

SESSION LAWS

OF THE

STATE OF WASHINGTON

SESSION OF 1893.

COMPILED IN CHAPTERS, WITH MARGINAL NOTES,  
BY JAMES H. PRICE, SECRETARY OF STATE.

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PUBLISHED BY AUTHORITY.

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# LAWS OF WASHINGTON.

## CHAPTER I.

[H. B. No. 243.—Session of 1891.]

### REGULATION OF FREIGHT RATES.

AN ACT regulating and fixing railroad freight rates in the State of Washington.

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

SECTION 1. No individual, company or corporation, owning, operating, managing, or leasing any railroad, or part of a railroad in this state, shall charge for or receive a greater or higher rate for carrying wheat, barley, flour, or other mill stuffs, potatoes, melons, or hay, than eighty-five per centum of the rates actually charged for carrying said articles or commodities on the first day of December, 1890: *Provided*, That no greater rate than five dollars (\$5.00) a ton shall be charged for carrying the articles or commodities hereinbefore enumerated for a haul of five hundred miles or less.

Rates on farm  
and mill  
products.

SEC. 2. The maximum rates of freights on all railroads in this state other than on those articles or commodities enumerated in section 1 of this act shall be the rates that were in existence on the first day of December, 1890.

Maximum  
rates.

SEC. 3. Any individual, company or corporation, owning, operating, managing or leasing any railroad in this state, feeling that the rates established by sections 1 and 2 of this act are unreasonably low, shall have recourse to courts of competent jurisdiction, which shall grant such relief as may appear just and reasonable.

Relief.

SEC. 4. The maximum rates of freights on all railroads constructed in this state after the first day of December, 1890, or whose rates of freight may be established after

Conformity of rates.

the first day of December, 1890, shall be fixed as near in conformity with sections one and two of this act as may be or as is practicable.

Forfeiture of compensation.

SEC. 5. In no instance shall any such individual, company or corporation, lessee or other person, charge or receive any greater rate of compensation for carrying freight than hereinbefore provided, and any individual, company or corporation, violating or in any way evading the provisions of this act shall forfeit all right to recover or receive any compensation whatever for the service rendered wherein such violation is attempted, and every agent of any such corporation, lessee, or other individual, operating any railroad within this state who shall refuse to receive for transportation over the railroad for which he is agent, in the usual way, any of the articles hereinbefore mentioned on account of the compensation hereinbefore prescribed being too low, or receiving any such articles of freight, shall charge, or attempt to charge, for the transportation of the same any greater sum than herein allowed, or shall in any manner violate or evade the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding five hundred dollars (\$500.00) for each and every offense, and the injured party shall have a right of action against the railroad company, or other person operating the railroad, or both, in which he shall be entitled to recover the amount taken or received from him in excess of the rates prescribed by this act, together with attorneys' fees and costs of suit. And in all prosecutions for violations of this act by any person, company or corporation, such person, company or corporation making the complaint is authorized to sue in any court of competent jurisdiction in this state.

Penalty.

Who may sue.

Passed the house February 26, 1891.

AMOS F. SHAW,  
*Speaker of the House.*

Passed the senate March 3, 1891.

E. T. WILSON,  
*President pro tem. of the Senate.*

[Indorsed.]

HOUSE BILL No. 243, an act regulating and fixing railroad freight rates in the State of Washington.

January 16, 1893.—Special order for January 30th at 10 A. M.

January 30, passed over governor's veto. Ayes 70, nays 2.

T. G. NICKLIN, *Chief Clerk.*

IN THE SENATE.

Made special order for Thursday, February 2d, 10 o'clock A. M.

Passed over governor's veto February 2d. Ayes 30, nays 4.

ALLEN WEIR, *Secretary.*

NOTE BY THE SECRETARY OF STATE.—Filed by the governor, together with his objections thereto, in the office of the secretary of state, March 14th, 1891, being within ten days after the adjournment of the legislature, and laid by the secretary of state before the legislature at its next session on the first day thereof.

J. H. PRICE,  
*Secretary of State.*

## CHAPTER II.

[S. B. No. 1.]

## LEGISLATIVE EXPENSES.

AN ACT making appropriation for the expenses of the third legislature of the State of Washington.

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

SECTION 1. That there be and there is hereby appropriated out of any money in the treasury of the state, not otherwise appropriated, the sum of sixty thousand dollars, or so much thereof as may be necessary, to pay the per diem and mileage of the members and the salaries of the officers and employes of the present session of the legislature of the State of Washington, and the other expenses of this session.

SEC. 2. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved January 16, 1893.

## CHAPTER III.

[H. B. No. 13.]

AUTHORIZING CERTAIN JUDGES OF THE SUPERIOR  
COURT TO CERTIFY STATEMENTS OF FACTS.

AN ACT authorizing any judge of the superior court of this state whose term of office expired on the second Monday of January, 1893, to settle and certify statements of facts for the purpose of perfecting appeals to the supreme court in cases tried before him, and declaring an emergency to exist.

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

SECTION 1. That any person who was a judge of the superior court of this state prior to the second Monday of January, 1893, and whose term of office expired on said day, shall have the same powers and authority in settling and certifying to any statement of facts for the purposes of perfecting an appeal to the supreme court under the laws of this state, in any action or proceeding which was tried before him, as if his term of office had not expired on said day.

SEC. 2. That there is no provision of law under which statements of facts can be settled and certified in cases tried before the persons mentioned in section one of this act, and the rights of appeal to litigants in said cases will be substantially destroyed by a delay of time when this act shall take effect; therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved January 21, 1893.

