

CHAPTER CXLV.

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 matter.

[Approved April 29, 1857.]

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

Duty imposed on paper used for certain purposes

On bills of exchange, &c.

Amount.

Attorney's license.

SECTION 1. On and after the first day of July, eighteen hundred and fifty-seven, the following duty 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, if 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 dollars, and not exceeding 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; any policy of insurance, contract or instrument in the nature thereof, upon any house, factory machinery, ship, steamer or vessel, of any descrip-

tion, any goods, wares, or merchandise, 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.

SEC. 2. The Governor, Treasurer, and Secretary of State, 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 duties and file the same in the office of the Secretary of State. It shall further be the duty of said Commissioners to immediately publish for proposals for bids and plans for stamping the seals to be devised as aforesaid upon the material required to be stamped, and upon a given day to open said bids to determine upon any plan that may seem best to them, whether contained in the said bids or not, and to award the contract for the impressing of all the seals herein required to be stamped upon paper, parchment, or other material, under such conditions, checks, rules and regulations, as from time to time may be adopted by said Commissioners or by the Legislature, to the lowest and most responsible bidder for the term of one year, upon his executing a bond for the faithful discharge of his contract, in the sum of fifty thousand dollars with sureties approved by said Commissioners. The said Commissioners shall further establish, and from time to time, when in their judgment proper, shall alter and change such rules and regulations whereby it shall be provided that the Secretary of State shall be responsible for the safe custody of the said seals; and the said seals shall only be used by the Stamp Contractor, under the supervision of the said Secretary; and whereby it shall further be provided that the Secretary shall keep or cause to be kept, a record of each impression made by said contractor; and the said contractor shall be responsible on his bond, according to the said record as aforesaid, that after the stamping the said contractor shall then deliver the papers, or other material so stamped, to the Controller of State, taking his receipt therefor; and whereby further, it shall be provided that the Controller shall so 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 shall pro-

vide 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 evasion of this Act, and take such means as may be suitable to subject the offenders to the fines and penalties herein ordered.

Materials furnished by Secretary of State.

SEC. 3. 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, issue the same to the Stamp Contractor. 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 Stamp Contractor, 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 papers so receipted for by them, unless the said stamped papers themselves be shown to be in their possession.

Controller to furnish County Treasurers.

Responsibility of Treasurers.

Manner of procedure in purchasing stamped paper.

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 authorization, 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, or any part thereof, into the Treasury, the Controller shall deliver to the said purchaser the equivalent in stamped papers or parchments. And any person purchasing at one time, stamped papers as aforesaid, for a sum in the aggregate amounting to fifty dollars, shall be entitled to a deduction of eight per cent. on the aggregate amount of said purchase money.

Persons desiring sheets stamped.

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 said Secretary of State to cause the same to be stamped in the manner designated in the said memorandum, and the same proceedings and the same deduction shall thereupon be had for the purchase thereof, by the person so making the deposit, as provided for in the foregoing sections.

Papers regarded as insurance policies.

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.

SEC. 7. No instrument or writing whatever, executed on or after the first day of July, one thousand eight hundred and fifty-seven, 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.

Papers executed after certain time, to be void unless stamped.

SEC. 8. After a sheet, or piece of paper, or parchment duly stamped, has been once used for any purpose for which a duty is herein imposed, it shall not be lawful to use the same paper or parchment again, for any purpose for which a duty is levied, without previously causing the same to be again stamped.

Same paper to be used but once.

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, for every such offense, forfeit the sum of two hundred dollars, one half for the use of the State, and the other half to the use of the informer, who shall be a competent witness thereto. Any person or persons, who shall issue any instrument in writing or otherwise, without such stamp as is herein directed, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding the amount for which said instrument was so illegally issued.

Offenses and evasions.

Forfeit.

Misdemeanor and fine.

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

Persons counterfeiting seals or defrauding State.

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 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.

Guilty of felony, and penalty.

Additional Clerks.

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.

Duty of County Treasurers.

