
CHAPTER CCCCXV.

An Act to provide for the management and sale of the lands belonging to the State.

[Approved March 28, 1868.]

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

PART I.—GENERAL POWERS AND DUTIES OF OFFICERS.

SECTION 1. For the purpose of managing and selling any lands, the title of which is now or may hereafter be vested in

the State by reason of any grant from the United States, or to which the State is or may be entitled by virtue of her sovereignty, an office shall be established at the seat of Government, to be designated and known as the State Land Office of the State of California, the chief officer of which shall be known and designated by the title of Register of the State Land Office, and his duties shall be such as may be prescribed by law.

Deputies. SEC. 2. The Surveyor-General of the State shall be ex officio Register until otherwise provided by law; and the said Surveyor-General and Register shall have the power to appoint a deputy, who may, when necessary, perform all the duties pertaining to the two offices; but said deputy shall receive no compensation as such; *provided*, that the Surveyor-General shall have power to appoint any number of deputies necessary to perform all the field work required by law, and shall have the right to exact bonds of such deputies.

Duties of Register. SEC. 3. It shall be the duty of the said Register to keep separate, distinct and complete accounts and records in relation to each class of lands to which the State is or may be entitled; which accounts and records shall show the number of the survey or location, the date of the approval, the name of the locator, the description of the lands, by township, range, section and subdivision of section; the price per acre at which the same are sold, the amount paid, the date of said payment, the number and date of the certificate of purchase, and the date of the patent when the same shall have been issued. He shall also keep the proper plats of the above named lands, upon which all approved locations and surveys shall be designated by their numbers; and when certificates of purchase or patents shall have been issued, the same shall also be noted on the plats. But so long as the Surveyor-General performs the duties of Register, but one set of maps shall be required.

Issue certificates. SEC. 4. Whenever the Register shall receive from the County Treasurer of the proper county a statement showing that any applicant for any State lands has made the first payment of principal and interest, as hereinafter provided, he shall issue to the person or persons entitled thereto a certificate of purchase, which shall show the class of land purchased, the number of acres, the price per acre, the date of payment, the date from which interest shall be computed, the amount paid and the amount remaining unpaid; which certificate shall be received in any Court of justice in this State as prima facie evidence of title.

Prepare patents. SEC. 5. Whenever final payment shall have been made for any tract of land sold by authority of the State, the selection of which shall have been duly accepted and approved by the proper United States authorities, or when the tract so finally paid for (or reclaimed as hereinafter provided) shall be swamp and overflowed, salt marsh or tide lands, it shall be the duty of the Register of the State Land Office, upon the surrender of the certificate of purchase by the person or persons entitled to the same, to prepare a patent for said land and send the same to the Governor, together with a certificate, under his official seal, certifying that the laws in relation thereto have been fully complied with, that payment in full has been made to the State,

and that the party named in the said prepared patent is entitled to the same. The patent shall then be signed by the Governor, attested by the Secretary of State, sealed with the great seal of the State, and countersigned by the Register of the State Land Office; *provided*, that before any patent shall be issued, the Register of the State Land Office shall publish a notice, in some newspaper of general circulation, for four consecutive weeks, at the expense of the applicant, which shall not exceed four dollars for each notice of application, setting forth the name of the applicant, and describing the land for which a patent is applied; designating the county, township, range and section in which the same is situate, and the date upon which the patent will be issued, unless a protest in due form shall be previously filed; *provided*, the date of issuance of any patent shall not be less than thirty nor more than fifty days from the date of the first publication of this notice; and *provided* further, that no patent for lands taken in lieu of sixteenth and thirty-sixth sections shall issue until the land [shall] first have been relinquished to the State by authority of the General Land Office of the United States. The Register of the State Land Office shall record all patents in books to be kept in his office for that purpose, and shall then forward or deliver the same to the owners of the land or their agents.

Advertise
before issue.

Lands in lieu
of 16th and
36th sections

Record.

SEC. 6. The Register of the State Land Office shall, on or before the first day of May of each year, prepare and forward to the District Attorney of each county a statement embracing all the lands in the county upon which payments have not been made according to law. Said statement shall show the name of the purchaser, the number and date of the survey or location and of the certificate of purchase, the amount paid, the amount unpaid and the amount then due; *provided*, that no lands within any reclamation district shall be embraced in said statement after the receipt by the Register of the certificate of the Board of Supervisors, as provided in section forty of this Act, that works of reclamation have been commenced.

Furnish
statements
to District
Attorneys.

SEC. 7. The Register of the State Land Office shall have a seal of office, which he shall affix to all certificates issued by him; and any copy or extract of any document, paper or record belonging to his office, duly authenticated by him under his hand and seal, shall be received in evidence in all the Courts of justice in this State, in place of, and have the same force and effect, as the originals, if produced.

Seal of office.

SEC. 8. The Register of the State Land Office shall receive a salary of two thousand dollars per annum, payable the same as other State officers are paid; and he shall be entitled to demand and receive the following fees: For each certificate of purchase, duplicate or patent, three dollars; for certifying a contested case to District Court, ten dollars; for copies of papers in his office, fifteen cents per folio and fifty cents for the certificate with the seal attached; and such other fees as may be allowed by law. All fees received by the Register shall be paid into the State Treasury.

Salary and
fees.

SEC. 9. The said Register shall have the right to employ two clerks at an aggregate salary of three hundred dollars per

Clerks.

month, to be paid in like manner as other clerks in State departments.

Surveyor-General to examine surveys.

SEC. 10. It shall be the duty of the Surveyor-General to examine all surveys made under the provisions of this Act, and, if found correct, approve and return the same without delay to the County Surveyor making the same.

Locate grants.

SEC. 11. The said Surveyor-General shall be and is hereby constituted the agent of the State for the location in the several United States Land Offices of the unsold portion of the five hundred thousand acres of land granted to the State for school purposes, the unsold portion of the seventy-two sections granted to the State for a seminary of learning, the unsold portion of the ten sections granted to the State for the erection of public buildings, the sixteenth and thirty-sixth sections granted for the use of public schools, and lands in lieu thereof, together with the grant of one hundred and fifty thousand acres for the benefit of an agricultural college, in such manner as shall be hereinafter provided.

In conjunction with U. S. Land Officers.

SEC. 12. It shall be the duty of the Surveyor-General, whenever application shall be made to him, as hereinafter provided, for any portion of the lands described in the preceding section, to communicate immediately with the proper United States Land Office, and ask that the lands described in the application shall be accepted in part satisfaction of the grant under which it is sought to be located; and when the acceptance of the Register of the United States Land Office shall have been obtained, he shall give to the party applying a certificate, which shall authorize the County Treasurer of the county in which the lands are situated to receive payment thereon.

SEC. 13. The Surveyor-General shall, as soon as practicable after the survey of any township by the United States Surveyor-General, procure of the proper United States Land Office a statement of the condition of the sixteenth and thirty-sixth sections—whether the same or any portion thereof is covered by pre-emption, private grant or other incumbrance, so that it cannot be located by the State, or whether they are free from any claim other than that of the State.

Fees of U. S. officers.

