

AN ACT

TO INCORPORATE THE TOWN OF HAYWARDS:

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

SECTION 1. The people residing within the boundaries of that tract of land in Eden Township, in Alameda County, described in Section two of this Act, are hereby constituted a Body Politic and Corporate by the name of the "Town of Haywards," and by that name shall have perpetual succession; may sue and be sued, in all Courts, and in all actions whatsoever; and shall have and use a common seal, and alter the same at pleasure; and may purchase, receive, hold, and enjoy real and personal property, and sell and dispose of the same for the common benefit, subject to the provisions and limitations of this Act, and in no other way whatsoever.

Sec. 2. Beginning at the westerly corner of J. W.

OB 10
02802

Bolce's land, and immediately on the northeasterly line of the County Road from Haywards to San Leandro; thence along Bolce's northwesterly line to a point on the left or southerly bank of San Lorenzo Creek; thence following up the meanderings of the left or southerly bank of said creek to the line dividing the land of M. Creary and J. W. Webster; thence southeasterly along said dividing line to the northerly line of the County Road; thence across the County Road to the northwesterly corner of Correia's land; thence easterly along said Correia's land to the northeasterly corner thereof; thence southerly along said Correia's land to the northeasterly corner of Thompson's land; thence southeasterly along said Thompson's land to the northerly line of Cemetery Avenue; thence westerly along the northerly line of said Avenue to a point where the easterly line of N. Rasmusen prolonged intersects the same; thence southerly along the southeasterly line of said Rasmusen's land to the easterly corner thereof; thence westerly along the southeasterly line of Rasmusen, Collins and Pimentel to the northeasterly corner of Pell's land; thence southerly along Pell's land to the southeasterly corner of the same; thence southwesterly to the southeasterly corner of land of Stroble and Neudeck; thence westerly along Stroble and Neudeck's line to a point where it is intersected by the westerly line prolonged of Saint Joseph Cemetery; thence southerly along the northerly line of said cemetery to the northerly or right bank of Sanjon Creek; thence following down the northerly or right bank of said Sanjon Creek to the easterly line of the County Road from Haywards to Mount Eden; thence easterly along the easterly line of said road to a point opposite the northeasterly corner of J. M. Alexander's land;

thence northwesterly crossing said road to the last mentioned corner; thence southerly along the westerly line of said road to the southwesterly line of the Central Pacific Railroad's right of way; thence along the southwesterly line of said right of way to a point where the same is intersected by the northwesterly line of Hayward's Avenue; thence northeasterly along the northwesterly line of said avenue to the westerly boundary of Laurel School District; thence northerly along said boundary to the place of beginning.

SEC. 3. The government of said Town shall be vested in a Board of Trustees, to consist of five members, an Assessor, Clerk, Marshal, Treasurer, and Justices of the Peace.

SEC. 4 All elections held under the provisions of this Act, shall be in accordance with the General Election Laws of this State; all the duties of an Election Board which are or may be prescribed by the Statutes of the State regulating and governing elections shall be performed by the Board of Election of said Town, who shall be appointed by the Board of Trustees of said Town, and have the same power as a Board of Election under the General Laws of the State. When the returns shall have been completed they shall be sealed and delivered by the Board of Election to the Town Clerk, who shall safely keep the same, not allowing any person to open said returns, and deliver them to the Board of Trustees at their meeting on the first Wednesday subsequent to the election. The Board of Trustees shall meet on the first Wednesday subsequent to the election and duly canvass the election returns in the manner prescribed by the General Election Laws of the State, declare the result, and direct the Town Clerk to issue certificates of election to the persons elected.

SEC. 5. Said Trustees, Assessor, Clerk, Marshal, Treasurer, and Justice of the Peace, shall be elected by the qualified electors of said Town on the first Monday of May of each year, and shall enter upon their duties upon the first succeeding Monday thereafter, and they shall hold their offices for one year and until their successors are elected and qualified.

SEC. 6. The Board of Trustees shall meet on the first Monday after their election, qualify, and choose a President from their number. The time and place of holding their stated meetings shall be as provided by Ordinance, and they may be convened by the President at any time by a written notice delivered to each member, and all meetings of the Board shall be within the corporate limits of the Town, and shall be public. In case the Clerk shall not be present, the President may appoint one of their number as Clerk pro tem.

SEC. 7. At the meetings of the Board a majority of the Trustees shall constitute a quorum to do business, a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the Board previously, by Ordinance, may have prescribed.

SEC. 8. The Board of Trustees shall judge of the qualification of their own members, and of all election returns, and determine contested elections of all Town officers. They may establish rules for their own proceedings, punish any member, or other person, for disorderly behavior in their presence. They shall keep a Journal of their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question and entered on the Journal.

SEC. 9. The Board of Trustees shall have power within said Town—

First—To make By-Laws and Ordinances not repugnant to the Constitution and laws of this State or the United States.

Second—To construct and keep in repair pumps, conduits, reservoirs, or other works necessary for duly supplying the town with water, under the limitations hereinafter presented by this Act.

Third—To lay out, alter, open and keep open, and repair the streets sidewalks, and alleys of the Town, and determine the width and grade of all streets and sidewalks in the Town, and to set out, and cause to be set out and cultivated, shade trees along said streets, and to regulate and direct the planting of the same.

