

of the court or referee if the action was tried without a jury, file with the clerk and serve upon the adverse party a notice of his intention, designating the grounds upon which the motion will be made. If the motion is to be made upon affidavits, the moving party must, within two days after serving the notice, or such further time as the court in which the action is pending, or a judge thereof, may allow, file such affidavit with the clerk and serve a copy upon the adverse party, who shall have two days to file counter-affidavits, a copy of which must be served upon the moving party.

SEC. 2. Section 282 of the code of Washington of 1881 is amended to read as follows: If the motion be supported by affidavits and the cause be newly discovered evidence, the affidavits of any witness or witnesses, showing what their testimony will be, shall be produced or good reasons shown for their non-production.

SEC. 3. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

SEC. 4. Sections 279 and 280 of the said code of 1881 are repealed.

Approved February 26, 1891.

CHAPTER LX.

[S. B. No. 98.]

RELATING TO TRIALS BY JURY.

AN ACT relating to trial by jury, and amending sections 232, 234 and 244 of the Code of Washington of 1881.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 232 of the code of Washington of 1881 is amended to read as follows: After the jury have retired for deliberation, if they desire to be informed of any point of law arising in the case, they may require the offi-

cer having them in charge to conduct them into court. Upon their being brought into court the information required shall be given in the presence of, or after notice to, the parties or their attorneys.

New trial.

SEC. 2. Section 234 of said code of 1881 is amended to read as follows: In all cases where a jury are discharged or prevented from giving a verdict, by reason of accident or other cause, during the progress of the trial or after the cause is submitted to them, the action shall thereafter be for trial anew.

Duty of jury.

SEC. 3. Section 244 of said code of 1881 is amended to read as follows: When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a set-off for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of the recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for the plaintiff on the pleadings.

SEC. 4. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 26, 1891.

CHAPTER LXI.

[S. B. No. 97.]

ARBITRATION AND AWARD.

AN ACT in relation to arbitration and award, and amending sections 266 and 269 of the Code of Washington of 1881.

Be it enacted by the Legislature of the State of Washington:

Oath.

SECTION 1. Section two hundred and sixty-six of the code of Washington of 1881 is amended to read as follows: The said arbitrators shall be duly sworn to try and determine the cause referred to them, and a just award