

T H E

# STATUTES OF CALIFORNIA,

PASSED AT THE

*Eighteenth Session of the Legislature,*

1869-70,

BEGAN ON MONDAY, THE SIXTH DAY OF DECEMBER, EIGHTEEN HUNDRED  
AND SIXTY-NINE, AND ENDED ON MONDAY, THE FOURTH DAY  
OF APRIL, EIGHTEEN HUNDRED AND SEVENTY.



W. M. GELWICKS, STATE PRINTER.

SACRAMENTO:  
D. W. GELWICKS, STATE PRINTER.  
1870.

Assessment  
and collec-  
tion of  
revenue.

fixed by ordinance, and any Justice of the Peace of said town shall have jurisdiction of any and all suits which may be brought before him to enforce the collection of said taxes; *provided*, that said taxes are less than three hundred dollars; and any sale of property, real or personal, made in pursuance of any decree of said Justice, shall be as effectual to pass the title of the owner to the purchaser as if the same had been made under the revenue law of this State; and the provisions of an Act to provide revenue for the support of the Government of this State, approved May seventeenth, eighteen hundred and sixty-one, with the amendments thereto, so far as the same apply to proceedings at law to enforce the collection of delinquent taxes, and are not inconsistent with the foregoing provisions of this Act, are made applicable to this Act and to proceedings to enforce the collection of the aforesaid taxes.

To establish  
a pound and  
appoint a  
Pound-  
master.

SEC. 2. The Board of Trustees shall have power to establish a pound for the impounding of estray and loose cattle, hogs and other animals found at large in said town, and appoint a Poundmaster, who shall have power, with the approval of the Trustees, to appoint a deputy to take charge of the same; and the Board of Trustees shall have power to pass all proper ordinances defining and prescribing the duties of such officers; to prohibit the owners of such cattle and animals from permitting the same to run at large, and to regulate the impounding; and the certificate of sale of the Poundmaster shall be and hereby is declared *prima facie* evidence of title to property sold by him under the provisions of the ordinances of said town.

Ordinances  
confirmed.

SEC. 3. All ordinances and proceedings approved by the Trustees of said Town of San Buenaventura since the fifteenth day of March, eighteen hundred and sixty-six, to the first day of January, eighteen hundred and seventy, are hereby approved, ratified and confirmed.

SEC. 4. All Acts and parts of Acts conflicting with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall take effect immediately after its passage.

## CHAPTER CCCCLXXXIII.

*An Act to create a Board of Water Commissioners in the City of Los Angeles, and to define their powers and duties.*

[Approved April 2, 1870.]

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

Water Com-  
missioners.

SECTION 1. There shall be in the City of Los Angeles a Board of Commissioners to regulate and control water courses and irrigating canals and acequias, to consist of three members, to be elected as hereinafter provided.

Irrigating  
districts.

SEC. 2. The said city is hereby divided into three irrigating districts, bounded as follows: District Number One shall com-

prise all of said city lying east of Alameda street; District Number Two, all the territory lying between Main and Alameda streets; and District Number Three, the remainder of the city not embraced in Districts One and Two.

SEC. 3. There shall be provided and kept, at each place of voting which now is or may hereafter be established in said city, on the day of each general municipal election, a separate ballot-box, in which shall be deposited all votes cast for the election of Commissioners, as hereinafter provided; and all persons residing within said city, being the owners of real estate therein, or the actual occupants of such real estate as lessees, or under claim of title, and in good faith using the water flowing through said city, for the purpose of irrigating such land so owned or held by him, as aforesaid, and who shall, in addition thereto, possess all the requisites of a duly qualified elector under the general laws of this State, and none other, shall be deemed qualified electors, under this Act, and entitled to vote for such Commissioners.

Manner of  
electing  
Commission-  
ers.

SEC. 4. The officers holding and conducting the general municipal election in said city shall be and constitute the officers for the election herein provided, and it is hereby made their duty, without additional compensation, to receive all legal votes offered under the provisions of this Act; count all ballots cast at such election, and certify the result thereof, as in other municipal elections now by law provided.

Officers of  
election.

SEC. 5. Any person offering to vote at such election may be challenged, as unqualified, by the Inspector or either of the Judges, or by any legal voter; and when such challenge is interposed, it shall be the duty of the Board of Judges to declare to him the qualifications of an elector, as prescribed by this Act, and if such person, after such information given, shall insist that he is entitled to vote, and the challenge shall not be withdrawn, he shall be sworn by the Inspector or one of the Judges of such election, to full, true and correct answers make to all questions as shall be put to him touching his place of residence and qualifications as an elector under this Act; and he shall then be examined as to his qualifications, and if found duly qualified, it shall be so declared, and his vote shall be received and deposited in the ballot-box so kept as herein provided; and if not qualified, or if the person so offering to vote shall refuse to take the oath or to answer any and all pertinent questions as to his qualifications, his vote shall be rejected. For the purposes of this Act, no other oath shall be required; and if any person challenged as unqualified shall be guilty of wilful and corrupt false swearing or affirming, in taking any oath or affirmation authorized or prescribed by this Act, such person shall be adjudged guilty of wilful and corrupt perjury, and, on conviction, punished accordingly.