## CHAPTER IV.

[S. B. No. 12.]

## RELIEF OF LOCAL BOARDS OF TIDE AND SHORE LAND APPRAISERS.

AN ACT for the relief of the local boards of tide and shore land appraisers appointed under the act entitled "An act for the appraising and disposal of the tide and shore lands belonging to the State of Washington," approved March 26, 1890.

WHEREAS, Under section 3 of the above entitled act it became the duty of the governor "to appoint in each county of the state, where shore and tide lands exist, a board of appraisers, consisting of three disinterested freeholders, whose duty it shall be to examine and appraise the tide and shore lands in their respective counties —;" and

WHEREAS, No provision has been made by law for the payment of the services of these appraisers and their employés; and

WHEREAS, Between the 24th day of October, 1891, and the 5th day of January, 1893, certificates of indebtedness were issued by the state auditor for necessary expenses in connection with the surveys of the tide lands in the counties of Whatcom, Kitsap, Thurston, Jefferson, Skagit, Snohomish, Clarke and Pacific, amounting in all to the sum of nineteen thousand three hundred and twenty-nine dollars and forty-five cents (\$19,329.45); and

WHEREAS, In many instances, the employés of the several boards have suffered great pecuniary inconvenience on account of the failure to make the necessary appropriation: now, therefore,

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

SECTION 1. That the state auditor be and he is hereby directed to call in all certificates of indebtedness issued by him between the 24th day of October, 1891, and the 9th day of January, 1893, for necessary expenses in connection with the surveys of the tide lands in the counties of Whatcom, Kitsap, Thurston, Jefferson, Skagit, Snohomish, Clarke and Pacific, and issue in lieu thereof warrants on the state treasurer to be paid out of the tide land fund, for

State auditor to call in certificates of indebtedness and issue warrants in lieu thereof.

the respective amounts with legal interest from the date of the respective certificates to the date of the issuance of the respective warrants. Interest shall cease on all certificates not presented to the state auditor on or before April 1st, 1893.

**State treasurer.** SEC. 2. The state treasurer is hereby authorized and directed to pay the warrants issued by the state auditor, in pursuance of this act, out of any money in the tide land fund not otherwise appropriated.

**Appropriation.** SEC. 3. The sum of twenty-two thousand dollars or so much thereof as may be necessary is hereby appropriated out of the tide land fund in the state treasury not otherwise appropriated, to pay the warrants issued by the state auditor in pursuance of this act.

SEC. 4. This act shall take effect from and after its passage and approval by the governor.

Approved February 4, 1893.

## CHAPTER V.

[S. B. No. 15.]

### ELECTION OF JUDGES OF THE SUPREME COURT.

AN ACT to provide for the election of judges of the supreme court.

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

**Time of election.**

SECTION 1. There shall be elected by the qualified electors of this state, on the first Tuesday after the first Monday in November, 1894, and on the first Tuesday after the first Monday in November every two years thereafter, as many judges of the supreme court as there may be judges of said court whose terms of office shall expire on the second Monday in January next succeeding such election.

**Governor appoints in case of vacancy.**

SEC. 2. If a vacancy occur[s] in the office of a judge of the supreme court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next

succeeding general election at which a judge or judges of <sup>Time of election.</sup> the supreme court shall be elected, and the judge so elected may qualify at any time within thirty days after his elec- <sup>When qualify.</sup> tion, and shall hold the office for the unexpired term.

Approved February 6, 1893.

## CHAPTER VI.

[S. B. No. 16.]

### TO PROVIDE FOR VOTING ON CONSTITUTIONAL AMENDMENT RELATIVE TO INVESTMENT OF PERMANENT SCHOOL FUND.

AN ACT to provide for voting on a constitutional amendment at the general election to be held in November, 1894, relative to the investment of the permanent school fund.

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

SECTION 1. That at the general election to be held in <sup>Time of election.</sup> November, 1894, there shall be submitted to the qualified electors of the State of Washington, for their approval, the following amendment to section 5 of article XVI of the constitution of the State of Washington: "Section 5. None <sup>Proposed amendments.</sup> of the permanent school fund of this state shall ever be loaned to private persons or corporations, but it may be invested in national, state, county, municipal or school district bonds."

SEC. 2. The secretary of state shall cause the foregoing <sup>Secretary of state to publish.</sup> amendment to be published for three months next preceding said election to be held in November, 1894, in some weekly newspaper, in every county within this state wherein a newspaper is published.

SEC. 3. That there shall be printed on all the ballots <sup>Form of ballots.</sup> supplied for said election the words "For proposed amendment to section 5, article XVI of constitution relative to investment of permanent school fund. Against proposed amendment to section 5, article XVI of constitution relative to investment of permanent school fund."

Approved February 6, 1893.

## CHAPTER VII.

[S. B. No. 26.]

ENABLING CITIES AND TOWNS TO VALIDATE CERTAIN  
WARRANTS AND OTHER OBLIGATIONS.

AN ACT to enable cities and towns to validate certain warrants and other obligations and evidences of indebtedness on the part of such cities and towns issued by the corporate authorities thereof in excess of their legal authority, and declaring an emergency to exist.