SEC. 14. The several Registers and Receivers of the United States Land Offices shall present their accounts for services rendered the State in the matter of locations to the Surveyor-General, who, if he shall find the same correct according to fees allowed Registers by Act of Congress or by the Department of the Interior, shall certify the same to the State Board of Examiners, who shall audit and allow said accounts the same as other State indebtedness.

Conflict of title.

SEC. 15. It shall be the duty of the State Surveyor-General to represent the State in all cases of conflict of title between the State and the United States; and when he shall desire to take testimony under the provisions of the Act of Congress to quiet titles in California, passed July, eighteen hundred and sixty-six, he shall request the said United States Surveyor-General to set a time and place for hearing the same, and shall request that he shall name a place for said hearing, convenient of access to the witnesses in the case. If the United States Surveyor-General shall name any place other than his office, it

shall be lawful for him to charge the State with all his necessary travelling expenses in going from his office to the place [where] said testimony shall be taken and back to his office; and all accounts for such expenses shall be approved by the State Surveyor-General and paid like other State indebtedness; *provided*, that no more than one thousand dollars shall be allowed for any one year. In any case of conflict between the United States and the State or any purchaser under the State, when the Surveyor-General of the State shall deem it necessary, he shall request the Attorney-General to attend the trial on the part of the State; and it shall be the duty of the Attorney-General to so attend if not prevented by other official duties; and the actual travelling expenses of the said State Surveyor-General and the Attorney-General shall be audited by the Board of Examiners, and paid out of the General Fund; *provided*, the whole amount so paid shall not exceed five hundred dollars during any one year.

Attorney-General to attend trial.

SEC. 16. The Surveyor-General and the Register are each hereby authorized and required to issue all necessary instructions and to prepare and order printed all the blank forms necessary for the proper and complete operation of this Act.

Instructions and blanks.

SEC. 17. In all cases where a contest shall arise concerning the approval of a survey or location before the Surveyor-General, or concerning a certificate of purchase or other evidence of title before the Register, the officer before whom the contest is made may, when the question involved shall be as to the survey, or one purely of fact, or whether the land applied for is a part of the swamp or on overflowed lands of the State, or whether the same is included in any established and confirmed grant, the lines of which have been run by due authority of law, proceed to hear and determine the same; but when, in the judgment of the officer before whom the contest shall arise, a question of law is involved, or when either party shall demand a trial in the Courts of the State, he shall make an order referring said contest to the District Court of the county in which the land involved in the contest is situated, and shall enter said order in the proper record book of his office; *provided*, that the party protesting against the approval of a survey or location, or the issuance of a certificate of purchase or other evidence of title, shall in all cases make a sufficient *ex parte* showing to warrant, in the judgment of the Surveyor-General or Register, further proceedings in the matter, and shall prosecute his contest to judgment within six months from the date of the protest, unless for cause satisfactory to the Surveyor-General, the Register or the Court. Either party may bring an action in the District Court of the county in which the land in question is situated, to determine such conflict, and the proffer of a certified copy of the entry, made by either the Surveyor-General or the Register, shall give said District Court full and complete jurisdiction to hear and determine said conflict; and upon the filing with the Surveyor-General or Register, as the case may be, of a copy of the final judgment of said Court, that officer shall give his approval of the survey or location, or issue the certificate of purchase or other evidence of title, in accordance with said final judgment.

When approval of survey or location is contested.

District Court to have jurisdiction.

Duties of
County Sur-
veyor.

SEC. 18. It shall be the duty of the County Surveyor, immediately upon receiving an application for any survey required by this Act, to indorse the date of the receipt thereon, and note the same in a book to be furnished by the Surveyor-General and kept in his office for that purpose, in the regular order in which it is received, giving the name and address of the applicant, and the description of the land by township, range, section and subdivision of section, which book shall always be open for public inspection. He shall, within thirty days after receiving such application, if the lands are subject to sale, complete the survey, plat and field notes, which shall be recorded by him in a book kept in his office for that purpose; and duplicate copies thereof, together with a copy of the application, shall be forwarded to the Surveyor-General for approval. The said County Surveyor shall, immediately upon the receipt of an approved survey, record said approval; he shall mark all approved surveys upon the maps of his office, and all his said books and maps shall at all times be open to public inspection.

Surveys to
conform to
U. S. system

SEC. 19. All surveys made under the provisions of this Act shall be according to the instructions of the Surveyor-General, and shall be made according to the rectangular system adopted by the United States in the survey of the public lands, and shall conform, as near as practicable, to the lines of the public surveys; *provided*, that in salt marsh or tide land surveys the Surveyor-General may order a departure from said system.

If County
Surveyor de-
linquent.

SEC. 20. Whenever any County Surveyor shall neglect or refuse to make any survey of State lands as provided in this Act, or in case of a vacancy in the office of County Surveyor, the Surveyor-General may, when requested by an applicant for the purchase of lands, appoint some competent person to make said survey, and when approved, shall be as valid as if made by the County Surveyor.

Clerks.

SEC. 21. The Surveyor-General shall have power to employ two clerks at an aggregate salary not to exceed three hundred dollars per month, to be paid as other clerks in State departments.

Oaths.

SEC. 22. The Surveyor-General, the Register and County Surveyor, shall each have power to administer the oaths or affirmations required in matters pertaining to their respective offices.

Purchasers
to make pay-
ments.

SEC. 23. Whenever any survey or location of any State lands shall have been made or approved by the Surveyor-General, the purchaser shall, within fifty days from the date of said approval or location, present his copy of the same to the County Treasurer, who shall thereupon receive the amount, whether in full or in part, so provided by law, and the fee for the certificate of purchase, indorsing his receipt therefor upon the back of the said certificate of location or survey, which shall then be returned to the purchaser. All subsequent payments, whether of the balance of the principal or of the interest thereon, shall be paid to the County Treasurer in like manner, who shall indorse the same upon the back of the certificate of purchase. The Treasurer shall also direct the purchaser to take said certificate of location, or purchase, or survey, so indorsed, to the Auditor, who shall charge the amount named therein to the account of

the Treasurer, and make his check upon the indorsed receipt so charged.

SEC. 24. Upon the first day of every month (except the same shall fall on Sunday or other holiday, then on the day following) the County Treasurer shall make a report to the Register of the State Land Office of all moneys received for land during the preceding month, which shall show the number of the location or survey, the name of the purchaser and the amount paid since the date of his last report, whether as principal or interest, which amounts shall be entered in the columns belonging to the particular class of land upon which each payment has been made. The payment of the fee for the certificate of purchase shall also be entered in the proper column, and the Treasurer shall then send the report to the Auditor, who shall compare the items with the account of the Treasurer; and if the same shall be found to agree with his entries he shall countersign the report as correct and return it to the Treasurer. These reports shall be forwarded to the Register on or before the fifth day after they have been made up, and upon receipt thereof the Register shall enter the payment so reported to the credit of the purchasers by whom they have been made, in the books of his office. He shall further, as soon as possible thereafter, notify the County Treasurer of the receipt of his report, and of any error that may have been found therein—in that case returning the report for correction.

Reports of
County
Treasurers.