Fourth—To provide such means as they may deem necessary to protect the Town from injury by fire.

Fifth—To levy and collect, annually, a tax not to exceed one per cent on the assessment valuation of all property, both real and personal, within the limits of the Town.

Sixth—To impose and collect a Road Poll Tax of not exceeding two dollars per annum on every male inhabitant of the age of twenty-one and less than sixty years, and no other Road Poll Tax shall be collected within the limits of the Town of Haywards.

Seventh—To impose and collect a tax of not to exceed two dollars per annum on every dog owned within the limits of the Town, and no other dog tax shall be collected within the limits of said Town.

Eighth—To provide for the draining, the establishing of

grades, improvements, repairs, and lighting of the streets, and the construction of sidewalks, drains and sewers, and the keeping of the same in repair, to prevent the business of slaughtering animals within the limits of the Town; to provide for the prevention and summary removal of all nuisances; to provide for the prevention and summary removal of all occupations detrimental to the public health, comfort and safety; and to provide for the prevention and regulation of contagious disease; to suppress or regulate the erection of soap or glue factories, or tan yards; to suppress and prohibit gambling houses, and all houses of ill fame and prostitution, and all occupations, houses, places, amusements, and exhibitions which are against good morals and contrary to public order and decency.

Ninth—To regulate the erection of steam boilers and engines, and to prohibit the erection thereof in places deemed dangerous to the inhabitants of the Town.

Tenth—To prevent the leaving of any animal upon any street, alley or lane within the limits of the Town without securely fastening the same; also to prevent the hitching or fastening of any animal to, or to prevent the posting of any notice or placard upon or otherwise defacing or injuring any lamp-post or hydrant, or any tree upon any highways of the Town, or any case or box around such tree.

Eleventh—To prevent the appearance of any person upon the highway or public place in a state of drunkenness or intoxication, or in any private house or grounds, to the annoyance of any person therein, and to prevent any person or persons from behaving in an indecent or lewd manner, or making any indecent exposure of his person, or performing

any indecent, immoral or lewd play or representation; or the bathing in any public manner within the limits of the Town; to prevent any noise, disorder or tumult to the disturbance of the public peace.

Twelfth—To prevent the discharge of fire-arms, pistols or cannon within prescribed limits; to prevent the immoderate riding or driving of any horse or other animal on the highways within the Town; to prevent any sport or exercise upon the highways or public grounds having a tendency to frighten horses; to empower any police officer or Justice of the Peace to disperse any disorderly crowd.

Thirteenth—To provide for enclosing, improving and regulating all public grounds at the expense of the Town.

Fourteenth—To license, tax and regulate all such business and employments as the public good may require, and as may not be prevented by law, and fix the terms and price thereof; *provided*, that the proceeds of all licenses issued to persons doing business within the Town of Hayward shall be paid into the Town Treasurer for the use of said Town, and it shall be unlawful for any county officer to collect any such Town Licences within the said Town.

Fifteenth—To permit the laying of railroad tracks and the running of cars drawn by horses or steam thereon, and to regulate the same.

Sixteenth—To erect, purchase or lease proper buildings for a Fire Department.

Seventeenth—To provide for the good order of the Town, and to appoint Special Policemen when deemed necessary to preserve the public peace.

Eighteenth—To purchase, hold, and maintain a fire en-

gine and such implements for the prevention and extinguishing of fires as may be necessary.

Nineteenth—To prevent horses, mules, jacks, jennets, cattle, goats, sheep and swine from running at large, being picketed or herded upon the streets, alleys, lanes, or public grounds within the limits of the Town.

Twentieth—To establish a Pound and a Pound-keeper, and describe his duties, and to provide for a public sale by the Pound-keeper of such animals as shall be impounded, in the same way and upon like notice that personal property is sold by execution under the laws of the State ; *provided*, said Board of Trustees shall allow, by the proper order, the owner or owners of such property so impounded to reclaim the same at any time before the sale upon payment of costs and charges of taking up and impounding, and damages if any, and within thirty days after the sale shall allow him or them, upon proof of ownership of the property sold, duly made before a Justice of the Peace, and upon payment of costs of taking up, impounding, and selling the same, and damages if any, and upon the payment of the sum of one dollar to the said Justice, as a fee for the investigation of ownership, and for his certificate to that effect, the purchase money arising from such sale or sales.

Twenty-first—To provide for the lighting of such streets and buildings belonging to or in use by the Town as may be necessary ; *provided* that no contract for lighting any street shall be let for a longer period than five years.

Twenty-second—To offer and pay rewards for the arrest and conviction of persons charged with crime.

Twenty-third—To prescribe and fix such penalties for the violation of any of the provisions of this Act, as are not otherwise provided for.

Twenty-Fourth—To erect, purchase or lease buildings suitable for the public meetings of the Board of Trustees, and for markets, schools and prisons; *provided*, that the amount expended for the construction of buildings shall not exceed four thousand dollars in any one year; *and provided further*, that the amount expended for leasing shall not exceed one thousand dollars in any one year.