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 five 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, and monthly the County Treasurers of said counties shall settle with the Treasurer of State for all moneys received by them from the sale of stamps.

Quarterly settlements.

Violation or neglect of duty.

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 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 engraven, 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 stamp contractor, 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.

Persons guilty of larceny.

Monthly report of Controller.

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 the Stamp Contractor, 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.

Report of Secretary of State.

Duty of Commissioners.

SEC. 15. The Stamp Contractor 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 the stamped papers or parchments receipted for by him to the Stamp Contractor, for which he, the said Controller, cannot produce either the receipt of the County Treasurer, or the receipts of the money paid into the Treasury by purchasers, signed by the Treasurer of State.

Responsibility of Contractor and of Controller.

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.

Persons guilty of felony.

SEC. 17. The sum of ten 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. The said commissioners shall only audit the accounts of the Stamp Contractor upon an examination of the record made under the supervision of the Secretary of State, and of the receipts of the Controller, and upon such other evidence as to them may be satisfactory.

Appropriation.

Accounts of Contractor, how audited.

SEC. 18. If from any cause a sufficient number of stamps for general use can not be distributed in the various counties by the time designated in the first section of this Act, upon the said Commissioners publishing a certificate of that fact, and filing the same in the office of the Secretary of State, this Act shall be suspended until the first day of August next; and if at any time the Stamp Contractor shall, from any cause whatever, fail to discharge the conditions of his contract so that the public interest thereby may be exposed to material injury, the said Commissioners, upon the determination of that fact by them, are authorized to suspend his contract until further action by the succeeding Legislature, and to provide ways and means otherwise for the proper carrying into effect of this Act.

Circumstances under which this Act is suspended

any swamp lands, excepted from the provisions of the Act entitled "An Act to provide for the sale of the swamp and overflowed lands belonging to this State," passed April twenty-eighth, one thousand eight hundred and fifty-five, upon any of the swamp and overflowed lands embraced within the provisions of this Act, shall be protected in his, her, or their possession, according to the boundary-lines of said possession, or location; *Provided*, that he, she, or they, shall, within twelve months from and after the passage of this Act, comply with all the other requirements of purchasers, under the provisions of this Act; *Provided, further*, that the said claim shall not exceed six hundred and forty acres, or measure more than one-half mile front, by legal subdivision, on any bay, lake, or navigable stream.

SEC. 5. Section ten of said Act is hereby amended so as to read as follows:

In case of
contest.]

Section ten—In all cases where a contest for the certificate of purchase, or other evidence of title, to the same tract of land, shall arise before the Register, when such contest is purely as to the survey, the Register shall determine the same, according to the facts, and issue his certificate therefor, to the person whom he shall determine to be entitled thereto. Whenever, in the judgment of the Register, a question of law alone, or of law and fact, is involved in such contest, or when either party shall demand a trial of such questions in the Courts of the State, said Register shall enter such judgment, or demand, of either of the parties, in the record of the proceedings had before him, together with a direction that the parties to such contest are referred to the Courts of the State for a legal determination of said contest, or conflicting claim. Either party to such contest may bring his action in the District Court of the County in which the land in dispute is situated, to determine such conflicting claim, and the proffer of a certified copy of said entry made by the Register, and upon service and return of process, as in other civil cases, shall give to said District Court full and complete jurisdiction to hear, try, and determine, said conflicting claim. Upon filing with the State Register a certified copy of the final judgment or decision of said District Court, said State Register shall issue his certificate, or other evidence of title, in accordance with such decision. For services to be rendered by the Receiver, as prescribed by this Act, he shall be entitled to demand and receive, as a fee, the sum of ten dollars, in each case, to be deposited, equally, in advance, by the parties contesting, and on the filing, hearing, or termination, of such contest, when finally determined by him—or on certifying the proceedings had by him, as aforesaid, it shall be lawful for him to assess equally, in whole or in part, the above sum to either of the parties contestant, and for each certificate of purchase or patent he shall be entitled to demand the sum of five dollars.

Taxable.

SEC. 6. All lands purchased under the provisions of this Act shall be held to be taxable from and after date of purchase.