SEC. 25. At the end of the quarter it shall be the duty of the County Treasurer to make a report to the Controller of State, showing the amount which has been received during the quarter, either as principal or interest, upon each class of land; which report shall be referred to the Register of the State Land Office for examination and comparison with the books of his office. When the Register shall have certified to the correctness of the report it shall be returned to the Controller, who shall thereupon make his settlement with the County Treasurer; and the said County Treasurer shall then pay over to the Treasurer of State all moneys, Controller's warrants or other indebtedness of the State that he may have received in payment for said lands; *provided*, that the County Treasurer shall retain in his own hands all moneys arising from the sale of swamp and overflowed lands, and shall place the same to the credit of a fund to be known as the "Swamp Land Fund" of the county; and the same shall be subject to the order of the Board of Supervisors, except as may be hereinafter provided.

Swamp
Land Fund

SEC. 26. The Treasurer shall compute interest on all lands from the date of the approval of the survey, or the date of the certificate of location, to the first of January following such date; or if for lands already purchased, then up to the first of January following the day upon which the interest falls due; after which time all payments of principal or interest shall fall due on the first day of January.

Interest.

SEC. 27. The County Treasurer shall be entitled to receive and retain one per centum of all moneys paid in to him for lands, or for taxes on land under the provisions of this Act; and

Fees of Au-
ditor and
Treasurer.

the Auditor shall be entitled to one per cent. of all amounts certified to by him as provided in section twenty-four of this Act, which he shall receive from the Treasurer, and his receipt therefor shall be a sufficient voucher for the Controller of State in his settlement with said Treasurer; *provided*, that when the Auditor or Treasurer shall receive a salary as Auditor or Treasurer, the said percentage shall be paid into the County Treasury the same as other revenue for county general purposes.

PART II.—SWAMP AND OVERFLOWED, SALT MARSH AND TIDE LANDS.

Price per
acre.

SEC. 28. The swamp and overflowed, salt marsh and tide lands belonging to the State shall be sold at the rate of one dollar per acre in gold coin, payable, twenty per cent. of the principal within fifty days from the date of the approval of the survey by the Surveyor-General; the remainder of the principal shall be due and payable one year after the passage of any Act of the Legislature requiring such payment, or before, if desired by the purchasers; *provided*, that legal interest thereon be paid annually, in advance, from the date of such approval; *provided*, the bonds or warrants of districts having an outstanding indebtedness shall be received in payment for lands in such district at par.

Application
to purchase.

SEC. 29. Whenever any resident of this State desires to purchase any portion of the swamp and overflowed lands granted to the State by Act of Congress of September twenty-eighth, eighteen hundred and fifty, or any portion of the tide lands belonging to the State above low tide, he shall make affidavit, before any person competent to administer oaths, that he is a citizen of the United States, or has filed his intention of becoming a citizen; is a resident of the State, and of lawful age; that he desires to purchase said lands (describing them) under the laws of the State providing for the sale of the swamp and overflowed and tide lands of the State, and that he does not know of any legal or equitable claim to said land other than his own; and also, if the applicant be a female, that she is entitled to purchase and hold real estate in her own name under the laws of this State, which application and affidavit shall be filed in the office of the Surveyor of the county in which such lands, or the greater portion thereof, are situate. The County Surveyor shall, except when surveys have already been made, then make a survey of said lands, as provided in section eighteen of this Act; *provided*, that applicants for salt marsh or tide lands which shall be less than twenty chains in width, applying within ninety days after this Act goes into effect, shall, in addition to the above, set forth in said affidavit that he or she is the owner or occupant of the uplands lying immediately back of and adjoining said lands sought to be purchased; *provided*, that the owner or occupant of any such upland shall not be a preferred purchaser for more than one-fourth of a mile front on any bay or navigable stream; and any such application by such owner or occupant made within said ninety days shall be only for one-fourth of a mile frontage as aforesaid.

Survey.

Preferred
purchasers.

SEC. 30. Whenever the holders of certificates of purchase,

patents or other evidence of title representing one half or more of any body of swamp and overflowed, salt marsh or tide lands, susceptible of one mode of reclamation, desire to reclaim the same, they shall present to the Board of Supervisors of the county in which the said lands or the greater portion thereof are situated, at a regular meeting of said Board, a petition setting forth that they desire to adopt measures to reclaim the same, the description of the lands they propose to reclaim, by township, range, section and subdivision of section; the quantity sold and the quantity remaining unsold, the number of acres in the whole district and the number of acres in each tract sold, with the name (if known) of the owner thereof. The petition shall be sworn to by at least one of said petitioners, and shall be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands, or the greater portion thereof, are situated; or, if there be no newspaper published in the county, then it shall be published in some newspaper having a general circulation in said county, and the usual affidavit of publication shall be filed with said petition; *provided* that, where a district shall be in more than one county, the Trustees shall, after the petition shall have been granted, forward a copy thereof to the Clerk of the Board of Supervisors of each of the counties in which any portion of said lands may lie, and the said Board of Supervisors to which the same shall be forwarded shall allow no other district to be formed within said first district, unless by consent of the Trustees thereof.

Reclamation

District formed.

SEC. 31. If the Board of Supervisors shall find, upon the hearing of said petition, that the statements therein set forth are correct, and that no land is improperly included or excepted from said district, they shall note their approval on the petition, which approval shall be signed by the President of the Board and attested by the Clerk. The petition shall then be recorded by the County Recorder in a book to be kept for the purpose of recording papers relating to the reclamations, and a certified copy thereof forwarded to the Register of the State Land Office. The Register shall thereupon forward to the County Treasurer a statement showing the names of all owners of land in the district who have paid in full for their lands, and the amount deducted therefrom on account of moneys drawn from the State or County general Swamp Land Fund.

Petition approved.

SEC. 32. After the hearing and approval of the said petition by the Board of Supervisors, or previously, if they shall so elect, the said petitioners shall ordain and establish such by-laws as they shall deem necessary to effect the work of reclamation and keep the same in repair, and shall elect or appoint three of their number, by the votes or signatures of the holders of certificates of purchase or patents representing at least one half the land sought to be reclaimed, to act as a Board of Trustees to manage the same. The by-laws thus adopted shall be signed by the holders of certificates of purchase or patents representing at least one half of the land so to be reclaimed or benefited, and shall be recorded by the County Recorder in the same book and immediately following the petition. The Board of Trustees thus formed shall have power to elect one of their number to

District by-laws.

Trustees.

To have full powers. act as President thereof, and to employ engineers and others to survey, plan, locate and estimate the cost of the work necessary for reclamation, and the land needed for right of way, including drains, canals, sluices, water gates, embankments and material for construction; and to construct, maintain and keep in repair all works necessary for the object in view. After any district now formed shall organize under the provisions of this Act, the Supervisors of the county shall turn over to the Trustees all the books and papers in their possession relating solely to that district; *provided*, that until such organization, said districts now formed shall proceed under the laws now in force.