Twenty-fifth—The Board of Trustees shall have power to order, at the general municipal election, on like notice and in the same manner as the other officers are elected, one or more Justices of the Peace, and one or more Constables, to hold office for one year, and until their successors are elected and qualified.

Twenty-sixth—To pass all Ordinances and By-Laws necessary and proper for fully carrying into effect the power herein granted.

Twenty-seventh—They shall fix by Ordinance each year the rate per cent. of taxes to be levied and collected for current expenses; *provided*, that no tax to be levied for any one year shall exceed one per cent. on all the taxable property in said Town.

SEC. 10 The Board of Trustees may by Ordinance designate the punishment to be inflicted for the breach of their Ordinances, which punishment may be fine or imprisonment, or both, as said Board may designate. No fine exceeding one hundred dollars, nor imprisonment exceeding thirty days for any one breach of any Ordinance shall be imposed on

any one person. Any Justice of the Peace residing within the limits of said Town shall have jurisdiction to hear and try all cases for the violation of Ordinances, and to render a judgment of fine or imprisonment, or both, within the limits prescribed by the Ordinance. All suits for the violation of any Ordinance shall be in the name of the People of the State of California. Fines may be collected by execution. In case judgment directing the payment of a fine be rendered, the Justice may further direct that in case the defendant fail to pay the same he shall be imprisoned until the same be paid, not to exceed one day for every two dollars of the fine. Persons living within the limits of the Town shall be competent jurors, if in other respects competent and qualified. All fines collected under this Act shall, by the officers collecting the same, be paid over to the Town Treasurer, and for any omission so to do such officer may be proceeded against upon his official bond in the name of the Town in the manner authorized on the failure of officers to pay over money collected when so required. Said Justice must also add costs of suit to the fine.

SEC. 11.—

Article One—Whenever a petition shall be presented to the Board of Trustees of the Town of Hayward, signed by twenty resident owners of real estate in said Town, to open any street, already established and sought to be extended, or open any [new street, it shall be the duty of said Board to examine into said matter, and if in the opinion of four-fifths of all the members elected to said Board, to be expressed by a resolution to be entered upon their minutes with the names of members voting therefor, that the convenience of the public will thereby be promoted, they may, by resolu-

tion, direct an Engineer to furnish a map of the said proposed improvement, and of the premises to be affected thereby, a copy of which resolution shall forthwith be transmitted by the Clerk of the said Board to said Engineer.

Article Two—It shall be the duty of said Engineer, upon receiving such notice, to proceed and survey the said proposed improvement, to make a map thereof showing the location, boundaries, the amount of land necessary to be taken, and the names of the owners and possessors thereof, showing the portion owned and possessed by each, and return the same to the Board of Trustees within ten days after the receipt of said resolution by him, unless longer time shall be granted by said Board.

Article Three—Upon receiving said map and return from said Engineer, the said Board shall forthwith give notice of not less than five days, by publication in a newspaper, if there be one published within said Town; if there be no newspaper published in said Town, then by posting notices at the place of meeting of said Board, and at three other public places in said Town of Hayward, of the time and place where they will hear all parties desiring to show cause against said improvements. At the time and place designated in such notice, or at such subsequent time as the Board may adjourn to, but such adjournment shall not in the aggregate exceed seven days, the Board shall proceed with such hearing.

Article Four—If no objection be made, or if after hearing the objections thereto the Board shall remain of the opinion that such improvement should be made, they shall elect by ballot three Commissioners, residents and property owners in said Town, not interested directly or indirectly in

the proposed improvements, or in the property to be affected thereby, to assess the damages and benefits to be caused by said improvements. Within two days thereafter said Commissioners shall give notice of time and place where they will proceed to examine the property to be affected by such improvements by an advertisement for three days in a newspaper published in said Town, if there be a newspaper published therein, and if not by posting notices at the place of meeting of the Board, and at three other places in said Town. At the time and place named they shall proceed to examine the lands and improvements to be affected by the proposed improvements, and shall first ascertain the amount of damages to be sustained, the names of the owners of the property to be damaged, and the amount to be paid to each of the owners therefor. They shall then assess upon the property to be benefitted by such improvement, a sum sufficient to pay the whole amount of said damages, and the fees and expenses of said Commissioners, and shall apportion the same among the owners of the several parcels of property to be thus benefitted in proportion to the amount of benefits to accrue to each. In making such estimate and apportionment, they shall take all pertinent testimony that may be offered them, and may examine any witness that they shall deem it necessary or advisable to call, and shall have authority to administer oaths to all persons testifying before them. Within twenty-one days after the apportionment, unless further time be granted by the Board of Trustees, they shall make a report to the said Board of all assessments and awards so made by them, with the names and amounts of the persons damaged or benefitted as aforesaid.

Article Five—Upon receiving such report said Board

may, by Ordinance, levy a tax upon the several parcels of property reported as benefitted by said improvement for the amounts severally charged against each in said report, which tax shall be a lien on said several parcels of property severally, and shall not be removed until said tax is paid. Immediately after levying such a tax they shall give notice thereof by advertisement, requiring the owners of the property taxed to pay the amounts severally due from each to the Town Marshal within ten days from the first publication of said notice. At the expiration of said ten days they shall issue to the Town Marshal a warrant, to be signed by the President and Clerk, commanding him to levy and collect all of the said tax that shall then be unpaid, with his fees for collection, from the property upon which the same is a lien as aforesaid, and shall thereupon deliver the same to said Marshal.