CHAP. CCCXV.—An Act amendatory of, and supplementary to, an Act to provide Revenue for the support of the Government of this State, approved April twenty-ninth, eighteen hundred and fifty-seven.

[Approved April 19, 1859.]

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

SECTION 1. Section second 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, is hereby amended so as to read as follows:

Section second—All property, of every kind and nature whatever, within this State, shall be subject to taxation, except:

First—All lands, and lots of grounds, with buildings, improvements, and structures thereon, belonging to the State, or to 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. Exempt.

Second—Court-houses, Jails, Town-halls, Council-chambers, Market-houses, belonging to any County, or Municipal Corporation, 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.

Third—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, unless the same are private property, from which a rent or valuable consideration for their use is derived; in which latter case they shall be taxed as other property.

Fourth—Public hospitals, asylums, poor-houses, and other charitable or benevolent institutions for the relief of the indigent and afflicted, and the lots, or lands, thereto appurtenant, with all their furniture and equipments, so long as the same shall be used for that purpose only, and without pecuniary gain.

Fifth—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 purpose only, without yielding rent.

Sixth—Cemeteries, and grave-yards, set apart and used for the purpose of interring the dead.

Seventh—The property of widows, or orphan children, to the amount of one thousand dollars.

Eighth—Growing crops.

Ninth—Mining-claims.

In all cases where property, other than growing crops, or mining-claims, is claimed as exempt from taxation, under the

provisions of this section, by any person, association, or corporation, except the United States, or the State of California, such person, association, or corporation, in order to entitle himself, or themselves, to the benefit of such exemption, shall make a statement in writing to the Tax-Collector, setting forth the property claimed to be exempted, by whom such property is owned, and the reason for such exemption. Such statement shall be verified by the oath of the person claiming such exemption, or of some person on his behalf; and where the statement is made by an association, or corporation, it shall be verified by the oath of some person on behalf of said association, or corporation. The Tax-Collector, or any of his Deputies, are hereby authorized and empowered to administer such oath, and to prescribe the form thereof, without charge. Such statement, in writing, duly verified, as aforesaid, shall be delivered to the Tax-Collector, prior to the third Monday of October, in each year.

Sec. 2. Section third of said Act is hereby amended so as to read as follows:

Property of
Corporations

Section third—Between the first Monday in February and the second Monday in March, in each year, every person, corporation, association, company, or firm, owning, claiming, or having any interest in, or having the possession, charge, or control, of any real estate, or any personal property, situate or being within the County, shall deliver to the City and County Assessor, at his office or place of residence, a statement, under oath, of all the real estate or personal property within the County, owned or claimed by such person, firm, corporation, association, or company, or which is in the possession, or under the control of such person, firm, corporation, association, or company. Said statement shall contain a description of the real estate owned or claimed by such person, corporation, association, or firm, or in which said person, corporation, association, or firm, has, or claims to have, any interest, or which is under the possession, charge, or control, of such person, corporation, association, or firm, and the cash value thereof, the name of such person, corporation, association, or firm; the cash value of all the personal property, and a description thereof, under the following classification and definition:

First—All household and kitchen furniture; all law, medical, and miscellaneous libraries.

Second—All stocks of goods on hand; all goods, wares, merchandise, and chattels, of every description.

Third—All money on hand, or on deposit in bank, or banks, or with individuals; and all gold-dust.

Fourth—All horses, mules, oxen, cows, calves, beef-cattle, hogs, sheep, goats, jacks, and jennets, and cattle of every description, wagons, carriages, and all other vehicles, whether for use, pleasure, or hire.

Fifth—All machines, or machinery, and all works, and improvements, not fixed to the soil, and not included in the term real estate, as defined in this Act.

Sixth—All storeships and hulks, all steamers, vessels, and water-craft, of every kind and name, either owned in whole, or

in part, by a resident, or residents, of the State, or registered in this State, or navigating the waters of any river or bay within this State, or having a general depot, or terminus, within this State, giving the name and value, separately, of each of such storeships, hulks, steamers, vessels, and water-craft.