Report to Supervisors. SEC. 33. The Board of Trustees shall report to the Board of Supervisors of the county, or, if the district shall be in more than one county, then to the Board of Supervisors in each county in which the district may be situated, the plans of the work and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, etc.; and said Board of Supervisors to whom the report shall be made shall appoint three Commissioners, who shall jointly view and assess upon each and every acre to be reclaimed or benefited thereby a tax proportionate to the whole expense and to the benefits which will result from such works, which said tax shall be collected and paid into the County Treasury or Treasuries (as the case may be) in the manner hereinafter provided, and shall be placed by the Treasurer to the credit of the district, and shall be paid out for the work of reclamation upon the order of the Trustees when approved by the Board of Supervisors of the county; *provided*, that if a district shall be in more than one county the tax upon all lands shall be paid into the Treasury of the county in which the particular tract may be situated.

Assessments
Deficiency. SEC. 34. In case the tax levied shall be insufficient to pay for the reclamation or for the necessary repairs, the said Supervisors shall, upon revised estimates furnished by said Trustees, make additional levies sufficient for the purpose.

Assessment lists. SEC. 35. The Commissioners appointed by the Board of Supervisors, as hereinbefore provided, shall make a list of the amount due from each owner of land in the district and of the amount assessed against the unsold land, and shall file the same with the County Treasurer; or, if the district shall be in more than one county, then lists shall be filed with the Treasurer of each county for the lands in that county. The Treasurer shall thereupon credit each purchaser who has paid in full for his land with eighty cents per acre, less the amount deducted by the Register of the State Land Office, as provided in section thirty-one of this Act. The lists thus prepared shall remain in the office of the Treasurer for thirty days, or longer if ordered by the Board of Trustees, and during the time it shall so remain in the office of the Treasurer any person assessed can pay the amount so assessed against him to said Treasurer without cost; but if at the end of said thirty days, or of said longer time fixed by the Trustees, if all of said tax has not been paid, the Treasurer shall return said list to the District Attorney, who shall proceed at once against all delinquents in the same manner as is provided by law for the collection of State and county taxes, and all costs shall be collected of said delinquents.

SEVENTEENTH SESSION.

Sec. 36. The work necessary for reclamation may be executed by contract or by days work, or by both modes, as may be adjudged by the Board of Trustees most conducive to economy, security and perfection in the work to be done; but the said Board shall keep accurate accounts of all expenditures, which, with any and all contracts that may be made by them, shall be open to the inspection of any person interested in the district, or their agents and attorneys, and to the Board of Supervisors.

Work for reclamation.

Sec. 37. The purchaser of any tract of land which may be unsold in any reclamation district at the date of the recording of the by-laws, as hereinbefore provided, shall take the same, subject to all the provisions of said by-laws, and the assessments levied in pursuance thereof, and shall have all the rights and privileges enjoyed by the original signers of said by-laws; *provided*, that he or she shall pay into the County Treasury twenty per cent. of the principal, one year's interest on the remaining eighty per cent., and any assessment due upon the land so purchased, for the cost and expense of reclamation, with interest thereon until paid, from the date such assessment became due. But if such land shall remain unsold for four years after the filing of said by-laws, it shall be exempt from any assessment levied under the same during that time.

Purchasers governed by by-laws.

Exempt.

Sec. 38. The Trustees of any reclamation district in which the by-laws shall have been recorded, as provided in section thirty-one, shall have power to acquire right of way for canals, drains, embankments and other work necessary to the reclamation, and shall have power to take materials for the construction, maintenance and repair thereof from lands outside of as well as within the limits of the district; and if the said Trustees shall fail to procure the consent of the owner or owners of the lands or material needed, the said Board of Trustees, or the President acting in their behalf, shall file in the office of the Clerk of the County Court of the county in which the lands or material requisite are situated, a petition, in which shall be stated the number of the district to be reclaimed, a description of the land or material required for its reclamation, the names of the owners of the lands or material required, and that the said Trustees have endeavored to obtain the consent of the owners thereof for the use or possession of the same, but have failed to obtain such consent; whereupon the said Court, or the Judge thereof, shall set a time for the hearing of the same. The mode of proceeding shall then be the same as that prescribed in sections twenty-five to thirty-eight, inclusive, of an Act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto, passed May twentieth, eighteen hundred and sixty-one, as amended April twenty-seventh, eighteen hundred and sixty-three, for condemning lands for railroad purposes; and wherever the railroad company is referred to in said sections it shall be construed to refer to the said swamp land district; and upon the filing of said petition the said Trustees may enter upon and take possession of, and make use of the property so applied for; *provided*, they serve upon the owners thereof a copy of said petition; and *provided*

Right of way.

Material.

Railroad law applicable.

further, that they shall be held responsible for all damages that may at any time be awarded for such possession and use.

Owners to
act as
trustees.

SEC. 39. Whenever any district of swamp and overflowed, salt marsh or tide lands, susceptible of one mode of reclamation, shall be entirely owned by parties who desire to reclaim the same, and who desire to manage the reclamation without the intervention of Trustees or the establishment of by-laws, said owner or owners shall file the petition as provided in section thirty of this Act; and in addition thereto shall state that he, she or they intend to undertake the said reclamation on his, or her or their own responsibility. If the said petition shall be granted, the said owner or owners of said lands shall have all the rights, immunities and privileges granted by this Act; and in all proceedings the name or names of the said owner or owners shall be used instead of the names of the Trustees.

Work pro-
gressing.

SEC. 40. Whenever the Supervisors of any county in which any reclamation district shall have been formed or organized under the provisions of this Act shall certify to the Register of the State Land Office that works of reclamation have been commenced and are in progress upon a plan and in conformity with the requirements hereinbefore provided, the payment of interest by purchasers in said districts shall be suspended; but if the said works are not completed and accepted as hereinafter provided, within four years from the date of the filing of said petition required by section thirty, then interest for the whole time shall be charged and collected by the said Register, the same as if there had been no such suspension.

Work com-
pleted.

SEC. 41. After the work of reclamation, as contemplated in this Act, shall have been completed, the Trustees, or the owners of the land, if there have been no Trustees for the district, shall file in the office of the County Recorder of the county in which the original petition was filed, a sworn statement that said work has been completed; and the Recorder shall forward a certified copy thereof to the Register of the State Land Office. When said statements shall have been filed, the Supervisors shall order the Treasurer to pay over to the Trustees any moneys he may have credited to purchasers on full payments, as provided in section thirty-five of this Act.

Three years
after com-
pletion.

SEC. 42. Three years after the filing of the statement that the lands embraced in any district have been reclaimed, the Board of Supervisors of the county in which the district or the larger portion thereof is situated shall, upon the application of the Trustees, or the owners of the land, if there be no Trustees, appoint three Commissioners, who shall proceed to examine the work done, and the lands embraced in the district; and if they shall find that the lands have been successfully reclaimed they shall return and file with the County Recorder a sworn statement to that effect, which statement shall be by him recorded, and a certified copy thereof forwarded to the Register of the State Land Office; *provided*, that any land shall be considered as reclaimed which has been successfully cultivated for three years. The Register shall thereupon credit each purchaser in the district so reclaimed with payment in full for said lands, and the said purchasers shall each be entitled to a patent therefor; and the said Register shall forward to the Treasurer of the

Full pay-
ment.

county in which any portion of said district may be situated, a statement showing the amount of money paid into the Treasury by each purchaser of land in said district prior to the formation of the district, or by the parties purchasing after the formation of the district; and the said Register shall deduct therefrom the proper proportion of the amount drawn from the Swamp Land (State or County) General Fund, and the amount to be credited to the purchasers and paid over to the Trustees, as hereinbefore provided, and shall order the balance paid over to said purchasers; and the said statement of the Register, signed by each purchaser, shall be the voucher for the County Treasurer.