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

SECTION 1. Any city or town now having a corporate existence in this state may ratify in the manner prescribed in this act, the attempted incurring of any indebtedness of such city or town by the issuing of warrants, making of contracts, or creations of other evidences of indebtedness on the part of such city or town by the corporate authorities thereof at any time prior to the passage of this act, when the only ground of the invalidity of such indebtedness so to be ratified is that, at the time of such attempted incurring thereof, the same, together with all other then existing indebtedness of such city or town, exceeded one and one-half percentum of the taxable property in such city or town ascertained by the last assessment for city or town purposes previous to the attempted incurring of such indebtedness, and that such indebtedness was so attempted to be incurred without the assent of three-fifths of the voters therein voting at an election held for that purpose.

Ground of  
invalidity.

SEC. 2. Whenever the city council or other legislative body of any such city or town shall deem it advisable that the ratification authorized by this act shall be obtained, the corporation shall provide therefor by ordinance, which shall specify separately the amount of each distinct class of such indebtedness so to be ratified, the date or period of the attempted incurring by the corporate authorities of each separate class thereof, and the general nature of the indebtedness comprised in each such distinct class, and shall provide for the holding of an election for that pur-

Council to  
provide by  
ordinance.

pose, of which thirty days' notice, to be provided for in such ordinance, shall be given in the official newspaper or newspapers of such city or town at which the attempted incurring of such indebtedness shall be submitted to the voters in such city or town for ratification or disapproval. Each distinct class of such indebtedness so specified shall be the subject of a distinct vote in favor of or against the ratification thereof, and such vote shall designate the class of indebtedness referred to by the description thereof used and the amount specified in the ordinance.

Notice of election.

Each class subject of distinct vote.

SEC. 3. If at an election held as provided for in section two of this act three-fifths of the voters in such city or town voting at such election shall vote in favor of the ratification of any distinct class of such indebtedness, specified in the ordinance providing for such election, then such indebtedness so ratified shall thereby become and is hereby declared to be validated and a binding obligation upon such city or town when the only ground of the previous invalidity of such indebtedness is that, at the time of the incurring thereof so ratified, the same, together with all other then existing indebtedness of such city or town, exceeded one and one-half per centum of the taxable property in such city or town ascertained by the last previous assessment for city or town purposes: *Provided*, That neither anything in this act contained, nor the vote cast at any such election shall be deemed to validate or authorize any indebtedness which, together with all other indebtedness of such city or town existing at the time of the attempted incurring of the same, exceeded any constitutional limitation of indebtedness which might be incurred with the assent of three-fifths of the voters in such city or town voting at an election to be held for that purpose: *And provided further*, That this act shall apply only to indebtedness attempted to be incurred prior to the passage hereof.

Number of votes necessary.

Not in excess of constitutional limitation.

SEC. 4. Inasmuch as the existing statute of this state, enabling cities and towns to validate indebtedness attempted to be incurred on the part of such cities and towns by the corporate authorities thereof in excess of their legal authority is restricted by its terms to indebtedness attempted to be incurred prior to the passage thereof, and inasmuch as

Emergency.

the legal authority has been so exceeded in good faith in sundry cities and towns of this state since the passage of said existing statute and there is no statute applicable to the validation of such indebtedness attempted to be incurred since the passage of said statute, an emergency exists for the immediate effect of this law; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved February 6, 1893.

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## CHAPTER VIII.

[H. B. No. 240.]

### AUTHORIZING CITIES AND TOWNS TO PURCHASE, CONSTRUCT AND MAINTAIN CERTAIN PUBLIC WORKS, AND ISSUE BONDS THEREFOR.

AN ACT relating to and authorizing cities and towns to purchase, construct and maintain water works, systems of sewerage, gas and electric light plants and to issue bonds to pay therefor, and declaring an emergency.

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

SECTION 1. That any incorporated city or town within the state be and is hereby authorized to construct, or condemn and purchase, or purchase or add to and maintain, water works within or without the city limits for the purpose of furnishing the city and the inhabitants thereof with an ample supply of water for all purposes, and to construct and maintain a system of sewerage, with full jurisdiction and authority to manage, regulate and control the same beyond the limits of the corporation, and to buy or build gas works or electric light plants for the purpose of lighting streets and public places, and supplying lights to the inhabitants of such cities and towns, with full authority to regulate and control the same.

City council.

SEC. 2. Whenever the city council or board of trustees of any such city or town shall deem it advisable that the

city or town of which they are such officers shall exercise the authority hereby conferred upon them in relation to water works, sewerage or works for lighting purposes, any or all thereof, the corporation shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof, as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of said city, at a special election, of which thirty days' notice shall be given in the newspaper doing the city printing, by publication in each issue of said paper during said time: *Provided*, That if the said city or town is to become indebted or issue bonds for such water works or sewerage system or plant, or works for lighting purposes, the said proposition and authority to become so indebted shall be adopted and assented to by three-fifths of the qualified voters of said city or town voting at said election, except as to the adoption or rejection of the system or plan of internal improvements contemplated, which may be adopted by a majority vote. When the system or plan has been adopted and the creation of an indebtedness assented to as aforesaid, the said corporation shall be authorized and empowered to construct and acquire the internal improvements contemplated, and to create an indebtedness and to issue bonds therefor as hereinafter provided, which said indebtedness and bonds shall not exceed five (5) per cent. of the taxable property, as shown on the last assessment roll of the city or town made for general municipal purposes; such indebtedness and bonds to be additional to all other outstanding indebtedness of the city or town created within constitutional limits.

Ordinance  
specification.Publication of  
notice.Number of  
votes  
necessary.