Seventh—The capital stock of all corporations, companies, associations, firms, or individuals, doing business, or having an office in the State.

Eighth—All other property, not real-estate, which is not otherwise taxed.

Every such statement shall be signed and verified by the person making such statement, or by his agent, or by some member of the association, company, or firm, making such statement, or by the President, (or other head,) Cashier, Secretary, or Managing Agent, of the corporation making such statement. In all cases where such statement is made, and sworn to, the oath of the person making such statement, shall state, in substance, that the person, corporation, association, company, or firm, making the statement, or in whose behalf such statement is made, has no property, of any kind or nature, situate or being within the County, other than the property included in such statement; that such person, corporation, association, company, or firm, has not the possession, charge, or control, of, or any interest in, any property, whether real, personal, or mixed, situate, lying, or being within such County, other than the property mentioned and described in such statement; that said statement is a full, true, correct, and complete statement of all of the different kinds of property owned, or claimed, by such person, corporation, association, firm, or company, situate, lying, or being within said County, or in the possession, charge, or control of such association, corporation, firm, or company; that the value of such property, and of each and every kind thereof, given in said statement, is true, to the knowledge of the person making such oath. Said oath may be administered by the Assessor, or any Deputy Assessor, of the proper County, or by any Notary Public, District Judge, or Clerk of a Court, having a seal. Such statement, and the valuation of the personal property made therein, shall be final and conclusive, in regard to the personal property therein described; *Provided*, such statement is made in the time herein provided, and in strict conformity to the provisions of this Act. But such statement shall not be final and conclusive in regard to real estate, or the value of real estate; *Provided*, that the statement for the fiscal year, ending June thirtieth, eighteen hundred and sixty, may be made and given to the Assessor any time before the first Monday of June, eighteen hundred and fifty-nine.

Between the second Monday in March and the first Monday in August, in each year, the City and County Assessor shall ascertain, by diligent inquiry and examination, the names of all persons, corporations, associations, companies, or firms, owning, claiming, or having the possession, charge, or control, of any real estate, or personal property, situate or being within the County, and the full cash value of all such real estate, and personal property, and he shall list or assess all such real estate, and personal property,

Statement
verified.

Assess all
property.

to the person, firm, corporation, association, or company owning it, or having the possession, charge, or control of it, if known to him. In all cases, where such person, firm, association, company, or corporation, has neglected, or failed, from any cause, to give to the Assessor the statement, under oath, in the time and manner provided for in this section, it shall be the duty of the Assessor to make an approximate estimate of the value of the personal property situate, lying, or being within the County, owned or claimed by such person, firm, association, company, or corporation, or in the possession, charge, or control, of such person, firm, association, company, or corporation, taking care that the revenue of the State shall not be diminished in consequence of any neglect or failure to give a statement, under oath; and the estimate made by the Assessor shall be final and conclusive, so far as personal property is concerned.

It shall also be the duty of the Assessor to make an approximate estimate of the value of all real estate, lying or being within the County, whether the same be included in any statement, under oath, made according to the provisions of this section or not, and the estimate so made, by the Assessor, shall be final and conclusive, in regard to all real estate, and improvements on public lands, unless such estimate is altered by the Board of Equalization; *Provided*, all real estate, and personal property, shall be assessed to a person, firm, corporation, association, or company, as herein provided, if any owner or claimant shall be known to the Assessor, and to all owners and claimants, known or unknown, and to all owners and claimants of any interest, present or future therein, or any lien upon the same, and no error in regard to such owner or claimant shall in anywise affect the validity of such assessment.

SEC. 3. Section four of said Act is hereby amended so as to read as follows:

List and
index.

Section four—It shall be the duty of the Assessor to prepare a tax-list, or assessment-roll, of real estate, with an alphabetical index connected therewith, in a well-bound book, or books, in which book, or books, shall be listed, or assessed, all the real estate within the City and County; and in the said book, or books, he shall set down, in separate columns:

First—The names of all inhabitants taxable for real estate.