SEC. 43. Swamp and overflowed, salt marsh or tide land districts now formed may proceed at once to organize under the provisions of this Act, and it shall be the duty of the Clerk of the Board of Supervisors of any county in which the greater portion of any swamp land district shall be, immediately after this Act goes into operation, to call a meeting of the land-owners of such district by publishing a notice for four weeks in some newspaper published in the county, or if there shall be no paper published in the county, then by posting at least three notices in the district, for the election of Trustees and the establishment of by-laws; and the holders of certificates of purchase or patents, or their agents, representing one-half the land sold, shall form a quorum for the transaction of business at such meeting; and the Trustees elected at said meeting shall have power, and it shall be their duty, to carry out and complete all unfinished business commenced by the Board of Supervisors, and do all other things authorized by the by-laws of the district or by this Act; *provided*, that in any district now in debt the Trustees shall have power to do nothing to impair or destroy any debt or obligation of the district without the consent of creditors. The Trustees of any such district, however, shall have the power to make any arrangement with the said creditors for the surrender of any indebtedness at less than par, and to levy any tax on the district for that purpose, provided the same shall be authorized by the by-laws of the district.

Districts may organize at once.

Districts in debt.

SEC. 44. If any district now in debt shall levy a tax upon the lands of the district, as provided in the preceding section, and shall redeem bonds or warrants of the district with the proceeds thereof, the Trustees of said district shall have power to select any unsold lands in the district and pay for the same with said bonds or warrants at par, and the Register of the State Land Office shall issue to the said Trustees a certificate of purchase (and when all the conditions of this Act shall have been complied with, a patent) for the same; and the said Trustees shall have power to deed the said lands in fee to any person upon the payment by the said person, into the fund of the district, of the price agreed upon.

Levy tax.

SEC. 45. If the holders of certificates of purchase or patents for lands within any district formed under previous laws, and in which the lands have not been thoroughly reclaimed, desire to have their lands set off from said district, they shall, in addition to the petition required in section thirty of this Act, show to the Board of Supervisors that their lands are capable of an independent reclamation. If the district from which they seek

Lands partially reclaimed.

to be set off shall not be in debt, then said lands may at once be set off; but if the district shall have an outstanding indebtedness, then the Board shall, either in their own proper persons or by Commissioners appointed for that purpose, determine what proportion of the debt the tract so sought to be set off shall be entitled to pay; and upon the payment by the said petitioners of the amount so awarded, the said lands described in said petition shall be constituted a district, and shall be subject to all the conditions and restrictions of this Act; and the amount so paid by the petitions shall be a charge against the district so formed, and shall be collected and paid the same as funds for reclamation.

District, how designated.

SEC. 46. All districts organized under the provisions of this Act shall have a State number, and the Register of the State Land Office, upon the receipt of a copy of a petition, as hereinbefore provided, shall number the same, and shall send their number to the County Recorder of the county from which the copy came; and the said Recorder shall immediately number the petition upon record in like manner, and the said district shall thereafter be known and designated by said number; *provided*, that districts now organized shall be known by the number they now have. No member of any Board of Supervisors, or any Clerk of said Board, shall receive any compensation other than their regular salary for services performed under this Act; *provided*, that the Board of Supervisors of Sacramento County may, if they shall deem the same advisable, employ a Clerk to attend to matters pertaining to swamp lands, and shall pay such Clerk by orders on the Swamp Land Fund of the district for which work is performed not to exceed five dollars for each day actually engaged.

Swamp Land Clerk in Sacramento county.

Statement by Register.

SEC. 47. On or before the first day of June, of the present year, the Register of the State Land Office shall prepare a statement of the amount of moneys paid into the general Swamp Land Fund of the State by purchasers of swamp and overflowed, salt marsh or tide lands in each county of the State; and after deducting therefrom the amount expended out of the general Swamp Land Fund exclusive of district reclamation, show the amount remaining in the said general fund to the credit of each county, and shall file the same in the office of the Controller of State. The Controller shall thereupon draw his warrant on said general Swamp Land Fund in favor of the County Treasurer of each of said counties for the amount with which his said county may be credited. Any County Treasurer may draw said money from the State Treasury upon said warrant, and transfer it immediately to the County Treasury, or he may use said warrant in his settlement with the State Treasurer. In case any of said warrants shall be used in a settlement by a County Treasurer, the State Treasurer shall transfer the amount of the warrant from the Swamp Land Fund to the General Fund. Immediately after notification by the Board of Supervisors that all contractors are fully paid for work contracted prior to the passage of this Act, the Controller of State shall certify to the Board of Supervisors of each county in which a swamp land district may be situated, the amount of the assets unexpended standing on the books of the Controller, and belonging to such district, specify-

Controller to draw warrants.

Assets unexpended.

ing particularly the nature of such assets, whether of coin or otherwise; and upon receiving said certificate, the Auditor and Treasurer of the county, under the direction of the Board of Supervisors, shall place said assets on their books to the credit of the proper Swamp Land District Fund. The Controller shall also forward to the proper Board of Supervisors all books relating to swamp land districts received by him from the Board of Swamp Land Commissioners.

SEC. 48. The balance of the principal on all lands in districts having an outstanding indebtedness, which have been sold for five years, shall be due and payable one year after this Act goes into effect; and on all lands in such districts which have been sold less than five years, the said balance shall be due and payable on the first of January following the expiration of five years from the date of said sale; *provided* further, that no action of the land holders shall have the effect to stay the payment upon any lands provided for by this section. Payment for lands held five years.

SEC. 49. If any person shall at any time or in any manner lower or alter any levee to facilitate crossing, or shall cut, destroy or in any other manner whatever injure or destroy any levee, or tide-gate, or embankment or other work constructed for the purpose of reclamation, or in any manner whatever diminish the height, width or strength of any levee or embankment of a district, or cross-levee within a district, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than ten days nor more than six months, or by both such fine and imprisonment; and in every case of conviction the sum of fifteen dollars shall be charged as costs, and be paid to the District Attorney for his own use; and all fines collected under this Act shall be paid into the Levee Fund of the district. Penalties for injuring levees.

SEC. 50. Any person owning or occupying lands upon the banks of any river, creek or other stream where the lands lying back of said stream are lower than the bank thereof, shall be held responsible for all damages which may be sustained by the owners or occupants of said lower lands by reason of any cut or embrasure made in the bank of said stream by the said owner or occupant of said bank. Said damages may be proven and recovered in any Court of competent jurisdiction according to the civil practice of said Court; *provided*, that in case said cuts were made for the purpose of irrigation, and head gates and culverts have been made which competent persons have considered sufficient to restrain the water, and where great diligence has been made to prevent damage, the said facts may be plead and proven in mitigation of damages, and shall be taken into consideration by the Court or the jury in determining the same. Occupants of land on banks of streams.