SEC. 3. Whenever a city or town shall be authorized to issue bonds, the said bonds shall be issued in denominations of not less than one hundred or more than one thousand dollars, shall be numbered from one up consecutively, shall bear the date of their issue, shall be payable not more than twenty years from date, and shall bear interest not exceeding six per cent. per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the

Issue of bonds.

Interest.

mayor and attested by the clerk under the seal of the city or town.

**Annual levy.** SEC. 4. There shall be levied each year a tax upon the taxable property of such city or town as the case may be, sufficient to pay the interest on said bonds as the same accrues, and before seven years prior to the maturity thereof, an annual sinking fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes.

**Sinking fund tax.**

**Printing and authentication of bonds.**

SEC. 5. Said bonds shall be printed, or engraved, or lithographed on good bond paper, and a duly authenticated copy of this act, together with the ordinance of the city or town authorizing and directing such special election, shall be printed on each bond, together with a statement signed by the mayor and clerk showing the result of said election.

**Manner of sale.**

SEC. 6. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. A register shall be kept of all bonds, which register shall show the number, date, amount, interest, name of payee, and when and where payable, of each and every bond executed, issued or sold under the provisions of this act.

**Register of bonds.**

SEC. 7. There being no adequate law in this state authorizing cities and towns to purchase, construct and maintain water works, systems of sewerage, gas and electric light plants, and to issue bonds to pay therefor, an emergency exists; therefore, this act shall take effect and be in force from and after its approval by the governor.

**Emergency.**

Approved February 10, 1893.

## CHAPTER IX.

[H. B. No. 254.]

TO REGULATE AND LICENSE THE CATCHING OF  
SALMON.

AN ACT regulating fish traps, pound nets, weirs, set nets, fish wheels or other fixed appliances for catching salmon on the waters of the Columbia river and its tributaries, and Puget Sound; for providing for the licensing thereof, and the disposition of the funds arising therefrom, and declaring an emergency.

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

SECTION 1. No person or persons shall own, operate or construct and own, or cause to be constructed and operated any pound net, trap, set net, weir, fish wheel or other fixed appliances for catching salmon on the waters of the Columbia river and its tributaries, and Puget Sound, in the State of Washington, without first obtaining from the fish commissioner a license for each trap, pound net, weir, set net, fish wheel or any other fixed appliances, which license shall be numbered and dated, and shall specify the number of the pound net, trap, set net, weir, fish wheel or other fixed appliance or appliances, which shall be designated by the commissioner, and it shall also contain the name of the person or persons to whom such license shall be granted. No license shall be issued to any one who is not a resident and citizen of this state. No more than three licenses shall be issued to any one person or corporation, and no person, persons or corporations shall own or operate more than three traps, pound nets, weirs, set nets, fish wheels or other fixed appliances: *Provided*, That to non-residents now owning weirs, traps, pound nets, fish wheels and other fixed appliances in actual use for the season of 1892, licenses may be issued. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty (50) and in any sum above that less than one hundred (100) dollars. Licenses may be assigned or transferred to any resident and citizen of this state when any of the aforementioned appliances for fishing are sold or transferred,

License.

Penalty.

Transfer of license.

but notice must be given to the fish commissioner of said transfer or assignment within twenty days of the date of said transfer or assignment.

**Size of meshes.** SEC. 2. No person or persons shall own, operate or construct and own, or cause to be constructed and operated, any pound net, trap, set net, weir, fish wheel or other fixed appliances for catching salmon on the waters of the Columbia river or its tributaries in the State of Washington, the meshes of which are less than three inches stretch measure.

**Penalty.** Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty (50) dollars and in any sum above that less than one hundred (100) dollars for each and every offense.

**Fish commissioner.** SEC. 3. It shall be the duty of the fish commissioner to collect for each license issued under the provisions of this act, for each pound net, trap, weir, fish wheel or other fixed appliance, the sum of ten dollars annually, and for each set net for which license is issued, the sum of two dollars and fifty cents annually, and he shall pay all sums so collected into the state treasury monthly.

**Fees.**

**Length of lead.** SEC. 4. No lead of any pound net, trap, set net, fish wheel or other fixed appliance used or operated in the waters of the Columbia river or its tributaries in this state for catching salmon, shall exceed eight hundred (800) feet in length, and in the waters of Puget Sound, two thousand five hundred (2,500) feet in length.

**Number designated.** SEC. 5. Any person owning, operating or using any pound net, trap or weir shall cause to be placed in a conspicuous place on said net, trap or weir the number designated by the fish commissioner at the time of issuing the license for the construction or operation thereof, said number to consist of black figures not less than six inches in length, painted on white ground; and each pound net, trap or weir bordering upon or along the channels of the above named waters shall also show conspicuously at night, during the fishing season, between sunset and sunrise, a bright white light, and any person violating any of the provisions of sections four or five shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined in any

**Light.**

**Penalty.**

sum not exceeding one hundred dollars for each and every offense.

SEC. 6. Any person or persons who now own or who owned, used or operated any pound net, trap, weir, fish wheel or other fixed appliance in the waters of the Columbia river or its tributaries, or in the waters of Puget Sound, within this state, during the fishing season of 1892, and numbered by the fish commissioner, shall have the exclusive privilege for the period of thirty days from and after the approval of this act, to apply for and obtain a license to operate said pound net, trap, weir, fish wheel or other fixed appliance so owned, used or operated as herein provided.

Time allowed  
in which to  
apply for  
license.