Second—All real estate taxable to each, giving the metes and bounds, or describing the lots, or fractions of lots, by number or otherwise, in any City or incorporated Town, and giving the quantity of acres, as near as possible, of each tract outside such City or Town, and the locality and Township where it is situated; *Provided*, that whenever two or more parties claim, or give in a description of, the same land, it shall be assessed to each party making such claim, or giving such description.

Third—The cash value of the same.

Fourth—The Assessor shall, also, in another book, make a map, or plan, of the various blocks within any incorporated City or Town, when directed so to do, by the Board of Supervisors of the County in which such Town or City is situated, 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; *Provided*, that in the City and County of San Francisco the form of the tax-list, or assessment-roll, shall be such as may be directed by the Board of Supervisors.

It shall be the duty of the Assessor to prepare a tax-list, or assessment-roll, of personal property, alphabetically arranged, in a well-bound book, or books, in which book, or books, shall be listed, or assessed, all the personal property within the City and County; and in the said book, or books, he shall set down, in separate columns:

First—The names of all inhabitants taxable for personal property.

Second—All personal property taxable to each, under the classification provided for in section second of this Act; *Provided*, that all storeships and hulks, all steamers, vessels, and water-craft, of every kind and name, may be listed, or assessed, in the alphabetical order of the names of such storeships, hulks, steamers, vessels, and water-craft, instead of the order of the names of their owners, and in a separate book, at the discretion of the Assessor.

Third—The cash value of all personal property.

SEC. 4. Section five of said Act is hereby amended so as to read as follows:

Section five—The term real estate, as used in this Act, shall include lands, and all immovable property thereon, including all houses or structures. The term personal property, shall include all property, as defined and classified in section second of this Act, except real property. Definition of
terms.

SEC. 5. Section nine of said Act is hereby amended so as to read as follows:

Section nine—Between the second Monday in March and the first Monday in August, in each year, the Assessor shall, once in every two weeks, or oftener, in his discretion, deliver to the Tax-Collector a list containing the names of all persons, firms, corporations, and associations, who have given in a sworn statement, as provided for in section second of this Act, or whose personal property has been finally assessed by said Assessor, as herein before provided, and the amount of the tax on personal property assessed to each of such persons, firms, corporations, and associations; said list shall be signed and certified by the Assessor. Deliver list
to Collector.

At any time after receiving such list or lists, the Tax-Collector is hereby authorized and required, either in person or by deputy, to demand of each and every person, firm, corporation, or association, named in such list, the payment of the amount of the tax on personal property specified in such list; and if any such person, firm, corporation, or association, can not be found, or does not reside in the County, or if such person, firm, corporation, association, or company, shall neglect or refuse to pay such tax, said 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 County where it is seized, and shall then, at the expiration of five days, proceed to sell, at public auction, at the time and place mentioned, Seize for
taxes.

to the highest bidder, for cash, a sufficient quantity of said property to pay the taxes and expenses incurred, including costs and mileage. And for this service, the Tax-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 and expenses for which the property was sold, whereupon the title to the property so sold, shall vest absolutely in the purchaser. The Tax-Collector shall, once in every month, return to the Auditor a list of all collections made under this section, and shall also mark the word "paid" on the general assessment-roll opposite the name of each party whose taxes are so paid.

SEC. 6. Section fifteen of said Act is hereby amended so as to read as follows :

Publish delinquent list.

Section fifteen—On or before the fourth Monday in November, the Tax-Collector shall cause the delinquent-list named in section fourteen to be published, giving, in said publication, the name of the owner, when known, of all the real estate, together with such a condensed description of the property that it may easily be known; and, also, a similar condensed description of any real estate assessed to unknown owners; and, also, the name of every party delinquent, for any tax on personal property; and, also, opposite each name or description, give the amount of taxes, including the costs herein before provided, due from each delinquent person or property. If a newspaper is published in the County, the publication by this section required shall be made by one insertion, one time per week, for three successive weeks, in some paper published in the City and County, or in a supplement to such paper. Said publication shall also designate the time and place of commencing the sale, which time shall not be less than twenty-one days, nor more than twenty-eight days, from the first appearance of the publication, and the place shall be in front of the City and County Court-house.