Article Six—Upon receiving said warrant the Marshal shall proceed to collect so much of said tax as is unpaid, by levy upon and sale of the several portions of property upon which said unpaid tax is a lien, in the same manner and with the same authority as sales on execution for Sheriffs, and return said warrant, with his doings thereon, within thirty days after the receipt thereof by him. If for any reason the whole amount thereof shall not be collected, said Board may issue, with like effect, a subsequent warrant or warrants until all be collected.

Article Seven—As soon as money enough for the purpose is received from said tax, said Board shall direct the Marshal to pay or tender to each party to whom damages have been awarded, the sums severally due them, and thereupon to proceed forthwith and open said street or other improvement,

and the same shall thereupon be deemed to be open to public use, for the purpose and to the extent in the original resolution prescribed. If any person or party entitled to damages cannot be found by said Marshal, he shall deposit the amount due to them in the Town Treasury, as a special deposit, subject to their order, and the same shall be deemed a sufficient payment under this Act. The money so deposited shall not be drawn or used for any other purpose whatever.

Article Eight—All moneys collected under this Act shall be paid into the Town Treasury, as a special fund for the purpose for which they were collected, and shall not be drawn out or used for any other purpose whatever.

Article Nine—The Engineer aforesaid, and the Commissioners to be appointed as herein prescribed, shall each have the right to go in or upon any property for the purpose of making the survey and examination above mentioned, or for any other purpose necessary in the discharge of their duties under this Act. Said Commissioners shall each be entitled to three dollars for the first day, and two dollars for each subsequent day devoted to their duties as such Commissioners, and they shall not receive any other fees or compensation for such services.

SEC. 12. The Board of Trustees of the Town shall have power, and are hereby authorized to order the whole or any portion of the streets, lanes, alleys, places, courts and public grounds of the Town, graded or regraded, curbed or recurbed, macadamized or remacadamized, paved or repaved, and to order sidewalks, crosswalks, culverts, sewers, cesspools, manholes, and hydrants constructed therein, and to order any other work done which shall be necessary to make and complete and keep the same in good repair, and to order the

streets and sidewalks and public grounds kept free from grass and weeds, and to order shade trees planted and taken care of along the line of the streets and in the public grounds, and the costs of making such improvements shall be made a lien upon the lots and land fronting upon the streets where such improvements shall be made, and contiguous thereto, as specified in the succeeding sections of this Act.

Sec. 13.—

Article One—The Board of Trustees may order any of the work authorized by section twelve of this Act to be done, and furnish plans and specifications for the same after notice of their intention so to do in the form of a resolution describing the work, and signed by the Clerk of said Board, has been posted on three town bulletin boards for at least five days, and by one insertion in some newspaper, if there be one published within the Town; after posting, and before the expiration of such notice, all owners of lands, and lots or portions of lots, fronting on said improvements, who may have objections to any of the subsequent proceedings of the said Board in relation to the work mentioned in such notice of intention, may file with the said Clerk a remonstrance, wherein they shall state in what respect they feel aggrieved, or the proceedings to which they object; such remonstrance shall be passed upon by said Board, and their decision shall be final. But if such remonstrance shall represent three-fourths of the frontage on the proposed improvements, and shall have been filed with the said Clerk previous to the expiration of said notice, then it shall be a bar to any further proceedings in relation to said work for a period of six months, unless the owners as aforesaid shall sooner petition for the same to be done, *provided*, that one-half or more in

width or in length of any street, lying and being between two street-crossings, have been already improved. Said Board may order the remainder improved notwithstanding the objection of property-owners fronting thereon.

Article Two—When the Board of Trustees shall have ordered improvements made as provided in the preceding Article, if they deem it best, they may set a time in which the owners or occupants of lands and lots fronting on the street where the improvements are ordered made, may make the same in front of their respective lots and premises in accordance with the plans and specifications furnished therefor by said Board. But if in the judgment of the Board they shall deem it best, they shall cause notices, signed by the Clerk, to be posted forthwith on three town bulletin boards for at least five days, and also be inserted one time in some newspaper, if there be one published within the Town. Said notice shall describe the improvements to be made, and the time within which sealed proposals will be received by said Clerk, for the making of said improvements in accordance with the plans and specifications therefor. At the time specified in said notice, the Board of Trustees in open session, shall open and examine all bids which shall have been received by the Clerk, and publicly declare the same and award the work to the lowest responsible bidder, *provided*, they may reject any or all bids as the public good may, in their opinion, require, and also the bid of any party who may have proved delinquent or unfaithful in any former contract with the Town, and if all bids are rejected, the Clerk shall readvertise as aforesaid.

