59. Section one hundred and sixty-three of said act is amended so as to read as follows:

Same.

Sec. 163. The order of sale shall specify the lands to be sold and the terms of sale, which may be for cash, or on a credit, not exceeding one year, payable in gross, or installments, with interest, as the court may direct. The tract, or tracts, of land, may be sold in one parcel, or in subdivisions, as the Executor, or Administrator, shall judge most beneficial to said estate, unless the court shall otherwise specially direct. If it appears that any part of such real estate has been devised, and not charged in such devise with the payment of debts or legacies, the court shall order that part descended to heirs to be sold before that so devised. Every such sale shall be ordered to be made at public auction, unless in the opinion of the court it would benefit the said estate to sell the whole, or some part of such real estate, at private sale, or in which case the court, if the same is asked for in the petition, may order or direct such real estate, or any part thereof, to be sold at either public, or private, sale, as the Executor, or Administrator, shall judge to be most beneficial for said estate. If the Executor, or Administrator, shall neglect, or refuse, to make a sale, under the order of sale, he may be compelled to proceed to sell, by order of the court, made on motion, after due notice, by any party interested.

SEC. 60. Section one hundred and sixty-four of said act is amended so as to read as follows:

Sec. 164. If the Executor, or Administrator, neglect to apply

for an order of sale whenever it be necessary, any person interested in the estate may make application therefor in the same manner as the Executor, or Administrator, and notice thereof shall be given to the Executor, or Administrator, before the hearing. The petition of such applicant shall contain as many of the matters set forth in section one hundred and fifty-five of this act as he can ascertain, and the decree of sale shall fix the period of time within which the Executor, or Administrator, shall make the sale.

Interested persons may apply for order of sale.

Form of petition.

Sec. 61. Section one hundred and sixty-five of said act is amended so as to read as follows :

Sec. 165. Upon making such order mentioned in the last section, a certified copy of the order of sale shall be delivered by the Court, or the Clerk, to the Executor, or Administrator, who shall be thereupon authorized and required to sell the real estate as directed.

To deliver copy of order to Executor.

Sec. 62. Section one hundred and sixty-seven of said act is amended so as to read as follows :

Sec. 167. Such sale shall be made in the county where the land is situated, but when the tract of land is situated in two or more counties, it may be sold in either of said counties. The sale shall be made between the hours of nine o'clock in the morning and the setting of the sun on the same day, and shall be made at public auction, unless the court shall have ordered that the real estate, or some part thereof, may be sold at either public, or private, sale ; but the same shall not be sold at private sale until after notice of the time, and place, and terms, of such sale shall have been given according to law, as in case of sales at public auction ; nor shall such sale at private sale, be made unless the real estate to be so sold shall have been appraised within a year previous to the time of such sale ; nor shall the same be sold at private sale for any sum more than ten per cent. less than the appraised value thereof. If said real estate has not been so appraised, or if the court shall be satisfied that the appraisement is too high, or too low, Appraisers shall be appointed, and they shall make an appraisement thereof in the same manner as in the case of the appraisement of the inventory.

Place of sale

Appraisem't.

Sec. 63. Section one hundred and sixty-nine of said act is amended so as to read as follows :

Sec. 169. The Executor, or Administrator, making any sale of any real estate, shall at the next term of the court thereafter, or at any subsequent sitting of the court after making any such sale, upon notice of at least ten days, to be given in such manner as the court, or the Judge, may direct, make a return of his proceedings to the Probate Court, who shall examine the same, and if the court shall be of the opinion that the proceedings were unfair, or the sum bid is disproportionate to the value, and that a sum exceeding such bid at least ten per cent. exclusive of the expenses of a new sale, may be obtained, he shall vacate said sale, and direct another to be had, of which notice shall be given, and the sale shall be, in all respects, conducted as if no previous sale had taken place ; *provided*, that if an offer of ten per cent. or more, exclusive of the expenses of a new sale, be made to the court, in writing, by a responsible person, it shall be in the dis-

Return of sales.

Proviso.

cretion of the court to accept such offer and confirm the sale to such person, or to order a new sale.

SEC. 64. Section one hundred and seventy of said act is amended so as to read as follows :

May file  
objections.

Sec. 170. When the return of the sale is made and filed, any person interested in the estate may file written objections to the confirmation of the sale, and may be heard on said first day of the term subsequent to the sale, or any subsequent day to which the matter may be continued, or upon any day that may be fixed by the order of the court, or Judge, and may produce witnesses in support of his objections.

SEC. 65. Section one hundred and seventy-one of said act is amended so as to read as follows :

Confirmation

Sec. 171. If it appear to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, or if disproportionate, that a greater sum, as above specified, cannot be obtained, or if the advance bid mentioned in section one hundred and sixty-nine of this act, be made and accepted by the court, the court shall make an order confirming the sale, and directing conveyances to be executed; and such sale, from that time, shall be confirmed and valid, and a certified copy of the order authorizing the sale, and of the order confirming the same, and directing conveyances to be executed, shall be recorded in the office of the Recorder of the county within which the land sold is situated; *provided*, that if, after such confirmation, the purchaser shall neglect, or refuse to comply with the terms of sale, the court may, on motion of the Executor, or Administrator, and after notice to the purchaser, order a new sale of the property sold to such purchaser. If the amount realized on such resale do not cover the bid and the expenses of the previous sale, such purchaser shall be liable for the deficiency.

Proviso.

SEC. 66. Section one hundred and seventy-two of said act is amended so as to read as follows :

Conveyances

Sec. 172. Such conveyances shall thereupon be executed to the purchaser, by the Executor, or Administrator; they shall refer to the orders of the Probate Court authorizing and confirming the sale of the property of the testator, or intestate, and directing conveyances thereof to be executed, and to the record of such orders in the office of the County Recorder, either by the date of such recording, or by the date and volume and page of such record, and such reference shall have the same effect as if the said orders were at large inserted in the conveyance. The conveyances so made shall be deemed to convey all the right, title, interest, and estate, of the testator, or intestate, in the premises, at the time of his death. When, however, by operation of law, or otherwise, the estate shall have acquired any right, title, or interest, in the premises, other than, or in addition to, that of the testator, or intestate, at the time of his death, such right, title, or interest, shall also be passed by such conveyances.

SEC. 67. Section one hundred and seventy-five of said act is amended so as to read as follows :

Sec. 175. In case of the adjournment, notice thereof shall be given, by a public declaration, at the time and place first ap-

pointed for the sale, and if the adjournment be for more than one day, further notice shall be given, by posting notices in three, or more, public places in the county where the land is situated, or publishing the same, or both, as the time and circumstances will admit.

Notice of adjournment

SEC. 68. Section one hundred and seventy-eight of said act is amended so as to read as follows :

SEC. 178. When such provision has been made, or any property directed by the will to be sold, whether for payment of debts, or expenses, or for any other purpose, the Executor, or Administrator, with the will annexed, may proceed to sell, without the order of the Probate Court, but he shall be bound, as an Administrator, to give notice of the sale, and to return accounts thereof to the court, and to proceed in making the sale in all respects as if it were made under the order of the court, unless there are special directions given in the will, in which case he shall be governed by such directions ; but in all cases, no sale shall be valid unless confirmed by the court, under the rules prescribed in cases of sales of real estate by an Administrator ; and before granting such confirmation, the court may require security, as in cases of sales of land by an Administrator.

Sale without order.

May require security.

SEC. 69. Section one hundred and eighty-six of said act is amended so as to read as follows :

SEC. 186. When any sale is made by an Executor, or Administrator, pursuant to the provisions of this chapter, of lands subject to any mortgage, or other lien, which is a valid claim against the estate of the deceased, the purchase money shall be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage, or lien, and residue, in course of administration ; such application of the purchase money, to the satisfaction of the mortgage, or lien, shall be made without delay ; and the land shall remain subject to such mortgage, or lien, until the purchase money shall have been actually so applied ; *provided*, however, that when it shall be shown to be necessary, the court may direct that sufficient of such purchase money be retained to meet such portion of the family allowance and charges, and expenses of administration, as may properly be required from the holder of such claims. Such reservation of a portion of the purchase money shall not prevent the discharge of the mortgage, or lien, and no lien against any estate shall be affected by the statute of limitations, pending the proceedings for the settlement of such estate.

Sale of lands mortgaged.

Proviso.

Family allowance.

SEC. 70. Section one hundred and ninety-four of said act is amended so as to read as follows :

SEC. 194. The Executor, or Administrator, shall take into his possession all the estate of the deceased, real, and personal, and shall collect all debts due to the deceased. For the purpose of bringing suits to quiet title, or for partition of such estate, the possession of the Executors, or Administrators, shall be deemed the possession of the heirs, or devisees ; such possession by the heirs, or devisees, shall be subject, however, to the possession of the Executor, or Administrator, for all other purposes.

Executors to take possession of the entire estate.

SEC. 71. Section two hundred and one of said act is amended so as to read as follows :

SEC. 201. Whenever a debtor of a deceased person shall be

**May compound.** unable to pay all his debts, the Executor, or Administrator, with the approbation of the Probate Court, or Judge, may compound with him, and give him a discharge, upon receiving a fair and just dividend of his effects. A compromise may also be authorized, when it shall appear to be just, and for the best interest of the estate.

SEC. 72. Section two hundred and seven of said act is amended so as to read as follows:

**Interested parties may contest.**

SEC. 207. At the time and place appointed for such hearing, or at such other time as the same may be adjourned to, upon proof by affidavit, or otherwise, of the due publication of the notice, the court shall proceed to a hearing, and all persons interested in the estate may appear and contest such petition, by filing their objections, in writing, and the court may examine, on oath, the petitioner, and all who may be produced before him, or that purpose.

SEC. 73. Section two hundred and eight of said act is amended so as to read as follows:

**Conveyances**

SEC. 208. After a full hearing upon such petition and objections, and examination of the facts and circumstances of the claim, if the court is satisfied that the petitioner is entitled to a conveyance of the real estate described in his petition, the court shall make a decree authorizing and directing the Executor, or Administrator, to execute a conveyance thereof to the petitioner.