SEC. 7. There shall be an end passage way of at least thirty (30) feet and a lateral passage way of at least nine hundred (900) feet between all pound nets, traps, set nets, weirs, fish wheels or other fixed appliances hereafter constructed and placed within the waters of the Columbia river and its tributaries within this state, and there shall be an end passage way of at least six hundred (600) feet and a lateral passage way of at least twenty-four hundred (2,400) feet between all pound nets, traps, set nets, weirs, fish wheels or other fixed appliances hereafter constructed and placed within the waters of Puget Sound, in this state:

Requirements  
for fixed  
appliances.

*Provided*, That this section shall not affect the pound nets, traps, weirs, fish wheels or other fixed appliances heretofore constructed and placed within the waters of the Columbia river and its tributaries within the State of Washington: *Provided*, That this section shall not affect the pound nets, traps, weirs, fish wheels or other fixed appliances numbered, operated and fished in the year 1892, within the waters of the Columbia river and its tributaries, except that the owners of the same shall within thirty days after the taking effect of this act, at their option, either shorten the lead to any pound net, trap, weir, fish wheel or other fixed appliances so owned, used or operated so that there shall be an end passage way of at least thirty (30) feet between all pound nets, traps, set nets, weirs, fish wheels or other fixed appliances, or so to move the said pound nets, traps,

Exceptions.

set nets, weirs, fish wheels or other fixed appliances so that there shall be a lateral passage way of at least sixty (60) feet between the same; and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty (50) and in any sum above that less than one hundred dollars (\$100) for each and every offense.

Appliances  
used illegally,  
subject to  
execution.

SEC. 8. Any and all appliances used in violation of any of the provisions of this act, viz., boats, traps, nets, weirs, fish wheels or other appliances, shall be subject to execution for the payment of the fines herein provided.

Definition.

SEC. 9. The term person or persons when used in this act shall be taken to include partnerships, associations and corporations.

Justices of  
the peace.

SEC. 10. Justices of the peace shall have concurrent jurisdiction with the superior courts of all offenses mentioned in this act.

Disposition  
of moneys  
collected.

SEC. 11. All moneys collected for licenses and fines under the provisions of this act shall be turned into the state treasury and placed in the fish hatchery fund, and any appropriation hereafter made for the fish commission or for fish hatchery purposes shall be first drawn from the fish hatchery fund, and the balance, if any, from the general fund.

Emergency.

SEC. 12. The fishing season on the Columbia river commencing in April, an emergency is declared to exist, therefore this act shall take effect and be in force from and after its approval by the governor.

Approved February 10, 1893.

## CHAPTER X.

[H. B. No. 16.]

## TO AMEND AN ACT RELATING TO LIENS UPON MANUFACTURED LUMBER.

AN ACT to amend section 1680 of the First Volume of Hill's Annotated Statutes and Codes of Washington; the same being section 1942 of the Code of Washington of 1881, relating to the giving of liens upon manufactured lumber to persons performing labor in the manufacture of the same.

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

SECTION 1. That section 1680 of the First Volume of Hill's Annotated Statutes and Codes of Washington, the same being section 1942 of the Code of Washington of 1881, be and the same hereby is amended so as to read as follows: Sec. 1680 (1942). Every person performing work or labor or assisting in manufacturing saw logs and other timber into lumber, has a lien upon such lumber while the same remains at the mill where it was manufactured, or in the possession or under the control of the manufacturer, whether such work or labor was done at the instance of the owner of such logs, or his agent, or any contractor of such owner. The term lumber as used in this act shall be held and construed to mean all logs or other timber sawed or split for use, including beams, joists, planks, boards, shingles, laths, staves, hoops and every article of whatsoever nature or description manufactured from saw logs or other timber. Lumber defined.

SEC. 2. That all acts and parts of acts in conflict with this act be and the same hereby are repealed: *Provided, however,* That such repeal shall in no wise affect any proceedings heretofore commenced under the provisions of former acts or any liens heretofore filed under the provisions of such acts, or any liens or other rights heretofore acquired under the provisions of former acts. Prior liens no affected.

Approved February 16, 1893.

## CHAPTER XI.

[H. B. No. 89.]

## QUIETING POSSESSIONS AND CONFIRMING TITLES TO LAND.

AN ACT to quiet possessions and confirm titles to land.

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

SECTION 1. That all actions brought for the recovery of any lands, tenements or hereditaments of which any person may be possessed by actual, open and notorious possession for seven successive years, having a connected title in law or equity deducible of record from this state or the United States, or from any public officer, or other person authorized by the laws of this state to sell such land for the non-payment of taxes, or from any sheriff, marshal or other person authorized to sell such land on execution or under any order, judgment or decree of any court of record, shall be brought within seven years next after possession being taken as aforesaid, but when the possessor shall acquire title after taking such possession, the limitation shall begin to run from the time of acquiring title.

Time in which  
action shall be  
brought.

SEC. 2. The heirs, devisees and assigns of the person having such title and possession shall have the same benefit of the preceding section as the person from whom the possession is derived.

Legal owner.

SEC. 3. Every person in actual, open and notorious possession of lands or tenements under claim and color of title, made in good faith, and who shall for seven successive years continue in possession, and shall also during said time pay all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements, to the extent and according to the purport of his or her paper title. All persons holding under such possession, by purchase, devise or descent, before said seven years shall have expired, and who shall continue such possession and continue to pay the taxes as aforesaid, so as to complete the possession and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section.