Article Three—When the Board of Trustees shall have awarded the making of any improvements as aforesaid, it

shall be the duty of the Town Marshal to forthwith enter into a contract with the successful bidder for the making of the improvements as advertised for, and according to the plans and specifications therefor, and at the price named in the award of said Board. Said contract to specify the rate per front foot, and the cost of each separate street-crossing, including all work the full width of both streets on said crossings, and all contracts made therefor must contain this condition and express notice, that the Town will in no case be liable for any portion of the expense, nor for any delinquency of persons and property. Said Marshal shall require of the contractor a good and sufficient bond for the completion of the work as specified in the said contract, said bond to be approved by the said Board of Trustees.

SEC. 14. —

Article One—The expense incurred for any work authorized by section thirteen of this Act shall be assessed upon the lots and lands fronting thereon, except as hereinafter specially provided, each lot, or portion of a lot, being separately assessed in proportion to its frontage, at a rate per front foot sufficient to cover the total expense of the work, except as provided in the succeeding Articles of this section, and provided also, that the Board of Trustees may, in their judgment, order a portion of the expenses paid out of the Town Treasury, and the balance assessed as aforesaid.

Article Two—The expense of the work done on street crossings shall be assessed upon the four quarter blocks adjoining and cornering upon said crossing, and each lot, or portion of a lot, fronting upon both such streets shall be separately assessed in proportion to its frontage on one or both streets, at a rate sufficient to cover the total cost of said crossings.

Article Three—When a street terminates in another street, the expense of work done on one-half the width of the street adjoining the termination shall be assessed upon the two quarter blocks cornering on the same, according to the frontage of said lots on said street, and the expense of the other half of the width of said street upon the lot or lots fronting on the latter half of the street opposite such termination.

SEC. 15.—

Article One—After the contractor of any street work has fulfilled his contract to the satisfaction of the Town Marshal and Town Engineer, or of the said Board of Trustees on appeal, it shall be the duty of the Town Assessor to forthwith make an assessment to cover the sum due for the work performed and specified in said contract, including the expense of engineering, in conformity with the provisions of section fourteen of this Act. According to the character of the work done, or if any directions or decisions shall be given by said Board of Trustees on appeal, then in accordance with such directions or decisions which assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with the cost of engineering, if any, the rate per front foot assessed, and the amount of each assessment, the name of the owner of each lot or portion of a lot if known to the Assessor, if unknown, the word "unknown" shall be written opposite the number of the lot and the amount assessed thereon, the number of each lot or portion of a lot assessed, and when the said assessment shall have been completed the said Assessor shall certify to the correctness of the same, and deliver said assessment to the Town Clerk.

Article Two—The Clerk, upon receipt of the assessment aforesaid, shall forthwith post notices on three town bulletin boards, in which he shall state on what portion of any street work has been done to pay for which the assessment has been levied, that the assessment can be seen at his office, and that the Board of Trustees will meet on a day named (which day shall not be less than five nor more than ten days from the posting of said notices) to hear any appeal that any person directly interested in the work performed or the assessment made, may make in writing; after examining any objections or complaints that may be brought before them on appeal in regard to the aforesaid assessment, the Board of Trustees may correct, alter, or modify such assessments in such manner as to them may seem just, and direct the Assessor to make such corrections, alterations or modifications. All the determinations and decisions of said Board, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to an appeal under the provisions of this section.

Article Three—After the assessment shall have been approved by the Board of Trustees as aforesaid, the Clerk shall hand the same over to the Town Marshal so made up and approved. The Marshal, upon receipt of the said assessment, shall forthwith attach thereto a warrant which shall be signed by the Marshal and countersigned by the President of the Board of Trustees, the said warrant to be substantially as follows: "I, (name of Marshal), Marshal of the Town of Hayward, County of Alameda, and State of California, by virtue of the authority vested in me as said Marshal, do authorize and empower (name of contractor), his or their agents or assigns, to demand and receive the several

assessments upon the assessment hereto attached, and this shall be (his or their) warrant for the same. (Name of Marshal), Marshal of the Town of Hayward, countersigned (name of the President of the Board), President of the Board of Trustees." Said warrant and assessment shall be recorded by the Marshal; when so recorded the several amounts assessed shall be a lien upon the lands and lots, or portions of lots, assessed respectively for the period of two years from the date of recording, unless sooner discharged, and from and after the date of recording said warrant and assessments. All persons mentioned in Article one of this section shall be deemed to have notice of the contents of the record thereof. After said warrant and assessment are recorded, the same shall be delivered to the Contractor, or his agent or assigns, on demand, and by virtue of said warrant said Contractor, or his agent or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in such contract and assessment.

Article Four—The Contractor, or his assigns, shall call upon the persons so assessed, or their agents or assigns, if they can conveniently be found, and demand payment of amount assessed to each. If any payment be made the Contractor, or his assigns, shall receipt the same upon the assessment in presence of the person making such payment, and shall give a separate receipt if demanded. Whenever the persons so assessed cannot conveniently be found, or whenever the name of the owner of the lot is stated as unknown in the assessment, then the said Contractor, or his agent or assigns, shall publicly demand payment on the premises assessed. The warrant and assessment shall be

returned to the Marshal within thirty days after the date of the warrant, with a return indorsed thereon, signed by the Contractor, or his agent or assign, verified upon oath, stating the nature and character of the demand, and whether any of the assessments remain unpaid in whole or in part, and the amount thereof. Whereupon the Marshal shall record the return so made, in the margin of the record of the warrant and assessment, and shall sign the record.