SEC. 74. Section two hundred and nine of said act is amended so as to read as follows:

**Execution of.**

SEC. 209. It shall be the duty of the Executor, or Administrator, to execute the conveyance according to the directions contained in the decree, and a certified copy thereof shall be recorded with the deed in the office of the Recorder, in the county where the lands lie, and shall be evidence of the correctness of the proceedings, and of the authority of the Executor, or Administrator, to make such conveyance.

SEC. 75. Section two hundred and ten of said act is amended so as to read as follows:

**Rights of petitioner.**

SEC. 210. If, upon hearing in the Probate Court, as hereinbefore provided, the court shall doubt the right of the petitioner to have a specific performance of the contract, the court shall dismiss the petition without prejudice to rights of the petitioner, who may, at any time within six months thereafter, proceed in the District Court, to enforce a specific performance.

SEC. 76. Section two hundred and twenty-one of said act is amended so as to read as follows:

**Executor's commissions.**

SEC. 221. When no compensation shall have been provided by the will, or the Executor shall renounce all claim thereto, he shall be allowed commissions upon the amount of the whole estate accounted for by him, as follows: For the first thousand dollars, at the rate of seven per cent.; for all above that sum and not exceeding ten thousand dollars, at the rate of five per cent.; for all above that sum, at the rate of four per cent.; and the same commission shall be allowed Administrators. In all cases such further allowance may be made as the Probate Judge may deem just and reasonable, for any extraordinary services; *provided*, the total amount of such allowance shall not exceed the amount of commissions allowed by this section.

**Proviso.**



SEC. 77. Section two hundred and twenty-eight of said act is amended so as to read as follows :

Sec. 228. Every Executor, or Administrator, shall render a full account and a report of his administration, upon the expiration of one year from the time of his appointment; if he fail to present his account, it shall be the duty of the court, or Judge, to compel the rendering of such account, by attachment, and any person interested in the estate may apply for and obtain an attachment, but no attachment shall issue unless a citation has been first issued and returned, requiring the Executor, or Administrator, to appear and show cause why an attachment should not issue. Every account rendered, shall exhibit not only the debts which may have been paid, but also a statement of all debts which have been duly presented and allowed during the period embraced in the account.

To render accounts at expiration of term.

SEC. 78. Section two hundred and thirty-one of said act is amended so as to read as follows :

Sec. 231. In rendering his account, the Executor, or Administrator, shall produce vouchers for all charges, debts, claims, and expenses, which he shall have paid, which vouchers shall be filed and remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the deceased, and the disposition thereof. When any such voucher shall be required for other purposes, it may be withdrawn on leaving a certified copy on file; if any voucher be lost, or for other good reason the same cannot be produced on settlement, the payment may be proved by the oath of any competent witness.

To produce vouchers.

SEC. 79. Section two hundred and thirty-three of said act is amended so as to read as follows :

Sec. 233. When any account is rendered for settlement, the court, or Judge, shall appoint a day for settlement thereof; the Clerk shall thereupon give notice thereof, by causing notices to be posted in at least three public places in the county; the notices shall set forth the name of the estate and of the Executor, or Administrator, and the day appointed for the settlement of the account, which shall be on some day of a term of the court; the court, or Probate Judge, may order such further notice to be given as he may deem proper.

Day of settlement.

Notice of.

SEC. 80. Section two hundred and thirty-five of said act is amended so as to read as follows :

Sec. 235. If there be any minor interested in the estate, who has no legally appointed Guardian, the court shall appoint some disinterested person to represent him, who, on behalf of the minor, may contest the account, as any other person having an interest might contest it, and who shall be allowed by the court, for his services, a reasonable compensation; the court shall also, if it deems it necessary, appoint an Attorney to represent the absent heirs and devisees. All matters, including allowed claims not passed upon on the settlement of any former account, or on rendering an exhibit, or on making a decree of sale, may be contested by the heirs, for cause shown.

Attorneys for minors.

SEC. 81. Section two hundred and thirty-six of said act is amended so as to read as follows :

Sec. 236. The hearing and allegations of the respective par-

**May adjourn hearing.** ties may be adjourned from time to time, as shall be necessary, and the court may appoint one, or more, Referees to examine the accounts and make report thereon, subject to confirmation; and may allow a reasonable compensation to such Referees, to be paid out of the estate of the deceased.

SEC. 82. Section two hundred and forty-three of said act is amended so as to read as follows:

**Order for payment of debts.**

Sec. 243. Upon the settlement of the accounts of the Executor, or Administrator, at the end of the year, as required in this chapter, the court shall make an order for the payment of the debts, as the circumstances of the estate shall require; if there be not sufficient funds in the hands of the Executor, or Administrator; the court shall specify in the decree the sum to be paid to each creditor; if the whole property of the estate be exhausted by such payment, or distribution, such account shall be considered as a final account, and the Executor, or Administrator, shall be entitled to his discharge on producing and filing the necessary vouchers and proofs showing that such payments have been made, and that he has fully complied with the decree of the court.

SEC. 83. Section two hundred and forty-seven of said act is amended so as to read as follows:

**Order for payment of legacies.**

Sec. 247. If the whole of the debts shall have been paid by the first distribution, the court shall proceed to direct the payment of legacies and the distribution of the estate among the heirs, legatees, or other persons, entitled, as provided in the next chapter; but if there be debts remaining unpaid, or if, for other reasons, the estate be not in a proper condition to be closed, the court shall give such extension of time as may be reasonable for a final settlement of the estate.

SEC. 84. Section two hundred and forty-eight of said act is amended so as to read as follows:

**Final account.**

Sec. 248. At the time designated in the last section, or sooner, if within that time all the property of the estate shall have been sold, or there shall be sufficient funds in his hands for the payment of all the debts due by the estate, and the estate be in a proper condition to be closed, the Executor, or Administrator, shall render a final account and pray a settlement of his administration.

SEC. 85. Section two hundred and fifty of said act is amended so as to read as follows:

**Payment of legacies upon giving bonds.**

Sec. 250. At any time after the lapse of four months, after the issuing of letters testamentary, or of administration, any heir, devisee, or legatee, may present his petition to the court that the legacy, or share, of the estate to which he is entitled, may be given to him upon his giving bonds, with security, for the payment of his proportion of the debts of the estate.

SEC. 86. Section two hundred and fifty-one of said act is amended so as to read as follows:

**Application for legacies.**

Sec. 251. Notice of the application shall be given to the Executor, or Administrator, personally, and to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an Executor, or Administrator.

SEC. 87. Section two hundred and fifty-eight of said act is amended so as to read as follows:

Sec. 258. Upon the final settlement of the accounts of the Executor, or Administrator, or at any subsequent time, upon the application of the Executor, or Administrator, or of any heir, legatee, or devisee, or the grantee of the heir, legatee, or devisee, the court shall proceed to distribute the residue of the estate, if any, among the persons who by law are entitled. A statement of the receipts and disbursements of the Executor, or Administrator, since the rendition of his final accounts, shall be reported and filed at the time of making such distribution, unless distribution of the real estate only be made, and a settlement thereof, together with an estimate of the expenses of closing the estate, shall be made by the court, and shall be included in the decree, or the court, or Judge, may order notice of the settlement of such supplementary account, and may refer the same as in other cases of the settlement of accounts.

Distribution of residuo.

SEC. 88. Section two hundred and sixty of said act is amended so as to read as follows:

Sec. 260. The decree may be made on the petition of the Executor, or Administrator, or of any person interested in the estate, and shall only be made after notice has been given, or waived, and proceedings had in the manner provided in sections one hundred and fifty-seven, to, and including, one hundred and sixty, in this act, in regard to an application for the sale of land by an Executor, or Administrator. The court may order such further notice to be given as it may deem proper. If partition be applied for, as hereinbefore provided, such decree shall not divest the court of jurisdiction for the purposes of partition, unless the estate be finally closed.

Decree after notice.

SEC. 89. Section two hundred and sixty-one of said act is amended so as to read as follows:

Sec. 261. When the estate, real, or personal, assigned by the decree of distribution to two, or more, heirs, devisees, or legatees, shall be in common and undivided, and the respective shares shall not be separated and distinguished, or when property of the estate shall be held in common and undivided with other parties, partition may be made by three disinterested persons, to be appointed Commissioners for that purpose by the Probate Court, or Judge, who shall be duly sworn to the faithful discharge of their duties, by any officer authorized to administer oaths. A certified copy of the order of their appointment, and of the decree assigning and distributing the estate shall be issued to them as their warrant, and their oath shall be indorsed thereon. Upon consent of the parties, or when the court shall deem it proper and just, it shall be sufficient to appoint one Commissioner only, who shall have the same authority and be governed by the same rules, as if three were appointed.

Estate in common.

Commissioners.

SEC. 90. Section two hundred and sixty-two of said act is amended so as to read as follows:

Sec. 262. If the real estate shall be in different counties, the Probate Court may, if it shall judge proper, appoint a Commissioner, or different Commissioners, for each county, and in such cases the estate in each county shall be divided separately, as if there was no other estate to be divided, but the Commissioner

Estate in different counties.

first appointed shall, unless otherwise directed by the Probate Court, make division of such real estate, wherever situated within this State.

SEC. 91. Section two hundred and sixty-three of said act is amended so as to read as follows:

Partition  
and notice.

SEC. 263. Such partition may be ordered on the petition of any of the persons interested, but before Commissioners shall be appointed, or any partition shall be ordered, as directed in this chapter, notice shall be given to all persons interested, who shall reside in this State, or their Guardians, and to Agents, Attorneys, or Guardians, if there be any in this State, of such as reside out of the State, either personally, or by public notice, as the Probate Court shall direct. The petition for partition may be filed at any time before the decree of distribution, and Attorneys, Guardians, and Agents, may be appointed, and notice be given, but the Commissioners shall not be appointed until the decree has been made assigning the estate; but when the application is made solely to have partition between the estate administered upon and any other parties, such application may be made and such partition ordered, at any time the court may direct.