Challenges.

False  
swearing.

SEC. 6. There shall be elected at the next municipal election to be held in the City of Los Angeles for the election of members of the Common Council, three Water Commissioners, one to reside in each of the said irrigating districts, and who shall possess all the qualifications of an elector, under the provisions of this Act, who shall hold their offices until the next general city election and until their successors are elected and qualified;

Election of  
Commission-  
ers.

and at each general municipal election thereafter there shall be elected three such Commissioners, duly qualified and residents of their respective districts, who shall hold their offices for the term of one year and until their successors are elected and qualified; and until the first election herein provided for, Manuel F. Coronel, a resident of District Number One, José Wolfskill, resident of District Number Two, and F. R. Foberman, resident of District Number Three, shall constitute such Board of Water Commissioners, which Board shall have the powers and perform the duties hereinafter provided. In case a vacancy should occur in said Board, by death or otherwise, it shall be filled by the Common Council of said city by appointment, which appointee shall reside within the district for which he is appointed, and possess the qualifications prescribed by this Act.

To qualify.

SEC. 7. Each person elected or appointed to said office shall, before entering upon his duties of his office, and within ten days after receiving notice of his election or appointment, qualify, by giving a bond in the sum of one thousand dollars, with two good and sufficient sureties, to be approved by the Common Council, conditioned by its proper disposal of all moneys which may come into his possession and for the due and proper performances of his duties.

Powers and  
duties of  
Commission-  
ers.

SEC. 8. The duties of said Commissioners shall be as follows:

*First*—They shall elect one of their number Chairman, and one as Clerk of the Board; they shall, from time to time, appoint as many Overseers as they may deem necessary for the construction of water ditches and the care of water courses, regulating their compensation, and define their boundaries within which they shall act in the city; and they may revoke such appointments at pleasure.

*Second*—A book shall be furnished by the Common Council of said city, in which said Commissioners shall keep a full record of all official acts of said Board, which shall be opened to the inspection of any citizen, and shall be delivered over to their successors in office.

*Third*—They shall examine and direct such water courses as they adjudge ought to be appropriated to public use, and apportion the water thereof amongst the inhabitants of the city, determine the time of using the same and the amount to be paid for such use; but, unless there shall be sufficient water to supply all the demands of those entitled to the use thereof, at such times and in such quantities as they may reasonably desire, then, and in that case, it shall be the duty of the said Board to apportion the waters of said ditches to each individual in proportion to the supply required by each; *provided*, such apportionment may be changed from time to time, as the supply of water may increase or diminish, when the same can be done without injury to any.

*Fourth*—Upon the petition of a majority of the qualified electors of either of the districts in said city, they shall lay out such ditch or ditches as may be necessary to irrigate the land in cultivation in such district, and apportion the water in the same, as above provided; *provided*, there shall be sufficient money in the Water Fund, which is hereinafter created, to

construct such new ditch or ditches; or when there shall not be sufficient money in said fund, provided the parties petitioning shall advance the amount necessary to construct said ditch or ditches, and receive for such advancement a warrant or warrants drawn upon the said fund for the amount so advanced by him or them; but in no case shall such warrants be drawn for a greater amount than the same actually advanced, nor draw interest at a greater rate than seven per cent. per annum.

SEC. 9. It shall be the duty of the Overseers to execute the orders of the Commissioners; to examine, on or before the first day of each month in each year, the various ditches in their districts; make an estimate of the amount of labor necessary to put them in good repair and report the same to the Board, together with the capacity of said ditches and the amount of land to be irrigated thereby; to see that the water is properly used as apportioned, that the ditches are kept in good repair and that the labor required is properly expended. Said Overseers shall each keep a correct account of all work done under his supervision and by whom, and when and where, and shall report the same, in writing, to said Board, at such times as said Board may require; which reports shall be filed with the Clerk of said Board and be open to the inspection of any citizen. Duties of Overseers.

SEC. 10. For the government of Overseers in the employment of laborers to construct or repair said ditches, ten hours labor shall constitute a day's work; a team of two horses, their harness and a plough, wagon or scraper, shall, when used, be equal to one day's work; and no account presented by said Overseers, or otherwise, for labor upon said ditches, shall be audited, allowed or ordered paid by said Board, which does not comply with the provisions of this section. A day's work

SEC. 11. In case any district or person shall consider that the water has not been properly apportioned, or in case the Commissioners cannot agree upon the apportionment, the matter shall be referred to the County Judge, who shall determine the matter in controversy, and his determination shall be final. Reference to County Judge.