SEC. 7. Section sixteen of said Act is hereby amended so as to read as follows :

Manner of sale.

Section sixteen—On the day, and at the place fixed for the sale, or on some subsequent day to which he may have postponed it, of which he shall give due notice, the Tax-Collector shall, between the hours of ten o'clock, A. M., and three, P. M., commence to sell the real estate advertised, and upon which the taxes and costs have not been paid, commencing at the head of the list, and continuing it in the alphabetical or numerical order of lots or blocks, as entered on the assessment-roll, and continuing said list through, unless the sale is adjourned until another day; and power is hereby given to the Tax-Collector to postpone the day of commencing the sale, and to postpone the sale, from day to day, after it has been commenced, if he deems the best interests of the State, and the City, and County, or of the tax-payers, will be served by such postponement; *Provided, however*, the whole sale of real estate shall be completed within three weeks from the day first fixed as the day of sale.

SEC. 8. Section twenty-third of said Act is hereby amended so as to read as follows :

Section twenty-three—The matters directed by section eight-Deeds. to be substantially recited in the tax-certificate, and by section twenty-two, in the deed, shall be deemed, and they are hereby declared, to be all the requisites essential to the validity of sales made for taxes, and a deed, made in conformity with the requirements of section twenty-two, shall convey to the grantee the absolute title to the lands described in said deed, free and clear of all incumbrances, liens, claims, rights, titles, and interests, of every kind, of any person, or persons, corporation, or corporations, whatever, whether said land was taxed to such person, or persons, corporation, or corporations, by name or not, excepting only the right and title of the United States, or of the State of California, or of minor children, who may redeem, as herein provided, within one year after coming of age; and such deed shall be *prima facie* evidence of title in the grantee, except when the land is claimed by the United States, or by this State, in which case said deed shall be *prima facie* evidence of the right of possession, and all right, title, interest, claim, and possession required by any individual, corporation, or body politic, has been subrogated to the grantee, and such deed shall be conclusive proof of the matter by it set forth, except that Courts of Law and Equity may examine only in regard to such deed, and may hear any testimony in relation thereto, to show :

- First—That the property, or a larger parcel of which it is a portion, was not assessed, or equalized, as required by law.
- Second—That the taxes, or a portion of them, were not levied by law, or by some person, or body, under authority of law.
- Third—That the taxes were paid.
- Fourth—That, at a proper time and place, the property was not sold at public auction, by a proper officer, or by a person acting, *de facto*, as such officer.
- Fifth—That the property was redeemed.
- Sixth—That the person who executed the deed was not the proper officer, or *de facto* acting as such officer.

Seventh—Where the real estate has been sold to pay taxes on personal property, as hereinafter provided, that said real estate did not belong to the person to whom said tax was assessed.

SEC. 9. Section twenty-seven of said Act is hereby amended so as to read as follows :

Section twenty-seven—On the day designated for the sale, in the publication made according to section fifteen, or at any time thereafter, the Tax-Collector shall seize, and take into his possession, any personal property that he can find belonging to any person delinquent for tax on any property, whether personal property or real estate; and he shall sell so much of such seized personalty as may be sufficient to pay the taxes and costs, and necessary expenses incurred, upon giving one hour's verbal notice; and for seizing and selling such personal property, the Tax-Collector shall be allowed, in each case, in addition to the fees herein before provided for, 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, to be received from the party delin-

quent. The Tax-Collector is also authorized, at any time, or times, until all taxes are fully paid, to sell any real estate which he can find belonging to any party who has not paid his taxes on personal property or real estate, on giving notice, once a week, for three successive weeks, of the time and place of such sale. Said notice shall contain a condensed description of the property to be sold, the name of the person delinquent, and the amount of the tax and costs due by such party delinquent, including fees of Tax-Collector for certificate and cost of advertisement. Said sale shall be subject to redemption, as herein provided, and the certificate and deed given by the Tax-Collector, by reason of said sale, shall be substantially the same as provided for in section eighteen and twenty-two of this Act. Every tax shall, from and after the third Monday in October in each year, be a lien on all the real estate of the person delinquent, and on all real estate subsequently acquired by such person; and said lien shall not be removed until said taxes are paid, or the title to said real estate has vested in a purchaser under a sale for taxes.