Time of  
filing  
petition.

SEC. 92. Section two hundred and sixty-six of said act is amended so as to read as follows:

May assign  
estate in  
common.

SEC. 266. When any such real estate cannot be divided without prejudice or inconvenience to the owners, the Probate Court may assign the whole to one, or more, of the parties entitled to share therein, who will accept it, always preferring the males to the females, and among children, preferring the elder to the younger; *provided*, the parties so accepting the whole shall pay to the other parties interested their just proportion of the true value thereof, or shall secure the same to their satisfaction, or in case of the minority of such party then to the satisfaction of his, or her, Guardian; and the true value of the estate shall be ascertained and reported by the Commissioners.

Proviso.

SEC. 93. Section two hundred and sixty-eight of said act is amended so as to read as follows:

May be sold.

SEC. 268. When it cannot otherwise be fairly divided, the whole, or any part of the estate, real, or personal, may be recommended by the Commissioners to be sold; and if the report be confirmed, the court may order a sale by the Executor, or Administrator, or by a Commissioner appointed for that purpose, and distribute the proceeds. The sale shall be conducted and reported upon, and be confirmed, in the same manner and under the same rules as in ordinary cases of sales of land by an Administrator under this act.

SEC. 94. Section two hundred and sixty-nine of said act is amended so as to read as follows:

Division of  
partition.

SEC. 269. When partition of real estate among heirs, or devisees, shall be required, and such real estate shall be in common and undivided with the real estate of any other person, the Commissioners shall first divide and sever the estate of the deceased from the estate in which it lies in common, and such division so made and established by the Probate Court, shall be binding upon all persons interested. Upon the application by petition of the heirs, or creditors, or any of them, the Probate Court may

authorize the Executor, or Administrator, to bring suit for such partition in the District Court. Such suit may also be brought by an Executor, when so authorized by the terms of the will.

Suit for.

Sec. 95. Section two hundred and seventy of said act is amended so as to read as follows :

Sec. 270. Before any partition shall be made, or any estate divided, as provided in this chapter, Guardians shall be appointed for all minors and insane persons interested in the estate to be divided ; and some discreet person shall be appointed to act as Agent for such parties as reside out of the State, or an Attorney for all absent heirs and persons interested ; and notice shall be given to all persons interested in the partition, their Guardians, Agents, or Attorneys, by the Commissioners, of the time when they shall proceed to make partition. The Commissioners may take testimony, order surveys, and take such other steps as may be necessary to enable them to form a judgment upon the matters before them.

To appoint Guardian before partition.

Duties of Commissioners.

Sec. 96. Section two hundred and seventy-one of said act is amended so as to read as follows :

Sec. 271. The Commissioners shall make report of their proceedings and of the partition agreed upon by them, to the Probate Court, in writing, and the court may, for sufficient reasons, set aside such report, and commit the same to the same Commissioners, or appoint others ; and when such report shall be finally confirmed, a certified copy of the decree of partition made thereon, attested by the Clerk, under the seal of the court, shall be recorded in the office of the Recorder of the county where the lands lie.

To make report.

Sec. 97. Section two hundred and seventy-three of said act is amended so as to read as follows :

Sec. 273. All questions as to advancements made, or alleged to have been made, by the deceased to any heirs, may be heard and determined by the Probate Court, and shall be specified in the decree assigning and distributing the estate, and the final decree of the Probate Court, or, in case of appeal, of the Supreme Court, shall be binding on all parties in the estate.

Advancements made to heirs.

Sec. 98. Section two hundred and seventy-nine of said act is amended so as to read as follows :

Sec. 279. When the estate has been fully administered, and it is shown by the Executor, or Administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up, under the order of the court, all the property of the estate to the parties entitled, and performed all the acts lawfully required of him, the court shall make a decree discharging him from all liability to be incurred thereafter.

Final decree.

Sec. 99. Section two hundred and eighty of said act is amended so as to read as follows :

Sec. 280. The final settlement of an estate shall not prevent a subsequent issuance of letters testamentary, or of administration, with the will annexed, should other property of the estate be discovered, or should it become necessary, or proper, from any cause that letters should be again issued.

Discovery of property.

Sec. 100. Section two hundred and eighty-one of said act is amended so as to read as follows :

Sec. 281. Whenever the Probate Judge has reason to believe

Suspension  
of powers of  
Executor.

from his own knowledge, or from credible information, that any Executor, or Administrator, has wasted, embezzled, or mismanaged, or is about to waste, or embezzle, the property of the estate committed to his charge, or has committed, or is about to commit, a fraud upon the estate, or has been incompetent to act, or has permanently removed from the State, or has wrongfully neglected the estate, or has long neglected to perform any act as such Executor, or Administrator, it shall be his duty, by an order entered upon the minutes of the court, to suspend the powers of such Executor, or Administrator, until the matter can be investigated.

SEC. 101. Section two hundred and eighty-two of said act is amended so as to read as follows :

Special  
Administra-  
tor, etc.

SEC. 282. During the suspension of the powers of the Executor, or Administrator, under the authority of the preceding section, the Probate Court, or Judge, may, if the condition of the estate requires it, appoint a Special Administrator to take charge of the effects of the estate, who shall give bond, and account, as other Special Administrators are required to do.

SEC. 102. Section two hundred and eighty-five of said act is amended so as to read as follows :

Absconding  
Executors.

SEC. 285. If the Executor, or Administrator, has absconded, or conceals himself, or has removed, or absented himself, from the State, notice may be given him of the pendency of the proceedings, by publication, in such manner as the court may direct, and the court may proceed upon such notice as if the citation had been personally served.

SEC. 103. Section two hundred and eighty-six of said act is amended so as to read as follows :

May compel  
attendance.

SEC. 286. In the proceedings authorized by the preceding sections of this chapter, for the removal of an Executor, or Administrator, the court may compel his attendance by attachment, and may compel him to answer questions, on oath, touching his administration, and upon his refusal so to do, may commit him until he obey, or may revoke his letters, or both.

SEC. 104. Section two hundred and eighty-seven of said act is amended so as to read as follows :

Orders and  
decrees to  
be entered.

SEC. 287. All orders and decrees made by the Probate Court during its terms shall be entered at length in the minute book of the court, and also all orders which the Probate Judge is specially empowered to make out of term time. Upon the close of each term the Judge shall sign the minutes of the proceedings. When any publication is ordered, such publication shall be made daily, or otherwise, as often during the prescribed period as the paper is regularly issued, unless otherwise provided in this act. The court, or Judge, may, however, prescribe a less number of publications during the period prescribed.

SEC. 105. Section two hundred and eighty-eight of said act is amended so as to read as follows :

Service of  
personal  
notice.

SEC. 288. Whenever personal notice is required by this act, or the act to provide for the appointment, and prescribe the duties, of Guardians, to be given to any party to a proceeding in the Probate Court, and no other mode of giving notice is prescribed, it shall be given by citation, issued from the court, signed by the Clerk, and under the seal of the court, directed

to the Sheriff of the proper county, and requiring him to cite such persons to appear before the court, or Judge, as the case may be, at a time and place to be named in the citation, or the citation may be addressed directly to the party to be cited, and may be served in like manner as a summons issued from the District Court. In the body of the citation shall be briefly stated the nature, or character, of the proceedings.

SEC. 106. Section two hundred and eighty-nine of said act is amended so as to read as follows :

SEC. 289. The officer to whom the citation is directed shall serve it by delivering a copy to the person therein named, or to each of them, if there be more than one, and shall return the original to the court, according to its directions, indorsing thereon the time and manner of service. All proofs of publication, or other mode, or modes, of giving notice, or serving papers, may be made by the affidavit of any person competent to be witness, which affidavit shall be filed, and shall constitute *prima facie* evidence of such publication, or notice, of service. Proofs of publication.

SEC. 107. Section two hundred and ninety of said act is amended so as to read as follows :

SEC. 290. When no other time is specially prescribed, citation shall be served at least five days before the return day thereof. Citation.

SEC. 108. Section two hundred and ninety-two of said act is amended so as to read as follows :

SEC. 292. All writs and processes issuing from the Probate Court, shall be signed by the Clerk, and authenticated with the seal of the court, except subpenas, notices, and publications, which need not be under seal. Writs to be signed and sealed.

SEC. 109. Section two hundred and ninety-three of said act is amended so as to read as follows :

SEC. 293. The practice in the District Court shall be applicable to proceedings in the Probate Court, so far as the same does not conflict with any enactment specially applicable to the Probate Court, or is not inconsistent with the provisions of this act, or the act to provide for the appointment, and prescribe the duties, of Guardians. For the purpose of taking the testimony of a witness, or witnesses, in other counties of this State, or in other States, Territories, and countries, a commission may be issued whenever, in the discretion of the court, or the Probate Judge, the same may be ordered, and when ordered, the formalities attending the issuance, execution, and return, thereof, shall be similar to those prescribed in the case of a commission issued from the District Court, so far as the same are applicable; when issued *ex parte*, no cross-interrogations shall be necessary, unless by direction of the court, or Probate Judge, nor shall notice be necessary, unless the court, or Judge, shall so order. The court, or Judge, may annex cross-interrogatories, or may refer the matter to a Referee, to be by him appointed for that purpose, and when notice is so ordered, the court, or Judge, shall prescribe the mode of giving such notice, whether by personal notice, or by posting notices, or by publication. District Court practice applicable.