PART III.—SCHOOL LANDS.

SEC. 51. The unsold portion of the five hundred thousand acres granted to the State for school purposes, the unsold portion of the seventy-two sections granted to the State for a seminary Price per acre.

of learning, the unsold portion of the ten sections granted to the State for the erection of public buildings, the sixteenth and thirty-sixth sections granted for school purposes, and lands selected in lieu thereof, shall be sold at the rate of one dollar and twenty-five cents per acre, in gold coin, payable twenty per cent. of the principal within fifty days from the date of the certificate of location issued to the purchaser by the Surveyor-General; the balance, bearing interest at the rate of ten per cent. per annum, in advance, shall be due and payable within one year after the passage of any Act of the Legislature requiring such payment, or before, if desired by the purchaser.

Affidavit of purchasers.

SEC. 52. Whenever any resident of this State desires to purchase any portion, not less than the smallest legal subdivision of a sixteenth or thirty-sixth section of any township in the State, which has been surveyed by authority of the United States, he or she shall make an affidavit, before any officer authorized to administer oaths, that he or she is a citizen of the United States (or, if a foreigner, that he has filed his intention of becoming a citizen), a resident of the State, of lawful age; that he or she desires to purchase said lands (giving a description thereof by legal subdivision) under the provisions of this Act; that he or she has not entered any portion of any sixteenth or thirty-sixth section which, together with that now sought to be purchased, shall exceed three hundred and twenty acres; that there is no occupation of said lands adverse to any that he or she may have; or, if there shall be adverse occupation, then he or she shall state that the township has been sectionized and subject to pre-emption three months or over; and that said adverse occupant (giving his or her name) has been in such occupation for more than sixty days; and if the applicant be a female, she shall state that she is entitled to purchase and hold real estate in her own name under the laws of the State; which application shall be forwarded to the Surveyor-General of the State.

Occupants of 16th and 36th sections to file applications.

SEC. 53. Every occupant of a sixteenth or thirty-sixth section shall be protected in his or her occupancy for six months after the passage of this Act; and after the expiration of that time, any person settling upon a sixteenth or thirty-sixth section shall have sixty days after such settlement in which to file the application required in the preceding section. All applications filed in the Surveyor-General's office prior to the expiration of said six months shall be retained until the end of that time before approval; and after the expiration of said six months all applications shall be retained in said office for sixty days before approval. If two or more shall claim the same land, the contest shall be determined as provided in section seventeen of this Act; but no person shall have a right to purchase by reason of any settlement or improvement, unless application shall have been made within the time above prescribed. Whenever any resident of the State desires to purchase any of the other lands mentioned in section fifty-two of this Act, except the sixteenth and thirty-sixth sections, he or she shall make an affidavit, before any officer authorized to administer oaths, that he or she is a citizen of the United States (or if a foreigner, then that he has filed his intention of becoming a citizen), a resident of the State, of lawful age; that he or she desires to purchase said lands (giving a

Applicants for other lands.

description by legal subdivisions) under the provisions of this Act, and that there is no improvements of any kind on said land other than those of the applicant; and if the applicant be a female, then that she is entitled to purchase and hold real estate in her own name under the laws of the State; which application shall be forwarded to the Surveyor-General.

SEC. 54. Warrants issued in pursuance of an Act to provide for the disposal of the five hundred thousand acres of land granted to this State by Act of Congress, that the people of the State of California may avail themselves of the benefits of the eighth section of the Act of Congress approved April fourth, eighteen hundred and forty-one, chapter sixteen, entitled an Act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights, the following provisions are hereby enacted, approved May third, eighteen hundred and fifty-two, shall be taken in payment of any part of the said grant in the above title described; *provided*, that the said warrants shall be paid directly to the Register of the State Land Office, and shall be by him cancelled, before a certificate of purchase shall issue for the said lands. Land warrants.

SEC. 55. Each application for school lands under the provisions of this Act shall be accompanied by a fee of five dollars. The Surveyor-General, in addition thereto, shall demand and receive the same fees allowed the Register of the State Land Office for like service, and all fees collected by him shall be paid into the State Treasury. Fees.

SEC. 56. It shall be the duty of the Board of Examiners created by an Act approved April twenty-first, eighteen hundred and fifty-eight, 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, whenever it shall appear to said Board that the Treasurer of State has received into the Treasury the sum of ten thousand dollars or upwards, paid in as purchase money for any portion of the five hundred thousand acres granted to the State for school purposes, for the sixteenth and thirty-sixth sections, or lands in lieu thereof, and as often thereafter as the like sum shall have been paid in as aforesaid, to purchase bonds of the civil funded debt of the State issued since the first day of January, A. D. eighteen hundred and fifty-eight, or that may be hereafter issued, to the amount said money paid in as aforesaid will purchase at the lowest price at which they may be purchased, after advertising for two weeks in one daily newspaper published in the City of San Francisco, and one in the City of Sacramento, for sealed proposals for the sale of said bonds. The said Board shall open said proposals at the time and place specified in said publication, in the presence of the Treasurer and Controller of State, and accept only of such proposals as offer bonds at the greatest discount to the amount of funds in the Treasury, paid in as purchase money for school lands, will purchase. Said Board shall audit the amount due said bidder or bidders for his or their bonds, which amount shall be certified to the Controller of State by said Board; the Controller shall then draw his warrant on the Treasurer for the amount audited by said Board, and said Board of Examiners shall deliver said warrants Moneys received for school lands to be invested in State bonds.

State School
Fund.

to the persons in whose favor they are drawn; and the bonds so purchased shall be delivered to the State Treasurer, who shall keep said bonds as a special deposit in his custody, marked "School Fund," to the credit of said School Fund; *provided*, however, that no bonds shall be purchased at more than par value. All interest paid into the Treasury under the provisions of this Act shall be subject to the order of the State Board of Education. It is further *provided*, that if at any time the Board of Examiners shall have at their disposal the sum of ten thousand dollars or upwards, to be invested as contemplated in this Act, for the benefit of the State School Fund, and they shall deem it for the best interests of said fund, the said Board are hereby authorized and empowered to become bidders for the purchase of California State bonds, should the Treasurer of State have advertised at such times for the sale and disposal of bonds under any law already passed or that may hereafter be passed by the Legislature of this State; the bids of the said Board to be made according to law, and to be received by the Treasurer of State in the same manner and under the same restriction as if received from individuals; and if upon the opening of said bids it is found that the Board of Examiners are entitled to receive the amount of their bid, or any portion thereof, the Treasurer of State shall deliver to the said Board the amount of bonds to which they are entitled under the provisions of his advertisement, and the Controller of State shall draw his warrant in favor of the Treasurer for the amount of the bid of said Board accepted by said Treasurer of State, and the bonds so awarded and delivered to the Board of Examiners shall be at once placed to the credit of the State School Fund, to be held by the State Treasurer as a special deposit for said School Fund.