Article Five—After the expiration of thirty days from the date of the warrant and assessment aforesaid, and after the Marshal shall have recorded the return as specified in the preceding Article, the several assessments therein remaining unpaid shall be deemed delinquent, and five per cent. shall be added thereto, and the Contractor, or his agent or assigns, may, at any time during the continuance of the lien of said assessment, sue in his own name the owner of the lands, lots, or portions of lots assessed, and recover the amount of any assessment and percentage aforesaid remaining due and unpaid. Such suit may be brought in any Court in said Town and County having jurisdiction of the amount for which suit is brought. Said Courts are hereby clothed with jurisdiction to hear and determine such actions. The said warrant and assessment and non-payment shall be *prima facie* evidence of such indebtedness and the right of the plaintiff to recover in the action. If suit be commenced in a Justice's Court, the action may be brought and judgment rendered against the owner of the lands and lots, or portions of lots liable for such assessment, or said Contractor may bring an action in the District Court of said County to foreclose the lien of said assessment, and may obtain a decree for the sale of such premises, and such decree shall provide for a counsel fee of

twenty-five dollars, to be paid to such Contractor or his attorney, out of the proceeds of such sale, in addition to such assessment and costs. Such premises, if sold, may be redeemed as in other cases. In all suits brought to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this Act, and also, when not in conflict herewith, by the Code of Civil Procedure of this State. This Act shall be liberally construed to effect the ends of justice.

Article Six—The Marshal of said Town may require at his option, by notice in writing, to be delivered to them personally or posted on the premises, the owners, tenants or occupants of lands or lots, or portions of lots liable to be assessed for work done under the provisions of this Act, to impose forthwith any of the work mentioned in section fourteen of this Act, in front of the property of which he is owner, tenant or occupant, to the centre of the street or otherwise, as the case may be, specifying in said notice what improvement or work is required. After the expiration of three days the said Marshal shall be deemed to have acquired jurisdiction to contract for the doing of the work or making the improvements required by said notice. If such improvements be not commenced within three days after the notice given as aforesaid, and diligently prosecuted to completion, the said Marshal may enter into a contract with any suitable person applying to make said improvements at the expense of the owner, occupant, tenant or lessee, at a reasonable price, to be determined by said Marshal, and such owner, tenant or occupant, shall be liable to pay the same. After the certificate mentioned in the succeeding Article shall have been recorded by the Marshal, the sum

contracted for shall be a lien upon the lands and lots liable therefor, the same as provided in Article three of this section, and may be enforced in the same manner.

Article Seven—If the expense of the work and materials for such improvements after the completion thereof be not paid to the Contractor, his agents or assigns, on demand, the said Contractor, his agents or assigns, shall have the right to sue the owner, tenant or occupant, under the provisions of this Act for the amount contracted to be paid, and the certificate of the Marshal that the work has been properly done, and that the charges for the same are reasonable and just, shall be *prima facie* evidence of the amount claimed for said work and material, and of the right of the Contractor to recover the same in such action.

Article Eight—In addition, and as cumulative to the remedies above given, the Town Trustees shall have power, by resolution or Ordinance, to prescribe the penalties that shall be incurred by any owner or person liable therefor for neglecting or refusing to make improvements when required, as provided in Article six of this section, which fines and penalties shall be recovered by prosecution in the name of the People of the State of California, in the Court having jurisdiction thereof, and may be applied, if deemed expedient by the said Trustees, in payment of the expenses of any such improvement when not otherwise provided for.

Article Nine—Any tenant, occupant, or lessee of the lands or lots liable for the cost of such improvements, may pay the amount assessed against the property of which he is the tenant, occupant or lessee, under the provisions of this Act, or he may pay the price agreed upon to be paid under the provisions of this section, either before or after suit

brought, together with costs, to the Contractor, or his agent or assigns, or may redeem the property if sold on execution or decree, for the benefit of the owner, within the time prescribed by law, and deduct the amount so paid from the rents due, or to become due from him, and for any sum so paid beyond the rents due from him he shall have a lien upon and may retain possession of the said land and lots until the amount so paid and advanced be satisfied, with legal interest, from accruing rents or by payment by the owner.

Article Ten—The Marshal shall keep in a book for that purpose a record of all street work that shall be done, and for the recording of all street assessments, as provided in this Act, and shall superintend the making of all improvements of the streets, sidewalks and public grounds, and require all Contractors to faithfully comply with the terms of their contracts before the work shall be accepted by him. He shall also see that the laws, orders and regulations relating to the streets, highways and public grounds, be fully carried into execution, and that the penalties for non-compliance therewith are rigidly enforced. It is required that he shall keep himself informed of the condition of all the public streets and highways, and also of all the public buildings, parks, lots and grounds of said Town, and should the Marshal fail to see the laws, orders and regulations aforesaid carried into execution, after notice from any citizen of non-compliance therewith or violation thereof, the said Marshal and his sureties shall be liable upon his official bond to any person injured in his person or property in consequence of such official neglect, and he shall also be liable to the Board of Trustees upon his official bond if he shall accept any contract work in his official capacity before the same shall have

been completed in accordance with the plans and specifications for the same, in a sum sufficient to complete such work as specified.