SEC. 110. Section two hundred and ninety-four of said act is amended so as to read as follows :

SEC. 294. All issues of fact, joined in the Probate Court, shall

Issues of fact joined. be subject to the provisions of section twenty of this act, as to the mode of joining such issues, and of disposing of the same. Upon filing the grounds of opposition, and after a written request for a trial by jury be filed, the court, or Judge, on due notice to the opposite party, or parties, shall settle and frame the issues between the parties, and direct the trial to be had in the District Court. A record shall thereupon be made up in the Probate Court, consisting of the issues framed, the order certifying them to the District Court, and such other papers, or documents, from the files, or copies of the same, and copies of orders, or other matters of record, as may be necessary, which shall be certified by the Clerk and transmitted to the District Court. After the trial and verdict, a statement of the proceedings had in the District Court shall be made up and certified by the Clerk, which shall be transmitted to the Probate Court, together with the original papers and documents sent from the Probate Court; the decree of the Probate Court shall thereupon be made upon the verdict rendered, the same as if such determination of said issues had been made by the Probate Court. All questions of costs may be determined by the Probate Court, and execution may issue in accordance with the order of the Probate Court.

Record to be certified.

SEC. 111. Section two hundred and ninety-five of said act is amended so as to read as follows:

Attorneys for minors.

Sec. 295. When, upon any proceeding in an estate, an Attorney has been appointed for minors and absent persons in interest in the estate, such Attorney shall represent such parties in any subsequent proceedings had, unless on such subsequent proceedings, another person be appointed, and provided such Attorney be present in court in such subsequent proceedings. When any such Attorney has been appointed, and when the Probate Judge has appointed a Referee to take proofs, make computations, or perform other service, a reasonable compensation may be allowed, out of the estate, to such Attorney and to such Referee, for the services he may have rendered.

Compensation.

SEC. 112. Section two hundred and ninety-six of said act is amended so as to read as follows:

Decree relating to homestead.

Sec. 296. When a decree is made, setting apart a homestead, or making distribution of real estate, or determining any other matter, affecting the title to real estate, a certified copy of such decree shall be recorded in the office of the Recorder of the county in which the land is situated.

SEC. 113. Section two hundred and ninety-seven of said act is amended so as to read as follows:

Appeals.

Sec. 297. An appeal may be taken to the Supreme Court, from an order, decree, or judgment, of the Probate Court, when the estate, or amount, in dispute, exceeds two hundred dollars, in the following cases:

Same.

*First*—For, or against, granting, or revoking, letters testamentary, or of administration, or of guardianship.

*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 any account of an Executor, or Administrator, or Guardian.

*Seventh*—For, or against, declaring, allowing, or directing, the payment of a debt, claim, legacy, or distributive share.

SEC. 114. Section three hundred and one of said act is amended so as to read as follows:

SEC. 301. When the order, or decree, appointing an Executor, or Administrator, or Guardian, shall be reversed on appeal, all lawful acts in administration upon the estate, performed by such Executor, or Administrator, or Guardian, if he shall qualify, shall be as valid as if such order, or decree, had been affirmed. When any Executor, or Administrator, resigns, or is removed, a successor may be appointed, if a necessity therefor exists, without again proving the death and residence of the testator, or intestate.

Acts of Executors valid in certain cases.

SEC. 115. Section three hundred and fourteen of said act is hereby repealed.

Resignation.

SEC. 116. This act shall take effect in ninety days after its passage.

To take effect.

CHAP. DXXXV.—*An Act for the observance of the Sabbath.*

[Approved May 20, 1861.]

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

SECTION 1. Any person who shall, hereafter, keep open on the first day of the week, commonly called Sunday, any store, workshop, bar, saloon, banking-house, or other place of business, for the purpose of transacting business therein, except as hereinafter especially provided, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than five, nor more than fifty, dollars.

Penalty for doing business on Sunday.

SEC. 2. The provisions of this act shall not apply to the keeping open of hotels, boarding-houses, restaurants, taverns, livery stables, retail drug stores, (for the legitimate business of each,) or such manufacturing establishments as are necessarily kept in continued operation to accomplish the business thereof, nor to the sale of milk, fresh meats, fresh fish, and vegetables.

Exceptions.

SEC. 3. Prosecutions for violations of this act may be either by complaint to a magistrate, or by indictment by a grand jury, and all fines collected upon convictions under this act, shall be paid into the Common School Fund of the county.

Prosecutions

SEC. 4. This act shall be in force from and after the first day of August, eighteen hundred and sixty-one.

To take effect.

CHAP. DXXXVI.—*An Act granting to certain Persons the right to construct and maintain a Railroad through certain Streets in the City of Oakland.*

[Approved May 20, 1861.]

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

Franchise granted.

SECTION 1. The right to construct, maintain, and operate, an iron railroad from a point at, or near, the westerly end of the bridge leading from the city of Oakland to the town of Clinton, through the streets of the said city of Oakland to a point on the bay of San Francisco, where the Alameda County shore approaches nearest to Yerba Buena Island, or at such point as a railroad may be built from to said island, under, and by virtue of, an act entitled An Act granting to certain Persons the right to establish and run a Ferry between the Island of Yerba Buena and the City of San Francisco, and to construct a Railroad from said Island to the Alameda County shore, is hereby granted to Rodmond Gibbons, Wm. Hilligas, R. E. Cole, Samuel Wood, Joseph Black, and Geo. Goss, their associates, successors, or assigns, for a period of fifty years from and after the passage of this act; *provided*, the Common Council of the said city of Oakland shall designate the streets through which said road shall be constructed; *provided*, further, that whenever said road is built through any street, or streets, as aforesaid, the said Common Council shall not have the right to remove the same, or cause the same to be removed.

Proviso.

Style of construction.

SEC. 2. The railroad authorized by the first section of this act shall be built in the most substantial and approved manner, and shall be completed and ready for the accommodation of the traveling public within two years from the passage of this act; *provided*, the persons named in section one of this act, their associates, successors, or assigns, shall be permitted to build such lateral branches of said road as public convenience may require, in any of the streets of said city, at any time during the existence of this franchise, after having obtained permission of the Common Council of the city of Oakland so to do.

Tolls.

SEC. 3. The rates of toll to be charged and collected for the transportation of persons and property upon said road shall be fixed from time to time by the Common Council of the city of Oakland; *provided*, said rates shall not be fixed below an amount sufficient to yield an interest of ten per cent. per annum on the amount of capital invested in such road, exclusive of the cost and expense of running and maintaining the same.

Speed of travel.

SEC. 4. The Common Council shall have the right and power to regulate the speed of the cars upon said road, and also to designate the motive power to be used in propelling the same.

CHAP. DXXXVII.—*An Act to authorize Henrietta Corbett and John C. Corbett, Administrators of the Estate of William Corbett, deceased, to sell the Real Estate of deceased at private sale.*

[Approved May 20, 1861.]

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

SECTION 1. That Henrietta Corbett and John C. Corbett, appointed Administratrix and Administrator of the estate of William Corbett, deceased, by the Probate Court in and for the county of San Francisco, on the eighth day of May, A. D. eighteen hundred and sixty-one, be, and they are hereby, authorized and empowered to sell real estate owned, or claimed, by said William Corbett, deceased, in the State of California, by lots to suit purchasers, at either private, or public, sale, as may in their opinion be most advantageous to the estate. To sell real estate.

SEC. 2. That in case of the death, resignation, or removal by the Probate Judge, or other inability to act, of either the Administratrix, or Administrator, the survivor, or remaining one, may proceed to sell in like manner as stated in section one, and with equal authority. Survivor to administer.

SEC. 3. That in case of any sales under the authority of this act, the Administratrix and Administrator, or any one of them, as above provided, shall execute to the vendee, or vendees, of the real estate so sold, all necessary and sufficient conveyances therefor, and all the moneys arising from such sale shall be applied towards the payment of all just debts and the maintenance of the family. And the Administratrix and Administrator shall, from time to time, make a report of all sales made by them of said estate to the Probate Judge of the county of San Francisco, and it shall not be lawful for said Administratrix, or Administrator, to execute any conveyance of said estate, or any part of said estate, without the approval of the Probate Court of the county of San Francisco. Disposition of proceeds.  
To report sales.

CHAP. DXXXVIII.—*An Act to authorize the Board of Supervisors of Tehama County to levy a Special Tax and create a Redemption Fund, for the Payment of County Indebtedness.*

[Approved May 20, 1861.]

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

SECTION 1. The Board of Supervisors for the county of Tehama shall have power, and it is hereby made their duty, to levy a special tax annually, in addition to other taxes provided for by law, upon the taxable property in said county, of not more than one-half of one per cent., and said tax shall be collected at the same time and in like manner as other taxes are collected in said county. Special tax.

SEC. 2. The tax provided for in the first section of this act

shall be set aside and kept as a special fund to be called "Redemption Fund," and shall be held and disbursed as is hereinafter provided. Whenever at any time there shall be in the Redemption Fund created by this act a sum of money amounting to five hundred dollars, or upwards, it shall be the duty of the County Treasurer to give fifteen days' notice by publication in some newspaper published at the county seat, that sealed proposals directed to him for the surrender of county warrants, will be received by him up to the next regular meeting of the Board of Supervisors thereafter; *provided*, that no proposals for the surrender of warrants drawn prior to the passage of this act shall be received.

**Redemption Fund.**  
**Surrender of warrants.**  
**To accept lowest bids.**

SEC. 3. On the last day of such regular meeting of the Board of Supervisors they, together with the County Auditor, and Treasurer, shall attend at the office of the latter, and then and there open all proposals, and accept the lowest bids for the surrender of county warrants; *provided*, that no bid for more than par value of said warrants, or any bid, unless accompanied by the warrants proposed to be surrendered, shall be accepted.

**Duties of Auditor and Treasurer.**  
**To cancel warrants.**

SEC. 4. When any bids are accepted, the County Auditor and County Treasurer shall each take a description of the number and amount of warrants to be redeemed, specifying the amount to be paid for each warrant, and make a several record thereof, in their respective offices, and, thereupon, the Board of Supervisors shall make an order directing the County Treasurer to purchase the warrants designated in the accepted bids, and pay the same out of the Redemption Fund, and the warrants so redeemed shall be canceled as other redeemed county warrants, except that the County Treasurer shall write on the face of said warrants "Purchased," and the amount paid for the same, and shall sign his name thereto. The order of the Board of Supervisors directing the County Treasurer to purchase said warrants, together with the record made by the County Auditor, shall be sufficient vouchers for the County Treasurer in the settlement of his accounts. The bids being equal the preference shall be given to the smallest amount. The bids and amount of warrants being equal, each shall be accepted *pro rata*, or as nearly so as possible. The County Treasurer shall return all unaccepted bids, together with the warrants therein contained, to the owners, on demand.