Agricultural, Mining
and Mechanical Arts College.

SEC. 57. All moneys, securities or other property arising from the sale of the seventy-two sections granted to the State for a seminary of learning, and from the sale of the ten sections granted to the State for the erection of public buildings, whether as principal or interest, shall be paid out of the State Treasury or delivered over, on the order of the Board of Directors of the Agricultural, Mining and Mechanical Arts College, or to such other corporation or Board as shall be appointed to succeed or represent them.

Delinquent
purchasers.

SEC. 58. All persons who have purchased any portion of either of the grants mentioned in the preceding section on a credit are hereby required to pay the principal and any interest that may be due within one year after the passage of this Act. All amounts remaining unpaid at the end of that time shall be included in the delinquent list provided in section six of this Act; and the District Attorney shall proceed against such delinquents as provided in sections sixty-five, sixty-six, sixty-seven and sixty-eight of this Act.

Duplicates
for lost war-
rants.

SEC. 59. Any person making application for a duplicate school land warrant, in lieu of one alleged to have been lost or destroyed, shall make satisfactory proof, by affidavit of himself or others, to the Register of the State Land Office, that the party applying therefor is the bona fide owner of such warrant, that the same has not been located, and of the facts establishing the loss or destruction of the same, and shall file with the Reg-

ister of the State Land Office a good and sufficient bond, in form joint and several, with two or more sureties, to be approved by said Register, payable to the State of California in double the value of said school land warrant, conditioned that the said warrant alleged to have been lost or destroyed shall not be presented for location; and in any case where, for want of a proper acknowledgment of an assignment of the original, or partial destruction or defacement thereof, or for any other cause, it cannot be made available, the applicant shall make affidavit that he is the owner of the warrant, together with affidavit of any other person or persons, to the satisfaction of the Register, showing the fact of the assignment and that such warrant has not been located, and shall file the original warrant for cancellation with the Register of the State Land Office. The said Register shall certify that the applicant is entitled to a duplicate school land warrant in lieu of the one proven to have been lost or destroyed, or presented for cancellation, and upon presentation of such certificate to the Governor he shall prepare and deliver to the said applicant a duplicate warrant bearing the same number as the original warrant, having the word "Duplicate" written across the face thereof, which said warrant when so issued shall be of the same validity and have the same force and effect as the original. The Register of the State Land Office shall in no case give the certificate above required until he shall be satisfied that the original has not been located, or, if located, that the lands so located have not been and will not be charged to this State by the Federal Government as a portion of the five hundred thousand acres of land granted to this State for internal improvements.

Duplicates
for lost
warrants.

SEC. 60. The Board of Directors of the Agricultural, Mining and Mechanical Arts College, or such corporations as may be appointed by law to succeed them, shall have power to order the selection of the grant of one hundred and fifty thousand acres of land granted to the State for the use of an agricultural college, and dispose of the same at such price and in such manner as they shall deem best for the interests of the college; and it shall be the duty of the Surveyor-General, as the agent of the State, to select the lands in the United States Land Offices, according to the instructions of said Board or corporation; and it shall be the duty of the Register of the State Land Office to issue certificates of purchase and patent to purchasers who comply with the conditions ordained by the said Board or corporation, in the manner prescribed in sections four and five of this Act; and the said Board or corporation shall invest any and all moneys accruing from the sale of said lands as they shall deem best, subject only to the conditions of the Act of Congress granting said lands.

Lands for
Agricultu-
ral College.

PART IV.—MISCELLANEOUS PROVISIONS.

SEC. 61. If any person, being the legal holder of a certificate of purchase for any State lands, shall claim that said certificate has been lost or destroyed, the Register of the State Land Office shall proceed to take such ex parte testimony as he shall deem expedient concerning the loss of the same; *provided*, that

Duplicates
for lost cer-
tificates.

said party so applying shall, before the hearing of said matter, publish a notice in some newspaper published in the county where the said land is situated; or if there be no newspaper published in the county, then in some newspaper of general circulation in the county, for at least four consecutive weeks, describing the certificate and the lands for which the same was issued, by legal subdivisions, and giving the name of the person to whom it was issued, and the person then claiming to own it. If the said Register shall be satisfied of the loss or destruction of said certificate, he shall issue to the legal owner thereof a duplicate certificate, which shall have the word "Duplicate" plainly written across the face thereof with red ink. Said duplicate, when issued, shall have all the force and effect of an original. If there shall be a contest as to the issuance of a duplicate certificate, the Register shall hear and determine said contest, or transfer the same to the proper Court, as provided in section seventeen of this Act.

Death of
patentee

SEC. 62. In all cases where patents for lands have been or may hereafter be issued, in pursuance of any law of this State or of the United States, to a person who has died or shall hereafter die before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees or assignees of such deceased patentee as if the patent had issued to the deceased person during life.

If lands sold
not State
property.

SEC. 63. In the event of any of the lands sold by the State proving to be within the boundaries of a grant, or otherwise not the property of the State, the holder or assignee of the certificate of purchase or patent shall be entitled to receive in exchange therefor a certificate from the Register of the State Land Office that such amount has been paid. This certificate shall specify the kind or class of land upon which the said amount was paid, and the locator may present and the County Treasurer and State Treasurer shall receive the said certificate as payment for its amount, either principal or interest, upon any lands of the same class which the same purchaser or assigns may afterwards desire to locate or may already have located.

Location
abandoned.

SEC. 64. Whenever a purchaser of any State land upon a credit desires to abandon the location or entry made by him, he shall do so by acknowledgment and reconveyance of his title to the State, and shall surrender the certificate of purchase, or, if the same has been lost, send to the Register an affidavit of the fact.

Delinquent
purchasers.

SEC. 65. Upon receipt of the delinquent list aforesaid from the Register of the State Land Office, as provided in section six, the District Attorney shall add thereto a notice that if the said amount due shall not be paid in fifty days after the date thereof, he will commence suit to foreclose the interest of said purchasers in the said lands, and shall publish said list, with said notice appended, for four consecutive weeks immediately following the date of the notice; or if there shall be no newspaper published in said county, then he shall post copies of the same in at least five public places in the county. After the expiration of

To be sued.

the fifty days, the District Attorney shall, in the name of The People of the State of California, commence an action in the District Court against all purchasers or holders of certificates of

purchase who have not either paid said amount so due, together with the cost of publication, or surrender the title to the State, as provided in the preceding section, 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 be not known, he may be sued under a fictitious name, and service of the summons may be had by publication in some newspaper published in the county for four weeks; or if no newspaper be published in the county, then by posting one copy of the summons for four weeks at the Court-house door of the county, and two copies in public places in the township where the land is situated.

SEC. 66. 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 office 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 time of payment; whereupon the District Attorney shall dismiss the suit, and the purchaser or holder of the certificate of purchase shall be restored to his rights in the land, the same as if no neglect or forfeiture had been made. The District Attorney shall be entitled to receive ten dollars for each suit brought.

Decree obtained.

May redeem within twenty days.