SEC. 12. The Commissioners shall have the right of way to lay out and construct ditches through any lands in the city, and any persons damaged thereby, or by the water of any ditch, shall be entitled to such compensation as may be agreed upon between the parties owning the lands and the Commissioners. And in case said parties cannot agree, each party shall appoint an arbitrator, and in case either party shall neglect or refuse to appoint such arbitrator for the space of three months after written notice has been served on the parties so refusing or neglecting, requiring him to make such appointment, then it shall be lawful, and shall be the duty of the County Judge, to appoint an arbitrator for the party so refusing, and the two so appointed shall select the third. The arbitrators so chosen may appraise the lands used for ditching purposes, and shall hear and determine all questions of damages arising from the taking and use thereof, and to award the amount of the same to the parties entitled thereto; and for this purpose said arbitrators shall have power to administer oaths. Before proceed- Right of way  
Appointment of arbitrators.

ing to appraise said lands, said arbitrators shall make and subscribe an oath that they will faithfully and honestly perform the duties of their appointment. In all cases, said arbitrators, in ascertaining and assessing damages to the claimant, they shall take into consideration and make allowance for any benefit or advantages that, in their opinion, will accrue to such person or persons by reason of the construction and existence of such water ditch, as proposed by said Commissioners; and the said arbitrators shall make their report to the County Court, and the same shall be affirmed, or set aside for cause shown; and if set aside, new arbitrators shall be appointed in the same manner as above, who shall proceed in like manner; and as soon as such award shall be affirmed, it shall have the effect of a judgment, and shall be collected in the manner provided by law for the collection of judgments against cities and other municipal corporations.

Penalty for obstructing or injuring ditches.

SEC. 13. Any person using water from any ditch or water course in the city, to which he is not entitled in accordance with the provisions of this Act, to the detriment of others, or who shall [obstruct] the water of any water course or ditch by any dam or otherwise, or who shall wantonly break or injure any ditch, or who shall obstruct or hinder any Overseer in the performance of his duty, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars and not less than twenty dollars, for the first offence, and not more than three hundred nor less than fifty dollars for every subsequent offence, or imprisonment in the county jail for not more than thirty nor less than five days, or by both such fine and imprisonment. Any person violating the provisions of this section shall be prosecuted before any Court of competent jurisdiction in the City or Township of Los Angeles, upon the complaint of any person aggrieved, or of any member of the Board of Commissioners; and all moneys collected as fines, under the provisions of this section, shall be applied to the Commissioners to the payment of Overseers and the repairs of the ditches which may have been damaged.

Waters not subject to this Act.

SEC. 14 When water (except what constitutes the water of the Los Angeles River) rises upon lands owned by any person, it shall not be subject to the provisions of this Act until it shall have passed beyond the limits of said land; and no person or persons shall direct the waters of any natural river or stream from its natural channel, to the detriment of any person or persons located below them on the same stream.

Water rates.

SEC. 15. For the purpose of carrying out the provisions of this Act, paying Overseers and Commissioners, constructing and repairing of water ditches and other necessary and proper expenses, said Board of Commissioners are hereby authorized to levy a tax or water rate within said city, on persons benefited, in proportion to the amount of water used by each, which tax may be enforced by charging and collecting from such persons using the waters of said ditches or water courses a fixed and specified sum, every day, half day or night they shall use said water, or either or all, and according to the amount or flow of water used, which price or tax shall be regulated by said Board of

Commissioners, and may be changed from time to time, as said Board shall determine. The money so collected shall be paid into the city treasury, and shall constitute and be known as the "Water Fund," and all warrants drawn in payment for any services rendered or expenses incurred, as provided in this Act, shall be drawn upon said fund, and shall be signed by the Chairman and Secretary of said Board of Commissioners. Water Fund

SEC. 16. The said Board of Commissioners are hereby vested with all the powers, privileges, immunities and franchise now held and heretofore granted and conferred upon the Mayor and Common Council of the City of Los Angeles by any and all Acts, general and special, heretofore passed and approved, so far, and no further, as the same relate to the management, construction and control of irrigating ditches, canals and dams, with rights of way. Powers vested.

SEC. 17. All Acts of a general and of a special character, conflicting with the provisions of this Act, so far as they are applicable or relative to the City of Los Angeles, are hereby repealed. Repealed.

## CHAPTER CCCCLXXXIV.

*An Act to empower the City and County of San Francisco to aid in the construction of the Southern Pacific Railroad, and other purposes*

[Approved April 2, 1870.]

*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 Board of Supervisors of the City and County of San Francisco to order a special election to be held in said City and County of San Francisco, on the first Tuesday in June next, for the purpose of submitting to the qualified electors of said City and County of San Francisco the proposition for the said City and County of San Francisco to issue and deliver to the Southern Pacific Railroad Company, its successors or assigns, county bonds in aid of and for and in consideration of the construction of a railroad by said company, its successors or assigns, from the Town of Gilroy, in a southerly direction. Special election.

SEC. 2. It shall be the duty of the Board of Supervisors of said city and county to cause notice, of at least twenty days, to be given by publication in one or more daily newspapers published in the said city and county, and by posting written or printed notices thereof, at each place of holding said election in said city and county, stating in such publications and notices the proposition to be submitted to the electors of said city and county, and the time and manner of voting thereon. Every ballot cast in said city and county in favor of said proposition, shall have the words "For the issuing of bonds for the Southern Pacific Railroad" printed or written thereon; and every ballot cast in opposition to said proposition, shall have the words Notice.

Ballots.