**Duty of County Treasurer.**

SEC. 5. The County Treasurer shall keep a separate account under the heading of Redemption Fund of all moneys received from the source specified in the first section of this act, and the said moneys shall never be used, or mixed, with other funds.

**Time for levy.**

SEC. 6. The Board of Supervisors of said county are hereby authorized to levy the taxes provided for under the provisions of this act, within thirty days from and after the passage of the same.

**To receive warrants for taxes.**

SEC. 7. All orders, or warrants, drawn on the County Treasurer of Tehama County, and payable out of the county revenue, shall be received in payment of county taxes, licenses, and all county dues, from the person, or persons, in whose favor it was drawn.

**To take effect.**

SEC. 8. This act shall take effect from and after its passage.

PROPOSED AMENDMENTS

TO THE

CONSTITUTION OF CALIFORNIA.



# AMENDMENTS TO CONSTITUTION.

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The Legislature of the State of California, at its Twelfth Session, commencing on the seventh day of January, A. D. eighteen hundred and sixty-one, propose the following amendments to sections two, eighteen, and nineteen, of article five of the Constitution :

## ARTICLE FIVE—EXECUTIVE DEPARTMENT.

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday in January, subsequent to his election, and until his successor is elected and qualified. Election of Governor.

SEC. 18. A Secretary of State, a Controller, a Treasurer, an Attorney-General, and a Surveyor-General, shall be elected at the same time and places, and in the same manner, as the Governor and Lieutenant-Governor, and whose term of office shall be the same as the Governor. Of State officers.

SEC. 19. The Secretary of State shall keep a fair record of the official acts of the Legislature, and Executive Departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law; and in order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article five, by the Legislature of eighteen hundred and sixty-one, no officers shall be superseded, or suspended, thereby, until the election and qualification of the several officers provided for in said amendments. Duty of Secretary of State.

And the Legislature of the State of California, at its session commencing on the first Monday of January, A. D. eighteen hundred and sixty-one, propose the following amendments to article nine, section one, of the Constitution. Said section of said article shall read as follows :

## ARTICLE NINE.

Election of  
Superinten't  
of Public  
Instruction.

SECTION 1. A Superintendent of Public Instruction shall, at the special election for judicial officers to be held in the year eighteen hundred and sixty-three, and every four years thereafter, at such special elections, be elected by the qualified voters of the State, and shall enter upon the duties of his office on the first day of December next after his election.

## PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE STATE OF CALIFORNIA.

The Legislature of the State of California, at its twelfth session, commencing on the seventh day of January, A. D. eighteen hundred and sixty-one, propose the following amendments to sections two, three, five, six, and thirty, and the abrogation of sections thirty-two and thirty-six of article four of the Constitution :

## ARTICLE FOUR.

Sessions of  
Legislature.

SEC. 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. No session shall continue longer than ninety days, unless the time be extended by a joint resolution to be passed by a majority of each House.

Members of  
Assembly.

SEC. 3. The members of the Assembly shall be chosen biennially, by the qualified electors of their respective districts, on the first Wednesday in September, unless otherwise ordered by the Legislature, and their term of office shall be two years.

Senators.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and places as members of Assembly; and no person shall be a member of the Senate, or Assembly, who has not been a citizen and inhabitant of the State, and of the county, or district, for which he shall be chosen, one year next before his election.

Number of  
Senators.

SEC. 6. The number of Senators shall not be less than one-third, nor more than one-half, of that of the members of Assembly; and at the first session of the Legislature after this section takes effect, the 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 the second year, so that one-half shall be chosen biennially.

Congres-  
sional, etc.  
districts.

SEC. 30. When a Congressional, Senatorial, or Assembly, district, shall be composed of two, or more, counties, it shall not be separated by any county belonging to another district. No county shall be divided in forming a Congressional, Senatorial, or Assembly district, so as to attach one portion of a county to another county; but the Legislature may divide each county into as many Congressional, Senatorial, or Assembly, districts, as such county may by apportionment be entitled to.

Sections  
abrogated.

SEC. 39. Sections thirty-two and thirty-six of said article four, are hereby abrogated and annulled, and in order that no inconvenience may result to the public service from the taking effect of the amendments proposed to article four by the Legis-



lature of eighteen hundred and sixty-one, no officer shall be suspended, or superseded, thereby, until the election and qualification of the several officers provided for in said amendments.

The Legislature of the State of California, at its twelfth session, commencing on the seventh day of January, A. D. eighteen hundred and sixty-one, propose the following amendments to article sixth of the Constitution.

ARTICLE SIXTH—JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this State shall be vested in a Supreme Court, in District Courts, in County Courts, in Probate Courts, and in Justices of the Peace, and in such Recorders', and other inferior, courts, as the Legislature may establish in any incorporated city, or town. Judicial power.

SEC. 2. The Supreme Court shall consist of a Chief Justice and four Associate Justices. The presence of three Justices shall be necessary for the transaction of business, excepting such business as may be done at chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. Supreme Court.

SEC. 3. The Justices of the Supreme Court shall be elected by the qualified electors of the State, at special elections to be provided by law, at which election no officers other than judicial shall be elected, except a Superintendent of Public Instruction. The first election for Justices of the Supreme Court shall be held in the year eighteen hundred and sixty-three. The Justices shall hold their offices for the term of ten years from the first day of January next after their election, except those elected at the first election, who, at their first meeting, shall so classify themselves, by lot, that one Justice shall go out of office every two years. The Justice having the shortest term to serve shall be the Chief Justice. Election of Justices of.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity; also, in all cases at law which involve the title, or possession, of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value, of property in controversy, amounts to three hundred dollars; also, in all cases arising in the Probate Courts; and, also, in all criminal cases amounting to felony on questions of law alone. The court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, and *habeas corpus*, and, also, all writs necessary, or proper, to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of *habeas corpus* to any part of the State, upon petition on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any District Court, or any County Court, in the State, or before any Judge of said courts. Jurisdiction and powers.

SEC. 5. The State shall be divided by the Legislature of eighteen hundred and sixty-three, into fourteen Judicial Districts, subject to such alteration, from time to time, by a two-thirds' vote of all the members elected to both Houses, as the public good may require; in each of which there shall be a District Court, and for each of which a District Judge shall be elected. Judicial Districts.

Election of  
District  
Judges.

by the qualified electors of the district, at the special judicial elections, to be held as provided for the election of Justices of the Supreme Court by section three of this article. The District Judges shall hold their offices for the term of six years from the first day of January next after their election.

Powers and  
Jurisdiction  
of District  
Courts.

SEC. 6. The District Court shall have original jurisdiction in all cases in equity; also, in all cases at law which involve the title, or possession, of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest, or the value, of the property in controversy, amounts to three hundred dollars; and, also, in all criminal cases not otherwise provided for. The District Courts and their Judges shall have power to issue writs of *habeas corpus* on petition by, or on behalf of, any person held in actual custody in their respective districts.

County  
Courts.

SEC. 7. There shall be, in each of the organized counties of the State, a County Court, for each of which a County Judge shall be elected by the qualified electors of the county, at the special judicial elections to be held as provided for the election of Justices of the Supreme Court by section three of this article; the County Judges shall hold their offices for the term of four years from the first day of January next after their election.

Jurisdiction.

SEC. 8. The County Courts shall have original jurisdiction of actions of forcible entry and detainer, of proceedings in insolvency, of actions to prevent, or abate, a nuisance, and of all such special cases and proceedings as are not otherwise provided for; and, also, such criminal jurisdiction as the Legislature may prescribe; they shall also have appellate jurisdiction in all cases arising in courts held by Justices of the Peace and Recorders, and in such inferior courts as may be established in pursuance of section one of this article, in their respective counties. The County Judges shall also hold, in their several counties, Probate Courts, and perform such duties as Probate Judges as may be prescribed by law. The County Courts and their Judges shall also have power to issue writs of *habeas corpus* on petition by, or on behalf of, any person in actual custody in their respective counties. In the city and county of San Francisco the Legislature may separate the office of Probate Judge from that of County Judge, who shall hold his office for the term of four years.

Probate  
Courts.

Powers of  
Judges.

Justices of  
the Peace.

SEC. 9. The Legislature shall determine the number of Justices of the Peace to be elected in each city and township of the State, and fix by law their powers, duties, and responsibilities; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of Record. The Supreme Court, the District Courts, County Courts, the Probate Courts, and such other courts as the Legislature shall prescribe, shall be Courts of Record.

Recorders'  
Courts.

SEC. 10. The Legislature shall fix by law the jurisdiction of any Recorder's, or other inferior municipal, Court, which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities, of the Judges thereof.

Clerk of  
Supreme  
Court, etc.

SEC. 11. The Legislature shall provide for the election of a Clerk of the Supreme Court, County Clerks, District Attorneys, Sheriffs, and other necessary officers, and shall fix by law their

duties and compensation. County Clerks shall be *ex officio* Clerks of the Courts of Record in and for their respective counties. The Legislature may also provide for the appointment by the several District Courts of one, or more, Commissioners in the several counties of their respective districts, with authority to perform chamber business, of the Judges of the District Court and County Courts, and also to take depositions and to perform such other business connected with the administration of justice as may be prescribed by law.

Commissioners.

SEC. 12. The times and places of holding the terms of the several Courts of Record shall be provided for by law.

Holding courts.

SEC. 13. No judicial officer, except Justices of the Peace, Recorders, and Commissioners, shall receive, to his own use, any fees, or perquisites, of office.