SEC. 67. 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 cost shall be taxed by the Court against the defendant, and execution shall issue thereon; but if there be not sufficient property belonging to defendant found to satisfy the same, and the execution returned not satisfied, then the same shall 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 cost shall not be taxed at a sum in any case to exceed thirty-two dollars; *provided* further, that the cost of the publication required in section sixty-five shall not be a part of the thirty-two dollars; but the same shall, if it cannot be collected of the purchaser, if the lands described be swamp and overflowed, salt marsh or tide lands, be paid out of the Swamp Land Fund, on the order of the Board of Supervisors; or if any class of school lands, then out of the General Fund of the State.

Land again subject to sale.

Cost of suit.

Publishers to be paid.

SEC. 68. Any person having a good and sufficient conveyance to the whole or any portion of the lands described in any certifi-

Subsequent purchasers may defend suit.

cate of purchase, to annul which suit shall have been commenced as above provided, but to whom the certificate has never been surrendered, shall have a right to defend said action; and if he or she shall show, to the satisfaction of the Court, that he or she is entitled to any portion of the lands described, and if the holder of said certificate does not come forward and pay the amount due, then the Court shall order the certificate annulled, and a new one to issue to the defendant by the payment, in open Court, by the defendant, of the amount due the State upon the whole tract; and the said defendant shall thereupon be entitled to two certified copies of said decree, one of which he shall file in the County Recorder's office, and the other with the Register of the State Land Office.

Certificates subject to sale and transfer.

SEC. 69. Certificates of purchase and all rights acquired thereby shall be subject to sale and transfer, by deed or assignment, executed and acknowledged before any officer authorized by law to take acknowledgments of deeds, or before said Register; but all such sales or transfers shall, when recorded by the County Recorder, be reported by him to the Register, to be entered in the books of his office; and the said Recorder shall be entitled to receive from the purchaser or transferee, for so reporting the same, a fee of fifty cents in addition to that already allowed for recording.

Fee.

Lands excluded.

SEC. 70. All the swamp and overflowed, salt marsh and tide lands within one mile of the State Prison at San Quentin, within five miles of the City and County of San Francisco, and within five miles of the corporate limits of the City of Oakland, are hereby excluded from the provisions of this Act; *provided*, that this Act shall not be construed to authorize the sale of any lands below low tide.

Acts repealed.

SEC. 71. An Act entitled an Act to provide for the disposal of the five hundred thousand acres of land granted to this State by Act of Congress, that the people of the State of California may avail themselves of the benefits of the eighth section of the Act of Congress approved April fourth, eighteen hundred and forty-one, chapter sixteen, entitled an Act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights, the following provisions are hereby enacted, approved May third, eighteen hundred and fifty-two; an Act entitled an Act to provide for the selection of lands donated by the United States, for the support of common schools, and for the erection of public buildings, approved May seventh, eighteen hundred and fifty-five; an Act entitled an Act to provide for the location and sale of the unsold portion of the five hundred thousand acres of land donated 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; an Act entitled an Act authorizing the location and protection of school lands, approved April thirtieth, eighteen hundred and fifty-seven; 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, eighteen hundred and fifty-three, approved April twenty-sixth, eighteen hundred and fifty-eight; an Act entitled an Act to provide for the issuance of patents to lands

located with State school land warrants, and for lands purchased under the Act of April twenty-third, eighteen hundred and fifty-eight, approved April sixteenth, eighteen hundred and fifty-nine; an Act entitled an Act to provide for the location of school land warrants upon unsurveyed lands, and for the issuance of title for the same, approved April eighteenth, eighteen hundred and fifty-nine; an 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; an Act entitled an Act to provide for the authentication of certain evidence in relation to swamp and overflowed lands heretofore sold by this State, approved March thirteenth, eighteen hundred and fifty-eight; an 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; an 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; an Act entitled an Act making certificates of purchase or of location evidence of title, approved April thirteenth, eighteen hundred and fifty-nine; an Act entitled an Act to give effect to patents for lands issued in the name of deceased persons, approved February thirteenth, eighteen hundred and sixty; an Act entitled 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 fifth, eighteen hundred and sixty-one; an Act entitled an Act to provide for the annulling of certificates of purchase of lands sold on a credit and declared forfeited for non-payment of interest or principal, and for the relief of purchasers of swamp and overflowed lands, approved April ninth, eighteen hundred and sixty-one; an Act entitled an Act in relation to the entry of lands in certain cases, and to provide for the issuance of patents therefor, approved April twenty-ninth, eighteen hundred and sixty-one; an Act entitled 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 thirteenth, eighteen hundred and sixty-one; an Act entitled an Act to provide for the sale of the marsh and tide lands of this State, approved May fourteenth, eighteen hundred and sixty-one; an Act entitled an Act to provide for the reclamation of the salt marsh and tide lands, approved April twenty-seventh, eighteen hundred and sixty-three; an Act entitled an Act to suspend the laws allowing the sale of unsurveyed lands, and relating to the issuance of patents, approved April first, eighteen hundred and sixty-four; an Act entitled an Act in relation to Swamp Land District Funds, approved April fourth, eighteen hundred and sixty-four; an Act entitled an Act creating a State Land Office for the State of California, approved April tenth, eighteen hundred and fifty-eight; an Act entitled an Act to authorize the Register of the State Land Office to issue duplicate certificates of purchase to school, or swamp and overflowed, and salt marsh and tide lands, when the originals have been lost or destroyed, approved April fifteenth, eighteen hundred and sixty-two; an

Acts
repealed.

Acts
repealed.

Act entitled an Act fixing the salary of the Register of the State Land Office, approved April twenty-eighth, eighteen hundred and sixty; an Act entitled an Act in relation to the Register of the State Land Office, approved April third, eighteen hundred and sixty-two; an Act entitled an Act to provide for the sale of certain lands belonging to the State, approved April twenty-seventh, eighteen hundred and sixty-three; an Act entitled an Act to provide for the issuance of patents to lands located with State school land warrants, and for lands purchased under the Act of April twenty-third, eighteen hundred and fifty-eight, approved April sixteenth, eighteen hundred and fifty-nine; an Act entitled an Act to provide for the selection of the lands donated to the State of California by Act of Congress approved July second, A. D. eighteen hundred and sixty-two, for the endowment of colleges for the benefit of agriculture and the mechanic arts, and all lands that may be granted to the State for like purpose, approved April second, eighteen hundred and sixty-six; and all Acts amendatory of or supplemental to any of the foregoing Acts, and all other Acts or parts of Acts in conflict with the provisions of this Act, are hereby repealed; *provided*, however, that the provisions of this Act shall not in any manner affect any legal or equitable claims, now existing on any of the lands hereinbefore described, in favor of any claimant under the State, nor affect any suit or proceeding which is now pending respecting the same, arising out of any claims now made; but the Courts of the State may proceed and adjudicate upon said rights, and patents or other evidences of title may issue for the same to the parties entitled thereto, under any existing laws of this State, the provisions of this Act to the contrary notwithstanding.

SEC. 72. Immediately after the passage of this Act the State Printer shall print two thousand copies of the same in pamphlet form, and deliver them to the Register of the State Land Office for distribution to State and county officers.