SEC. 16. Neither the Board of Trustees, or any officers or authority, shall have power to contract any debt against said Town, and no person or property therein shall ever be liable to be assessed or be subject to taxation in any form to provide for the payment of any debt hereafter contracted, or any claim against the Town, except such legal and proper expenses thereof as shall accrue after the commencement of the year for which the tax shall be levied, and no part of the money levied and collected by taxation for one year shall ever be applied toward the payment of any expenses, debt, or liability incurred during any preceding year.

SEC. 17. Every Ordinance passed by the Board of Trustees, in order to possess legal force, shall receive a majority vote of all the members elected.

SEC. 18. The Board of Trustees shall constitute a Board of Equalization, and shall, as soon as the Assessor shall have completed and handed to the Clerk his assessment, and after ten days' notice, hold their meetings to hear and determine all complaints respecting the valuation of property as fixed by the Assessor, and shall have power to modify and change such valuation in any way they, or a majority of them, shall deem just and proper. Said meetings shall be held for such length of time as the Board of Trustees shall, by Ordinance, fix. Said Board shall not sit as a Board of Equalization after the first Monday of October, and on that day they shall levy upon the assessed valuation of the property of said Town the rate of taxation upon each one hundred dollars of valuation, which shall be entered upon their minutes. They

shall then deliver to the Town Clerk the assessment roll, who shall compute and carry out the amount of tax so levied upon each parcel of property in said assessment roll contained, and shall deliver said assessment roll so made out and duly certified to, to the Town Marshal for collection on the first Monday in November.

SEC. 19. The Marshal, Assessor, Clerk and Treasurer, before entering upon the duties of their office, shall take the oath of office as prescribed by law, and also give a bond with sureties, to be approved by the Board of Trustees of said Town, payable to the Town of Hayward, in such penalty as may be prescribed by Ordinance, conditioned for the faithful performance of the duties of their offices as required by law. Should the bond of any Town officer become insufficient, he shall be required to give such additional security, within ten days, as the Board of Trustees may require, not exceeding the amount fixed by Ordinance. Upon his failure to do so at the time fixed, his office shall be declared vacant, and such vacancy shall be filled by appointment of the Board of Trustees.

SEC. 20. If any vacancy shall occur in any of the offices created by this Act, they shall be filled by appointment of the Board of Trustees; should any of the officers herein mentioned fail to qualify and give the bond required for the period of ten days after receiving notice of their election, the office shall be deemed vacant, and the same shall be filled as provided in this Act. The official bond of every officer named in this Act shall be filed with the President of the Board of Trustees.

SEC. 21. All demands that shall lawfully arise against the Town in order to be entitled to payment shall, after being

verified by the oath of the claimant, be presented to and allowed for such an amount as shall be deemed just by the Board of Trustees, and no bill, demand or warrant shall be paid out of the Town Treasury unless the same be allowed by the Board of Trustees, signed by the President of said Board, and countersigned by the Clerk.

SEC. 22. It shall be the duty of the Town Clerk, in addition to any duties required of him by the Board of Trustees, to attend all meetings held by said Board, and shall keep a correct journal of their proceedings, and on receiving the official returns of all charter elections held shall, without delay, after the result of the election has been declared by the Board of Trustees, issue certificates of election to the persons elected, and he shall receive such compensation for his services as said Board of Trustees may, by Ordinance, fix, and for a failure to comply, shall be liable to all such penalties as are herein set forth, and be subject to removal from office and forfeiture of his official bond as Town Clerk.

SEC. 23. It shall be the duty of the Town Marshal, in addition to any duties required of him by the Board of Trustees, and he is hereby authorized to enforce all Ordinances passed by the Board of Trustees, and arrest all persons guilty of a violation of the same. To collect all taxes and licenses that shall at any time be due to said Town, to receive the tax list, and upon the receipt thereof to proceed and collect the same at the time and in the manner as by Ordinance may be provided, the said Marshal being hereby vested with the same powers to make collections of taxes as is or shall be conferred upon Tax Collectors for the collection of State and County revenue, and it shall be the duty of the Marshal to collect in the same manner any tax list placed in his hands

for that purpose, without any unnecessary delay, and pay all taxes to the Town Treasurer monthly, taking his receipt therefor. Said Marshal shall receive such compensation for his services rendered under the provisions of this Act as the Board of Trustees may by Ordinance fix. He shall have the same power in all civil and criminal cases, within the limits of said Town as Constables have within the respective Townships for which they are elected, and be entitled to the same fees, and for failure to comply with the duties required of him shall be liable to all such penalties as are herein set forth, and subject to removal from office.

SEC. 24. It shall be the duty of the Town Treasurer to receive and safely keep all money that shall come into the Town Treasury, and pay out the same on the order of the Board of Trustees, countersigned by the President and Clerk, and take receipts therefor, and to perform such other duties as may be required of him by said Board of Trustees, and shall make out a quarterly statement of his receipts and payments, verified by his oath, and file the same with the Town Clerk, and at the end of his official term shall deliver over to his successor in office all moneys, books, papers or other property in his possession belonging to the Town.