To receive no fees.

SEC. 14. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient; and all opinions shall be free for publication by any person.

Reports of Supreme Court.

SEC. 15. The Justices of the Supreme Court, District Judges, and County Judges, shall, severally, at stated times during their continuance in office, receive for their services a compensation, which shall not be increased, or diminished, during the term for which they shall have been elected; *provided*, that County Judges shall be paid out of the county treasury of their respective counties.

Compensation of Judges.

SEC. 16. The Justices of the Supreme Court, and the District Judges, and the County Judges, shall be ineligible to any other office than a judicial office, during the term for which they shall have been elected.

Judges ineligible.

SEC. 17. Judges shall not charge juries with respect to matters off act, but may state the testimony and declare the law.

Charge to juries.

SEC. 18. The style of all process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

Style of process.

SEC. 19. In order that no inconvenience may result to the public service from the taking effect of the amendments proposed to said article sixth by the Legislature of eighteen hundred and sixty-one, no officer shall be superseded thereby, nor shall the organization of the several courts be changed thereby until the election and qualification of the several officers provided for in said amendments.



# RESOLUTIONS.



# CONCURRENT AND JOINT RESOLUTIONS.

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## ASSEMBLY RESOLUTIONS.

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### NUMBER I.—*Concurrent Resolution.*

[Adopted January 17, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that a committee of three from each House be appointed to wait upon the Governor, and inform him of the organization of the Legislature, and that they are ready to receive any communications he may be pleased to make.

Organiza-  
tion of the  
Legislature.

### No. II.—*Concurrent Resolution.*

[Adopted January 18, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that a committee of three from each House be appointed, to examine and report upon the subject of the printing of the Governor's Message and accompanying documents.

Printing  
Governor's  
Message.

### No. III.—*Concurrent Resolution.*

[Adopted January 19, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that William A. January, County Clerk of El Dorado County, be, and he is hereby, granted leave of absence from this State, for the period of five months, at such time as he may select during his term of office.

Leave of  
absence.

No. IV.—*Concurrent Resolution.*

[Adopted January 31, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Semi-weekly mail. Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to use all means in their power, to procure the establishment of a semi-weekly mail from San Luis Obispo to Visalia, in Tulare County.

*Resolved*, That the Governor be requested to furnish a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

No. V.—*Concurrent Resolution.*

[Adopted January 25, 1861.]

Preamble.

WHEREAS, The Legislature of the State of California, at its tenth session, on the third day of February, eighteen hundred and fifty-nine, passed a series of Concurrent Resolutions, prefaced by a preamble, which preamble and resolutions are in the words following: “*Whereas*, The ninth session of the Legislature of the State of California, passed resolutions instructing our Senators in Congress to support the policy of the National Administration in regard to the admission of Kansas under the Lecompton Constitution; and, *whereas*, the Honorable David C. Broderick, United States Senator from this State, not only disregarded said instructions, but indirectly charged that the members of said ninth session of the Legislature had misrepresented the wishes of their constituents; and, *whereas*, the people of this State, at the last election, triumphantly sustained the action of the members of said ninth session of the Legislature; Therefore, for the purpose of giving to the said Honorable David C. Broderick a full understanding of the position he occupies to his constituency, be it—*Resolved*, By the Senate, the Assembly concurring, that the Legislature of a State constitutes the immediate constituency of a United States Senator; *resolved*, that a constituency has, at all times, a right, and it is their duty, when deemed necessary, to instruct their Representatives upon all matters of public policy pertaining to the duties of such Representative, and that to such Representative, when so instructed, there is left no other honorable alternative, save obedience, or resignation; *resolved*, that Senator Broderick has neither yielded obedience to the instructions of the ninth session of the Legislature of this State, nor has he, as yet, resigned the seat he holds, contrary to the wishes of his constituency; *resolved*, that the language used in the speech of said Senator, on the twenty-second day of March, A. D. eighteen hundred and fifty-eight, in the United States Senate, towards the Chief Executive of this Confederacy, was not only undignified and disrespectful, but alike insulting to the nation, and humiliating to the people of this State; *resolved*, that his Excellency the Governor of this State



be requested to forward a copy of the above resolutions to the Preamble. Honorable David C. Broderick." And, *whereas*, said preamble is untrue, inasmuch as the resolutions of instruction referred to therein were not received by the Honorable David C. Broderick until after his vote had been cast in the Senate of the United States against the Leocompton Constitution; and, *whereas*, the people of this State, and of the United States, have, by a very large majority, indorsed the course of the Honorable D. C. Broderick against the Kansas policy of the late President of the United States, James Buchanan; and, *whereas*, said preamble and resolutions were inconsiderate, and only intended to wound the feelings of California's honest, able, and faithful, Representative in the Senate of the United States. Therefore, be it—

*Resolved*, By the Senate, the Assembly concurring, that the preamble and resolutions hereinbefore recited, passed February third, eighteen hundred and fifty-nine, so far as the same relate to the Honorable David C. Broderick, are hereby declared to be unjust to his character while living, and derogatory to the honorable and patriotic fame which a true and faithful record of his acts will always accord to his memory. Former resolutions expunged.

*Resolved*, That said preamble and resolutions, passed February third, eighteen hundred and fifty-nine, were not true in fact, and were not sanctioned by the people of the State of California, but, on the contrary, the people of this State cherish with profound respect the memory and character of the late Honorable David C. Broderick, adorned as his character eminently was by integrity, firmness, and patriotism.

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No. VI.—*Concurrent Resolution.*

[Adopted January 31, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Senators in Congress be instructed, and our Representatives requested, to use all honorable means in their power to procure the establishment of a semi-weekly mail from the town of San Diego, via Santa Isabel, to Buena Vista, and for the establishing of a post-office at Santa Isabel. Semi-weekly mail.

*Resolved*, That his Excellency, the Governor, be requested to forward a copy of the above resolution to each of our Senators and Representatives in Congress.

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No. VII.—*Concurrent Resolution.*

[Adopted January 23, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that Hon. Robert McGarvey, County Judge of Stanislaus County, be, and

Leave of  
absence.

is hereby, granted leave of absence from this State, for the period of three months, at such time as he may select during his present term of office.

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No. VIII.—*Concurrent Resolution.*

[Adopted January 24, 1861.]

Mail-routes.

*Resolved,* By the Assembly, the Senate concurring, that our Senators in Congress be instructed, and our Representatives requested, to use all means in their power to procure the establishment of the following mail-routes, viz: A weekly mail from Chico, Butte County, to Humbug Valley, Plumas County, the post-office to be located in Humbug Valley. A weekly mail from Quincy, Plumas County, to Richmond, Honey Lake Valley, also in Plumas County, the post-office to be established at Richmond, and an intermediate post-office to be located at Job Taylor's, in Indian Valley, on said route. The weekly mail now established from Oroville to Susanville, Honey Lake Valley, to be extended to Virginia City, in Utah Territory; and from the first of May to the first of November, each year, to be transported in a four horse coach from Oroville to Virginia City.

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No. IX.—*Concurrent Resolution.*

[Adopted January 24, 1861.]

Printing  
reports of  
State officers

*Resolved,* By the Assembly, the Senate concurring, that there be printed of the Annual Message of the Governor, four thousand eight hundred copies in English, and four hundred and eighty in Spanish. Of the reports of the Secretary of State and Attorney-General, four hundred and eighty copies of each in English. Of the reports of the Controller, Treasurer, and Surveyor-General, each nine hundred and sixty copies in English, and two hundred and forty in Spanish. Of the report of Directors and Resident Physician of Insane Asylum, nine hundred and sixty copies in English. Of the report of Commissioners for the establishment of State Reform School, four hundred and eighty copies in English. Of the report of Superintendent of Public Instruction, two thousand four hundred copies in English, and four hundred and eighty in Spanish, and that the Sergeant-at-Arms of the two Houses be directed to distribute the same, as soon as printed, *pro rata*, among the members.

No. X.—*Concurrent Resolution.*

[Approved January 26, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Senators in Congress be instructed, and our Representatives requested, to obtain from the Census Bureau, at Washington, a copy of the official returns of the Census Marshals of the State of California, and forward the same with the least possible delay to his Excellency the Governor. Official return of census.

*Resolved*, That his Excellency the Governor be requested to transmit a copy of the above resolution to our Senators and Representatives in Congress by the most expeditious means of communication between this State and Washington.

No. XI.—*Concurrent Resolution, Relative to certain Mail-Routes in this State.*

[Adopted January 26, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure the early establishment of a weekly mail-route from the town of San Diego, San Diego County, via San Luis Rey, San Juan Capistrano, and Anaheim, to the city of Los Angeles, Los Angeles County, California, and the establishing of post-offices at San Luis Rey, San Juan Capistrano, and Anaheim. Weekly mail-routes.

*Resolved*, That his Excellency the Governor be requested to forward a copy of the above resolutions to our Senators and Representatives in Congress at as early a day as practicable.

No. XII.—*Concurrent Resolution.*

[Adopted January 28, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that a committee of three from each House be appointed to examine and select proposals for translating the laws of eighteen hundred and sixty-one into Spanish. Laws in Spanish.

No. XIII.—*Concurrent Resolution.*

[Adopted January 28, 1861.]

Leave of  
absence.

*Resolved*, By the Assembly, the Senate concurring, that Hon. Green T. Martin, Judge of Tuolumne County be, and is hereby, granted leave of absence from this State, for the period of four months, at such time as he may select during his present term of office.

No. XIV.—*Concurrent Resolution.*

[Adopted January 31, 1861.]

Dedication  
of lands for  
public  
highways.

*Resolved*, By the Assembly, the Senate concurring, that our Senators and Representatives in Congress be requested to use their influence to obtain the passage of a law, by which all lands of the United States, in the State of California, over, or through which, any public road, highway, or railroad, is, or may be, located, in accordance with the laws of the State, shall be dedicated forever to the use of the public as a highway, and that no subsequent sale by the United States, to private parties, shall vitiate the right of the public to the use of such lands, unless such road be vacated according to the laws of the State.