SEC. 4. Every person having color of title made in good Same. faith to vacant and unoccupied land, who shall pay all taxes legally assessed thereon for seven successive years, he or she shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land to the extent and according to the purport of his or her paper title. All persons holding under such taxpayer, by purchase, devise or descent, before said seven years shall have expired, and who shall continue to pay the taxes as aforesaid, so as to complete the payment of said taxes for the term aforesaid, shall be entitled to the benefit of this section: *Provided, however,* If any person having a better paper title to said vacant and unoccupied land shall, during the said term of seven years, pay the taxes as assessed on said land for any one or more years of said term of seven years, then and in that case such taxpayer, his heirs or assigns, shall not be entitled to the benefit of this section.

SEC. 5. The two preceding sections shall not extend to Public lands. lands or tenements owned by the United States or this state, nor to school lands, nor to lands held for any public purpose. Nor shall they extend to lands or tenements when there shall be an adverse title to such lands or tene- Adverse title in an infant or insane. ments, and the holder of such adverse title is an infant or person under legal age, or insane: *Provided,* Such persons as aforesaid shall commence an action to recover such lands or tenements so possessed as aforesaid, within three years after the several disabilities herein enumerated shall cease to exist, and shall prosecute such action to judgment, or in case of vacant and unoccupied land shall, within the time last aforesaid, pay to the person or persons who have paid the same for his or her betterments, and the taxes, with interest on said taxes at the legal rate per annum that have been paid on said vacant and unimproved land.

SEC. 6. That the provisions of this act shall be liberally Construction. construed for the purposes set forth in this act.

Approved February 16, 1893.

## CHAPTER XII.

[H. B. No. 100.]

## TO AMEND AN ACT RELATING TO COSTS IN CIVIL ACTIONS BEFORE JUSTICES OF THE PEACE.

AN ACT to amend section 1785 of the Code of Washington of 1881, the same being section 1534 of volume 2 of Hill's Annotated Statutes and Codes of Washington, relating to costs in civil actions before justices of the peace, and providing for an attorney's fee as part of the costs in such actions.

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

SECTION 1. Section 1785 of the Code of Washington of 1881, the same being section 1534 of volume 2 of Hill's Annotated Statutes and Codes of Washington, is amended so as to read as follows: When the prevailing party is entitled to recover costs in a civil action before a justice of the peace, the justice shall add the amount thereof to the judgment; in case of failure of the plaintiff to recover or of dismissal of the action, the justice shall enter up judgment in favor of the defendant for the amount of his costs; and in case any party so entitled to costs is represented in the action by an attorney, the justice shall include an attorney's fee of five dollars as part of the costs.

Approved February 16, 1893.

## CHAPTER XIII.

[H. B. No. 323.]

## EXTENDING TIME FOR PAYMENT OF TAXES.

AN ACT extending the time for payment of taxes, remitting penalties, and declaring an emergency.

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

SECTION 1. That the time for the payment of all state and county taxes levied for the year 1892, be and the same is hereby extended to April 1st, 1893, after which the same

shall become delinquent, and all penalties provided by law for the non-payment of such taxes shall attach and the same be collected as provided by law.

SEC. 2. That all penalties on all state and county taxes paid on or before April 1st, 1893, be and are hereby remitted, but said taxes shall draw interest from March 1st, 1893, until paid, at ten per cent. per annum, and the county treasurers of the respective counties in the state are authorized to receive and receipt for such taxes, with interest, but without penalty, up to April 1st, 1893. Penalties remitted.

SEC. 3. That the county treasurers of the various counties who shall have collected any penalties on any such taxes for said year 1892, prior to the passage of this act, keep the amount of such penalties so collected in a separate fund to be refunded to the respective parties having paid the same, and that any person having so paid any such penalty shall present his claim therefor to the board of county commissioners of the county in which the same were paid, and the board shall audit said claim and order a warrant drawn therefor, which warrant the treasurer shall pay out of said fund.

SEC. 4. Whereas, the time to which the payment of taxes is by this act extended would otherwise expire before this act would take effect, an emergency exists; and, therefore, this act shall take effect and be in force from and after its passage and approval by the governor. Emergency.

Approved February 16, 1893.

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## CHAPTER XIV.

[ H. B. No. 164. ]

### TRANSCRIBING COUNTY RECORDS.

AN ACT entitled an act providing for the transcribing of county records.

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

SECTION 1. It shall be the duty of the county commissioners of any county in this state, when any of the county

records of their county become so mutilated that the handling of the same becomes dangerous to the public safety of said records, and in the judgment of said county commissioners it may become necessary to order the transcribing of said records at a sum not exceeding eight cents per folio of one hundred words, in books to be provided for that purpose by said county.

County  
auditor to  
certify.

SEC. 2. That the books containing the records so transcribed shall be certified by the county auditor, under whose direction said transcribing was done, as being a true copy of the original book in the same number and class.

SEC. 3. That all the original record books shall after the transcribing thereof be filed away in the auditor's office and only be used in case of contest on the correctness of the transcribed records.

SEC. 4. That all the records heretofore transcribed by order of any board of county commissioners in this state shall be and are hereby declared the legal records of said county the same as if transcribed under the provisions of this act.

Approved February 20, 1893.

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## CHAPTER XV.

[S. B. No. 69.]

### POLICE MATRONS.

AN ACT requiring the appointment of police matrons in certain cities, designating their duties and directing their compensation, and declaring an emergency.

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

SECTION 1. That there shall be annexed to the police force of each city in this state having a population of not less than ten thousand inhabitants one or more police matrons who, subject to the control of the chief of police or other proper officer, shall have the immediate care of all

females under arrest and while detained in the city prison until they are finally discharged therefrom.