SEC. 25. It shall be the duty of the Town Assessor, in addition to any duties required of him by the Board of Trustees, between the second Monday in May and the first Monday of August of each year, to make out a true list of all taxable property within the limits of said Town, which list, certified by him, shall, on the third Monday in August, be by him placed in the hands of the Board of Trustees for Equalization. The mode of making out such list and ascertaining the value of the property shall be the same

as that prescribed by law for assessing State and County taxes, and also make assessment for street work as provided in this Act, and the Assessor shall receive for his services such sum as shall be fixed by Ordinance; no levy of taxes shall be made upon real and personal property within the limits of the Town by the Board of Supervisors of Alameda County for road purposes, and no taxes shall be collected by the Tax Collector of said County on property situate within said Town for such purposes. Said Clerk, Marshal and Assessor shall have the same power to administer and certify to an oath as has a Justice of the Peace.

SEC. 26. Whenever any improvement shall be made upon the streets or sidewalks of said Town, in front of any property owned by the County of Alameda, the proper proportion of cost thereof shall be paid by said County out of the General Fund of said County.

SEC. 27. Town taxes shall be collected in the same manner that State and County taxes are collected within the County of Alameda; *provided*, that the publication of the delinquent list shall be made in some newspaper published within said Town, if there be one, if there be none, then in some newspaper published within said County; *provided*, all sales for delinquent taxes shall be made in front of the Town Hall by the Town Marshal.

SEC. 28. The Board of Trustees of said Town may appoint a Town Attorney, to hold office during the pleasure of said Board, whose duty it shall be to prosecute all suits brought on behalf of the Town, and to defend all suits brought against it, and to do such other duties as the Board of Trustees may direct, and whose compensation shall be such sum as said Board may determine.

SEC. 29. The Town Justice of the Peace shall have the same jurisdiction within the limits of said Town in all civil and criminal cases as any other Justice has within the Township for which he is elected.

SEC. 30. All taxes, Assessments and Fines payable to the Town Treasury, and the costs of the improvements on any sidewalk, street, or other Town improvement, shall be payable only in gold and silver coin of the United States.

SEC. 31. The President of the Board of Trustees shall preside at all meetings of said Board, when he shall be present, and in the absence of the President the Board may appoint one of their number to act as President pro. tem., and for their services said Trustees and President shall receive no compensation.

SEC. 32. The style of the Ordinance of the Town of Hayward shall be, "The Trustees of the Town of Hayward do ordain as follows."

SEC. 33. The Town Trustees are hereby authorized and required to procure the necessary books for the official record of the Town.

SEC. 34. All Acts or parts of Acts, so far as they conflict with the provisions of this Act, are hereby repealed.

SEC. 35. This Act shall take effect and be in force from and after its passage.

B. F. TUTTLE,

President pro. tem. of the Senate.

G. J. CARPENTER,

Speaker of the Assembly.

Approved March 11th, 1876.

WILLIAM IRWIN,

Governor.

(Indorsed).

Senate Bill No. three hundred and fifty-two, (352).

Passed the Senate, February 15th, A. D. 1876.

E. L. CRAWFORD,

Assistant Secretary of the Senate.

Passed the Assembly March 2d, A. D. 1876.

R. FERRAL,

Clerk of the Assembly.

This bill was received by the Governor this tenth day of March, A. D. eighteen hundred and seventy-six.

E. W. MASLIN.

Private Secretary of the Governor.

STATE OF CALIFORNIA,
DEPARTMENT OF STATE. }

I, THOMAS BECK, Secretary of State of the State of California, do hereby certify that I have compared the annexed copy of Senate Bill No. 352 with the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof.

WITNESS my hand, and the Great Seal of State, at office in Sacramento, California, the fifteenth day of March, A. D. 1876.



THOMAS BECK,

Secretary of State.

By Wm. A. Beck, Deputy,

[SUPPLEMENTAL.]

AN ACT
TO PROVIDE FOR THE FIRST ELECTION IN THE
TOWN OF HAYWARDS.

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

SECTION 1. Notice of the first election of Town officers of the Town of Haywards must be given by the County Judge of Alameda County by publishing the same in a newspaper published in said County for two weeks successively, prior to such election, designating the officers to be elected, the polling place and the officers of election. The returns must be made to the County Judge, who must declare the vote and issue certificates of election.

SEC. 2. This Act shall take effect immediately.

G. J. CARPENTER,
Speaker of the Assembly.

JAMES A. JOHNSON,
President of the Senate.

Approved March 31st, 1876.

WILLIAM IRWIN,
Governor.

STATE OF CALIFORNIA, }
DEPARTMENT OF STATE, }

I, THOMAS BECK, Secretary of State of the State of California, do hereby certify that I have compared the annexed copy of Assembly Bill No. 755, passed at the 21st session of the Legislature of California, with the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof.

WITNESS my hand, and the Great Seal of State, at office in Sacramento, California, the fifth day of April, A. D. 1876.



THOMAS BECK,
Secretary of State.

By Wm. A. Beck, Deputy.