No. XV.—*Concurrent Resolution.*

[Adopted February 2, 1861.]

Aid to Pony  
Express.

*Resolved*, By the Assembly, the Senate concurring, that our Senators be instructed, and our Representatives in Congress requested, to use their earnest endeavors to obtain an appropriation from the General Government in aid of the Pony Express Company.

No. XVI.—*Concurrent Resolution.*

[Adopted May 16, 1861.]

Weekly  
mail-routes.

*Resolved*, By the Assembly, the Senate concurring, that our Senators be instructed, and our Representatives in Congress be requested, to use their efforts to cause to be established a weekly mail on the following route: From Colusa, in the county of Colusa, to Fresh Creek Cañon, from thence to Bear Valley, thence to Indian Valley, thence to the mouth of Grindstone Fork, Stoney Creek, thence to African Valley, and from thence to the Mountain House, Tehama County, thence to Nome Lackee Reservation, and from thence to Red Bluff, in the last named county.

No. XVII.—*Concurrent Resolution.*

[Adopted February 8, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Senators be instructed, and our Representatives in Congress assembled be requested, to urge upon Congress the immediate necessity for appropriations for the following mail-routes: A route from Quincy to Carson City, or Virginia, *via* Beckworth Valley; or at least, a route to connect with the Honey Lake one, at some point near the summit, or in Long Valley. Mail-routes.

No. XVIII.—*Concurrent Resolution.*

[Adopted February 21, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that when the two Houses adjourn to-day, they do so to meet on Tuesday next, the twenty-sixth instant, at eleven o'clock, A. M. Adjournment.

No. XIX.—*Concurrent Resolution.*

[Adopted March 5, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Committee of Ways and Means of the House and the Finance Committee of the Senate be instructed to confer with the State Controller, the State Treasurer, and the Attorney-General, on the changes necessary to the revenue laws; and that they be instructed to report by bill the result of their investigations. Changes in revenue laws

No. XX.—*Concurrent Resolution.*

[Adopted March 7, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that our Representatives be requested, and our Senators instructed, to use all honorable means to procure the quota of arms due this State by the General Government. State arms.

*Resolved*, That his Excellency the Governor be requested to transmit a copy of these resolutions to each of our Senators and Representatives in Congress.

No. XXI.—*Concurrent Resolution.*

[Adopted March 12, 1861.]

Appropriation for translating.

*Resolved,* By the Assembly, the Senate concurring, that the Slate Controller be, and he is hereby, authorized to draw his warrant in favor of Eugene Liés, for the sum of one thousand two hundred and forty-nine dollars and fifty cents, for translating into Spanish during the present session of the Legislature the following documents, viz: The Governor's Message, the reports of the Controller, Treasurer, Superintendent of Public Instruction, and the Surveyor-General, payable one-half out of the Contingent Fund of the Assembly, and one-half out of the Contingent Fund of the Senate.

No. XXII.—*Concurrent Resolution.*

[Adopted March 13, 1861.]

Joint Convention for electing officers for Insane Asylum.

*Resolved,* By the Assembly, the Senate concurring, that the two Houses meet in Joint Convention in the Assembly Chamber on Thursday, the twenty-first instant, at twelve o'clock, M. for the purpose of electing a Resident and Visiting Physician and two Trustees for the Insane Asylum, to fill the vacancy which will shortly occur by reason of the expiration of the term of the present incumbents.

No. XXIII.—*Concurrent Resolution.*

[Adopted March 18, 1861.]

Preamble.

WHEREAS, The business relations of California with Arizona, New Mexico, and the extreme southern States, are such as to require greater facilities for travel and the transportation of mails, on the route heretofore traveled by the Overland Mail. Therefore, be it—

Daily mail over Southern Route.

*Resolved,* By the Assembly, the Senate concurring, that our Senators be instructed and our Representatives requested to favor the maintenance of a daily mail over what is known as the Butterfield, or Southern, route, in addition to the daily mail provided by Congress to be carried over the Central Route, and that a copy of this resolution be by the Governor transmitted to our Senators and Representatives in Congress.

No. XXIV.—*Concurrent Resolution.*

[Adopted March 30, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that both Houses meet in Joint Convention on Tuesday, April second, at two o'clock, P. M. for the purpose of electing a United States Senator to fill the vacancy occasioned by the expiration of the term of the Hon. Wm. M. Gwin.

Joint Convention for election of U. S. Senator.

No. XXV.—*Concurrent Resolution.*

[Adopted March 2, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Governor of the State be, and he is hereby, authorized and requested, to appoint three Commissioners to report to the next Legislature upon the ways and means best adapted to promote the improvement and growth of the grape-vine in California; *provided*, such Commissioners who may accept the office shall not ask, or receive, any pay, or other compensation, for the performance of the duties of their offices.

Cultivation of the grape-vine.

No. XXVI.—*Concurrent Resolution.*

[Adopted April 4, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Senate and Assembly will meet in joint convention, on Friday, April fifth, eighteen hundred and sixty-one, at two o'clock, P. M. for the purpose of electing three Trustees for the Insane Asylum.

Joint Convention for election of officers of Insane Asylum.

No. XXVII.—*Concurrent Resolution.*

[Adopted April 5, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the committees of each House on Public Buildings and Grounds are hereby instructed to meet and act as a joint committee, and report to this Legislature at as early a day as practicable, what action has been taken by the Board of Commissioners appointed by the Act to provide for the construction of the State Capitol, approved March twentieth, eighteen hundred and sixty, also whether in their opinion said law should be amended.

State Capitol.

No. XXVIII.—*Joint Resolution, asking of Congress to cede to the State of California the odd Sections of all Public Lands within this State, to be used by said State solely for Railroad purposes.*

[Adopted May 1, 1861.]

Preamble. WHEREAS, The State of California is a new State, and in consequence of its great commercial and financial relations with the States east of the mountain ranges, rendering their connection by direct and speedy transit urgent and of immediate necessity, and as the most formidable of these mountain ranges lies within this State; therefore—

Cession of lands for railroad purposes.

*Resolved*, By the Senate and Assembly, that our Senators in Congress be instructed, and our Representatives requested, to urge upon Congress by all means in their power the cession of all the odd sections of public lands within this State to the State of California, to be used solely by said State in aid of the building, or constructing, of railroads within this State, and especially for such railroads as shall cross the Nevada Range of Mountains, and connecting with any of the navigable waters of the Sacramento Valley, or the bay of San Francisco, and to obtain from Congress a direct grant of thirty sections of land for each mile of road to the company who shall first build, complete, and run cars, thereon, at the rate of speed of twenty miles an hour, a railroad from the navigable waters of the Sacramento Valley, by, or near, Honey Lake Valley to the valley of the great basin east of the Nevada Range, and to obtain whatsoever appropriation in money for each mile of said road from the western to eastern base of the Sierra Nevada Mountains, Congress may be induced to grant, said money to be refunded to the United States, in conveying of mails, or other services, at rates to be fixed by Congress.

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No. XXIX.—*Concurrent Resolution, concerning the Overland Mail and Telegraph Route.*

[Approved May 17, 1861.]

Preamble. WHEREAS, the daily overland mail is about to be carried, and the overland telegraph to be constructed, between California and Missouri, over a route traversed by numerous bands of Indians; and, *whereas*, some of them are exhibiting hostile intentions, and said mail and telegraph are liable to interruption from this cause; therefore, be it—

Safe transit of mails, etc.

*Resolved*, By the Assembly, the Senate concurring, that our Senators in Congress are requested to procure from the General Government such military protection as may be necessary to secure said route against Indian hostilities, and to afford a safe transit over the same for the United States Mails and for all emigrants, or passengers, traveling said route.



No. XXX.—*Concurrent Resolution.*

[Adopted April 13, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Hon S. H. Brooks, Controller of State, be, and is hereby granted leave of absence from this State, for the period of thirty days, at such time as he may select, during the year eighteen hundred and sixty-one.

No. XXXI.—*Concurrent Resolution.*

[Adopted April 25, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Board of State Capitol Commissioners are hereby authorized, in their discretion, to extend the time of the Contractor on the State Capitol building, to complete his contract, from the first day of August, eighteen hundred and sixty-one, to the first day of January, eighteen hundred and sixty-two.

No. XXXII.—*Concurrent Resolution.*

[Adopted April 25, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that the Committees on Military Affairs of both Houses are hereby authorized to take possession of, and, in connection with the Clerk of Board of War Commissioners and the State Treasurer, destroy, the coupons reserved by the said War Bond Commissioners, and which were of date subsequent to the payment of the bonds and coupons which were paid by the General Government.

No. XXXIII.—*Concurrent Resolution.*

[Adopted April 27, 1861.]

*Resolved*, By the Assembly, the Senate concurring, that E. Burke, District Judge of the Thirteenth Judicial District be, and he is hereby, granted four months' leave of absence from this State, at such time as he may select during the present year, on condition that the said Judge shall first procure the attendance of some other District Judge to perform his duties during his absence.

No. XXXIV.—*Concurrent Resolution.*

[Adopted May 3, 1861.]

Indian war  
claims.

*Resolved*, By the Assembly, the Senate concurring, that our Senators in Congress be instructed, and our Representatives requested, to procure, at as early a day as practicable, an appropriation to meet the expenses of the Volunteers under the command of Col. John C. Hays, for services, and all claims justly chargeable to the Federal Government, in the late Indian war in Utah Territory.

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No. XXXV.—*Concurrent Resolution.*

[Adopted May 14, 1861.]

Printing  
Revenue Act

*Resolved*, By the Assembly, the Senate concurring, that the Secretary of State cause nine hundred and sixty copies of the new Revenue Act to be printed in pamphlet form, for circulation among the revenue officers, as soon as it becomes a law; and that the printing herein provided for shall be performed and paid for as other printing ordered by the State.