Repealing
clause.

SEC. 10. Sections twenty-five, twenty-six, forty-six, fifty-seven, fifty-eight, and fifty-nine, of said Act, entitled "An Act to provide revenue for the support of the government of this State," are hereby repealed.

SEC. 11. Section forty-three of said Act is hereby amended so as to read as follows:

Duplicate
tax-list.

Section forty-three—The Tax-Collector shall, annually, on the first Monday in March, attend at the office of the County Auditor, with a duplicate copy of the tax-list, or assessment-roll, so far as delinquent persons, or property, are concerned, in which list he shall have set down, in the numerical or alphabetical order, as entered on the assessment-list, all the matters and things contained in regard to each such delinquent person, or property, in the original list, and the Auditor shall then carefully compare said list with the assessments to persons, or property, not marked "paid," on the original list, and if found to tally therewith, he shall administer to the Tax-Collector an oath, which shall be written and subscribed in the original roll, that each and every person, and all property, assessed in said roll, on which the taxes have been paid, has the word "paid" marked opposite the name of such person, or the description of the property; and the Auditor shall then foot up the amount of taxes remaining unpaid, and credit the Tax-Collector with the amount, and charge the same to a new account, and have a final settlement with him; and in case the term of his office is about to expire, then the Tax-Collector shall make the final settlement, provided for in this section, with the County Auditor, within two weeks after the expiration of his term of office, and the Auditor shall, within thirty days thereafter, transmit by mail to the Controller of State, in such form as the Controller may require, a statement of all, and each particular kind of, property assessed, and a statement of all, and each particular kind of, property delinquent, and the whole amount of taxes delinquent. For the services required by this section, the Tax-Collector shall receive no fee or compensation whatever.

SEC. 12. The provisions of this Act shall apply only to the

City and County of San Francisco, and all other Counties of the State are exempted from the operations of this Act. Apply only to San Francisco.

CHAP. CCCXVI.—An Act to audit and allow Certain Claims accruing under the provisions of an Act approved April twenty-eighth, one thousand eight hundred and fifty-five, entitled "An Act to provide for the Survey and Construction of a Wagon-Road over the Sierra Nevada Mountains.

[Approved April 18, 1859.]

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

SECTION 1. The claim of Thomas Hoffy, for services on wagon-road survey across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of two hundred and seventeen dollars and twenty-five cents, is hereby audited and allowed. Hoffy.

And the claim of John Senour, for service on wagon-road survey across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of two hundred and five dollars and fifty-cents, is hereby audited and allowed. Senour.

And the claim of T. J. Arnold, for services on wagon-road across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of six hundred and ninety-eight dollars and thirty-three cents, is hereby audited and allowed. Arnold.

And the claim of C. P. Edson, for services on the wagon-road across the Sierra Nevada, the sum of four hundred and eighty-five dollars, is hereby audited and allowed. Edson.

And the claim of Roger S. Day, for services on the wagon-road across the Sierra Nevada, the sum of four hundred and eighty-five dollars, is hereby audited and allowed. Day.

And the claim of Loren Oviatt, for services on the wagon-road across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of four hundred and ninety-five dollars, is hereby audited and allowed. Oviatt.

And the claim of Wm. Milligan, for services on the wagon-road across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of two hundred and ninety-one dollars, is hereby audited and allowed. Milligan.

And the claim of Thomas Hill, for services on the wagon-road across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of two hundred and ten dollars, is hereby audited and allowed. Hill.

And the claim of James Green, for services on the wagon-road across the Sierra Nevada, in the years one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, the sum of two hundred and ten dollars, is hereby audited and allowed. Green.