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No. XXXVI.—*Concurrent Resolution.*

[Adopted May 17, 1861.]

Printing  
land acts.

*Resolved*, By the Assembly, the Senate concurring, that as soon as possible after the adjournment of the Legislature, the Secretary of State shall cause to be collated, and printed in pamphlet form, one thousand nine hundred and twenty copies of all laws and parts of laws then in force, passed by this State for the disposal of its lands; and shall also insert in such pamphlet, such rules and regulations furnished for that purpose as may have been adopted by the Surveyor-General and Board of Swamp Land Commissioners; and that said printing shall be performed and paid for as other printing ordered by the State; and the pamphlets shall be delivered for distribution to the Board of Swamp Land Commissioners, the Surveyor-General, and State Land Locating Agents.

No. XXXVII.—*Concurrent Resolution.*

[Adopted March 5, 1861.]

WHEREAS, It is the duty of the General Government to provide for the defense and general welfare of every portion of the Confederacy, and as a means to secure these ends, it is indispensable to locate and improve roads for military, as well as postal, purposes; and, *whereas*, the distant and isolated position of California pre-eminently demands the improvement of communication across the continent, and within the jurisdiction of the United States, to connect the Pacific with the Atlantic Coast; and, *whereas*, in discharge of federal obligation, considerable sums have been expended to improve a road from the Missouri River to the eastern boundary of this State, at, or near, Honey Lake; and, *whereas*, to render available and effective the said road, it is necessary to extend it across the Sierra Nevada to some navigable point on the Sacramento River; therefore, be it—

Preamble.

*Resolved*, By the Assembly, the Senate concurring, that Congress is hereby respectfully but earnestly called upon, to appropriate twenty-five thousand dollars to locate and improve the road in continuation of the one above mentioned, from Honey Lake, through Humbug Valley, in Plumas County, by the shortest and most practicable route, to a navigable point on the Sacramento River.

Improvement of wagon road.

*Resolved*, That the Governor be requested to transmit, without delay, a copy of the foregoing preamble and resolutions to our Senators and Representatives in Congress.

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 SENATE RESOLUTIONS.
 

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NUMBER I.—*Concurrent Resolution.*

[Adopted January 18, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that Michael Martin be appointed Fireman, at a salary of three dollars per day, payable out of the Contingent Fund of both Houses.

Fireman at State Capitol

No. II.—*Concurrent Resolution.*

[Adopted January 18, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that John Clark, on old pensioner, be appointed to perform the necessary

Compensation for services at State Capitol

work in the rear of the capitol, and that for such service he shall receive the sum of two dollars per day, payable out of the Contingent Funds of the Senate and Assembly.

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No. III.—*Concurrent Resolution.*

[Adopted January 23, 1861.]

Weekly mail-routes.

*Resolved,* By the Senate, the Assembly concurring, that our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure the establishment of mail-routes, with weekly service, from the town of Arcata, in Humboldt County, *via* Trinidad and Gold Bluff, to Crescent City, in Del Norte County. Also, from Trinity Center to the Forks of Salmon, in Klamath County, *via* Summerville, Cecilville, and Centerville.

*Resolved,* That the Postmaster-General be requested, if in his power, to put special service upon said routes, until such time as Congress may take action thereon.

*Resolved,* That his Excellency the Governor be requested to forward a copy of these resolutions to our Senators and Representatives in Congress, and to the Postmaster-General, at as early a day as possible.

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No. IV.—*Concurrent Resolution.*

[Adopted January 31, 1861.]

Report on Eastern Boundary Survey.

*Resolved,* By the Senate, the Assembly concurring, that a Joint Committee of three from each House be appointed to take into consideration the report of Surveyor-General on the Eastern Boundary Survey, the same being now in the hands of the Senate, and report such action as they may deem necessary.

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No. V.—*Concurrent Resolution.*

[Adopted February 20, 1861.]

Leave of absence.

*Resolved,* By the Senate, the Assembly concurring, that W. C. Kibbe, Quartermaster-General be, and is hereby, granted leave of absence from this State until June, eighteen hundred and sixty-one.

No. VI.—*Concurrent Resolution.*

[Adopted February 19, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that Professor J. D. Whitney, State Geologist be, and is hereby, invited to deliver a lecture before the Legislature on the subject of geology and mineralogy of this State, and that the Committee on Mines and Mining Interests, of the Senate and Assembly, be requested to fix a day, and make suitable arrangements to carry into effect the object of this resolution, and report the same to their respective Houses.

Inviting  
State  
Geologist  
to deliver  
lecture.

*Resolved*, That the members and attachés of the different departments of the State Government be invited to attend said lecture.

No. VII.—*Concurrent Resolution.*

[Adopted February 21, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that when the two Houses adjourn this day they will stand adjourned until Tuesday, February twenty-sixth, eighteen hundred and sixty-one.

Adjourn-  
ment.

No. VIII.—*Concurrent Resolution.*

[Adopted March 1, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that the two Houses meet in joint convention in the Assembly chamber, at twelve o'clock, m. on Saturday, March ninth, for the purpose of electing a United States Senator to fill the vacancy which will occur by the expiration of the term of the Hon. Wm. M. Gwin.

Joint Con-  
vention to  
elect U. S.  
Senator.

No. IX.—*Concurrent Resolution.*

[Adopted March 26, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that the two Houses meet in joint convention, on Thursday, the twenty-eighth day of March, A. D. eighteen hundred and sixty-one, at one o'clock, P. M. for the purpose of electing a Commissioner, under the provisions of an act approved March twenty-sixth, A. D. eighteen hundred and sixty-one, entitled An Act to provide a Commission to co-operate with one appointed on behalf of the United States to ascertain and mark a portion of the Eastern Boundary Line of this State.

Joint Con-  
vention to  
elect Bound-  
ary Com-  
missioner.

No. X.—*Concurrent Resolution.*

[Adopted April 8, 1861.]

Leave of  
absence.

*Resolved*, By the Senate, the Assembly concurring, that Thomas A. Brown, County Judge of Contra Costa County, have leave of absence from this State for a period of four months the present year, eighteen hundred and sixty-one, at such time as he shall select.

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No. XI.—*Concurrent Resolution.*

[Adopted May 3, 1861.]

Adjournm't  
sine die.

*Resolved*, By the Senate, the Assembly concurring, that both branches of the Legislature adjourn *sine die* on the third Monday of May, the twentieth, noon, and that no new business be introduced in either House after the sixth of May, except by leave of two-thirds of either House.

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No. XII.—*Concurrent Resolution.*

[Adopted March 29, 1861.]

Attorney-  
General to  
aid certain  
officers.

*Resolved*, By the Senate, the Assembly concurring, that the Attorney-General be requested in his official capacity to aid all officers of the State, or any county, in making a defense to all suits brought to recover money paid for stamped paper under statutes of this State.

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No. XIII.—*Concurrent Resolution.*

[Adopted April 12, 1861.]

Leave of  
absence.

*Resolved*, By the Senate, the Assembly concurring, that the Hon. Charles Fernald, County Judge of the county of Santa Barbara, have leave to be and remain absent from the State of California for a period of three successive months, during the course of the year eighteen hundred and sixty-one.

No. XIV.—*Concurrent Resolution.*

[Adopted April 13, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that a Joint Select Committee of three from each House be appointed, whose duty it shall be to examine all warrants issued prior to January first, eighteen hundred and fifty-seven, now among the archives of the State, in the Secretary of State's office, prepare an accurate list of the same, giving their numbers, date, amounts, and the names of parties in favor of whom the same were drawn, and in the presence of the Secretary of State and the State Treasurer, destroy all such as are based upon claims which, by the action of the Legislature and the acceptance of the parties interested, have been canceled. To destroy canceled warrants.

No. XV.—*Concurrent Resolution.*

[Adopted April 23, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that our Senators in Congress be instructed, and our Representatives requested, to urge upon Congress the passage of a law establishing a mail-route between the port of San Francisco in this State, and ports in Japan and China. Mail-route to Japan and China.

*Resolved*, That the Governor be requested to forward a copy of the above resolution to our Senators and Representatives in Congress.

No. XVI.—*Concurrent Resolution.*

[Adopted May 8, 1861.]

*Resolved*, By the Senate, the Assembly concurring, that the Joint Select Committee to whom was referred the Governor's Message and accompanying documents, in reference to the existing difficulties in Santa Clara County be, and are hereby, authorized to appoint a sub-committee of four, composed of two from each House, to proceed forthwith to said county, for the purpose of ascertaining such facts as may enable them to determine as to the necessity of an appropriation, and the amount thereof. Committee to visit Santa Clara.

No. XVII.—*Concurrent Resolution.*

[Adopted May 17, 1861.]

Leave of  
absence.

*Resolved*, By the Senate, the Assembly concurring, that Hon. D. W. McComb, County Judge of Klamath County, have leave of absence from the State for three months, commencing the first day of December next.

No. XVIII.—*Concurrent Resolution.*

[Adopted May 17, 1861.]

Fidelity of  
California to  
the Union.

*Resolved*, By the Senate, the Assembly concurring, that the people of California are devoted to the Constitution and Union of the United States, and will not fail in fidelity and fealty to that Constitution and Union, now in the hour of trial and peril. That California is ready to maintain the rights and honor of the National Government at home and abroad, and at all times to respond to any requisition that may be made upon her to defend the Republic against foreign, or domestic foes.

No. XIX.—*Concurrent Resolution.*

[Adopted April 6, 1861.]

Pay of  
Clerk to In-  
vestigating  
Committee.

*Resolved*, By the Senate, the Assembly concurring, that the sum of sixty dollars be, and the same is, appropriated, one-half out of the Contingent Fund of the Senate, and one-half out of the Contingent Fund of the House, to the Clerk of the joint committee appointed to investigate all the facts in relation to the Senatorial Convention held on the twentieth of March, eighteen hundred and sixty-one, and the Controller of State is hereby authorized to draw his warrant in favor of said Clerk for the same.