SEC. 2. Any person on the police force or, in their absence, any other person present must aid and assist a matron when from necessity she may require it.

SEC. 3. For the purpose of effecting the main object of this act, no female under arrest shall be confined in the same cell or apartment of the city jail or prison, with any man whatever.

SEC. 4. No person shall be appointed to the office of police matron unless suitable for the position, and recommended therefor in writing by not less than twenty women in good standing, and residents of the city where the appointment is made.

SEC. 5. A police matron shall hold office for a period of Term of office. four years, or until resignation, removal from the city or for cause; and for cause she may be removed at any time by a written order clearly stating the cause for her removal, when another matron must be appointed to fill the vacancy without unnecessary delay.

SEC. 6. A police matron must be paid such compensation for her services as shall be fixed by the city council, and at such time as may be appointed for the payment of policemen. Compensation.

SEC. 7. As the object of this act is to assure the proper treatment of females under arrest and while confined in prison; and whereas, no such law now exists within this state, and is essential to such treatment; therefore, an emergency is hereby declared to exist and this act shall take effect and be in force from the time of its approval by the governor. Emergency.

Approved February 20, 1893.

## CHAPTER XVI.

[S. B. No. 51.]

## MAXIMUM ALLOWANCE FOR BOARD OF PRISONERS.

AN ACT entitled an act fixing the maximum sum to be allowed by the board of county commissioners for the board of prisoners confined in the county jails.

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

SECTION 1. That it shall be unlawful for the board of county commissioners of any county in this state to allow more than sixty cents per day for the boarding of each prisoner confined in the county jail of their respective counties.

SEC. 2. That all acts and parts of acts in conflict with this act are hereby repealed.

Approved February 20, 1893.

## CHAPTER XVII.

[S. B. No. 49.]

## PUBLIC WAYS FOR WATER CRAFT ACROSS TIDE FLATS.

AN ACT to amend section 4 of an act entitled "An act to establish and define public ways for water crafts across the tide flats within, in front of, and for a mile either way from all incorporated cities and towns in the State of Washington," approved March 28, 1890.

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

SECTION 1. That section 4 of an act entitled "An act to establish and define public ways for water crafts across the tide flats within, in front of, and for a mile either way from all incorporated cities and towns in the State of Washington," approved March 28, 1890, be amended to read as follows: "Section 4. A correct plat of all public ways so established shall be made, one copy of which shall be

filed with the secretary of state, one copy with the commissioner of public lands of the state; one copy shall be kept in the office of the chairman of the board of harbor line commissioners, and each county shall be furnished with a correct plat of all such public ways established within its borders, and such plats shall be filed as city or town plats are filed and become a part of the county records.”

Approved February 20, 1893.

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## CHAPTER XVIII.

[S. B. No. 48.]

### AUTHORIZING STATE TREASURER TO RECEIVE MONEY FOR SOLDIER'S HOME.

AN ACT authorizing the state treasurer to receive from the United States any sum of money for the benefit of the Washington State Soldiers' Home under the provisions of the act of congress approved August 27th, 1888, entitled “An act to provide aid to state or territorial homes for the support of disabled soldiers and sailors of the United States,” and declaring an emergency.

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

SECTION 1. The treasurer of the State of Washington is hereby authorized to receive from the United States any and all sums of money which may be paid by act of congress, approved August 27th, 1888, entitled “An act to provide aid to state or territorial homes for the support of disabled soldiers and sailors of the United States,” or by any act of congress for the benefit of the Washington State Soldiers' Home, and all sums which have been heretofore paid under such authority. The sums so received shall be placed to the credit of the fund for maintenance of the Washington State Soldiers' Home without any other or further appropriation therefor.

SEC. 2. Whereas, there has already been paid to the treasurer of the State of Washington quite a large sum of

money pursuant to the act of congress mentioned in section 1 of this act, but there is no state law under which the same may be credited to the fund of the Washington State Soldiers' Home; therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved February 20, 1893.

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## CHAPTER XIX.

[S. B. No. 32.]

### RELIEF OF S. F. ALBERT.

AN ACT for the relief of S. F. Albert, ex-sheriff of Wahkiakum county.

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

SECTION 1. That the sum of two hundred forty (240) dollars be and the same is hereby appropriated out of the state treasury from any funds not otherwise appropriated to pay S. F. Albert, ex-sheriff of Wahkiakum county, for expenses incurred by him in enforcing the written instructions of the governor of Washington Territory relative to violations of the fishing laws on the Columbia river.

SEC. 2. The state auditor is hereby authorized to draw a warrant on the state treasurer for the said sum in favor of the said S. F. Albert, and said treasurer is hereby directed to pay said warrant out of any funds in the state treasury not otherwise appropriated.

Approved February 20, 1893

CHAPTER XX.

[S. B. No. 66.]

TO FIX THE LEGAL RATE OF INTEREST.

AN ACT to fix the legal rate of interest.

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

SECTION 1. The legal rate of interest shall be eight per cent. per annum.

SEC. 2. All state, county, city or school warrants, or other warrants, drawn on public funds shall bear interest at a rate not exceeding the legal rate.

SEC. 3. Any rate of interest agreed upon by parties to a contract, except on warrants as named in section two of this act specifying the same in writing, shall be valid and legal.

SEC. 4. Judgments shall bear the legal rate of interest from date of the entry thereof.

SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1893.

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CHAPTER XXI.

[S. B. No. 25.]

COMMISSION MERCHANTS.

AN ACT relative to commission merchants or persons selling agricultural products and farm produce on commission, and declaring an emergency.

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

SECTION 1. Any person or persons doing business in this state as commission merchants, or who shall receive from any person of this state, agricultural products or farm produce, raised in this state, to sell on commission, shall

immediately, upon the receipt of such goods, send to the consignor or consignors a statement in writing, showing what property has been received and its condition.

Written  
statement.

SEC. 2. Whenever any commission merchant or person receiving any property as mentioned in section one of this act, shall sell the same or fifty per cent. thereof, such commission merchant or person shall, when requested, immediately render a true statement in writing to the consignor, showing what portion of such consignment has been sold and the price received therefor.

Penalty.

SEC. 3. Any person engaged in selling any property as herein specified, who shall fail or neglects to comply with any of the provisions of this act, or who shall make a false report or statement of the matters herein required, shall be deemed guilty of a misdemeanor and upon conviction thereof, by any court having jurisdiction, be fined in any sum not less than one hundred nor more than five hundred dollars.

Emergency.

SEC. 4. There being no law remedying the evil sought to be corrected by the foregoing sections, an emergency is declared to exist; therefore, this act shall take effect and be in force from and after its passage and approval by the governor.

Approved February 21, 1893.

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## CHAPTER XXII.

[H. B. No. 116.]

### UNIFORM STANDARD OF WEIGHTS AND MEASURES.

AN ACT to amend section 12 of an act to establish a uniform standard of weights and measures in this state, and to provide for a state sealer and inspector of the same, approved March 20 1890; the same being section 3145 of the first volume of Hill's Annotated Statutes and Codes of Washington.

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

SECTION 1. That section 12 of an act to establish a uniform standard of weights and measures in this state and

to provide for a state sealer and inspector of the same, approved March 20, 1890, the same being section 3145 of the first volume of Hill's Annotated Statutes and Codes of Washington, be and the same hereby is amended so as to read as follows: Section 12 (3145). Whenever any of the following articles shall be contracted for, or sold, or delivered, and no special contract or agreement shall be made to the contrary, the weight per bushel shall be as follows, to wit: Wheat, sixty pounds; clover seed, sixty pounds; rye or Indian corn, fifty-six pounds; oats, thirty-two pounds; barley, forty-eight pounds; buckwheat, forty-two pounds; dried apples or peaches, twenty-eight pounds; potatoes, sixty pounds; green apples or pears, forty-five pounds; flax, fifty-six pounds.

Approved February 21, 1893.

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## CHAPTER XXIII.

[H. B. No. 251.]

### SALMON AND OTHER FOOD FISHES.

AN ACT to repeal section four (4) of an act entitled an act to protect salmon and other food fishes in the State of Washington, and upon all waters upon which this state has jurisdiction and concurrent jurisdiction, approved February 11, 1890, and declaring an emergency.

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

SECTION 1. That section four (4) of an act entitled an act to protect salmon and other food fishes in the State of Washington, and upon all waters upon which this state has jurisdiction and concurrent jurisdiction, approved February 11, 1890, be and the same is hereby repealed.

SEC. 2. Whereas, the interests of a large body of the citizens of the State of Washington are suffering by reason of the present legislation in regard to the fishing of salmon and other food fishes, therefore an emergency is declared

to exist, and this act shall take effect immediately upon its passage and approval by the governor.

Approved February 21, 1893.

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## CHAPTER XXIV.

[H. B. No. 21.]

### ENFORCEMENT OF LIENS FOR LABOR AND MATERIAL.

AN ACT creating and providing for the enforcement of liens for labor and material.

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

SECTION 1. Every person performing labor upon or furnishing material to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power or any other structure, or who performs labor in any mine or mining claim or stone quarry, has a lien upon the same for the labor performed or materials furnished by each, respectively, whether performed or furnished at the instance of the owner of the property subject to the lien, or his agent; and every contractor, subcontractor, architect, builder or person having charge of the construction, alteration or repair of any property subject to the lien as aforesaid, shall be held to be the agent of the owner for the purposes of the establishment of the lien created by this act: *Provided*, That whenever any railroad company shall contract with any person for the construction of its road, or any part thereof, such railroad company shall take from the person with whom such contract is made a good and sufficient bond, conditioned that such person shall pay all laborers, mechanics and material men, and persons who supply such contractors with provisions, all just dues to such persons or to any person to whom any part of such work is given, incurred in carrying on such work,

Bond.

which bond shall be filed by such railroad company in the office of the county auditor in each county in which any part of such work is situated. And if any such railroad company shall fail to take such bond, such railroad company shall be liable to the persons herein mentioned to the full extent of all such debts so contracted by such contractor. Liability.

SEC. 2. The land upon which the property subject to the lien created by section one of this act is situated, or which is a part thereof, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment in a foreclosure of the lien, is also subject to the lien, if at the commencement of the performance of the labor or of the furnishing of the materials, the land belonged to the person who, in his own behalf, or who, through any of the persons designated in section one of this act to be the agent of the owner, caused the performance of the labor, or the construction, alteration or repair of the property subject to the lien: *Provided*, That if such person own less than a fee simple in such land, then only his interest therein is subject to the lien. Land subject to lien.

SEC. 3. Any person who, at the request of the owner of any real property, his agent, contractor or subcontractor, clears, grades, fills in or otherwise improves the same, or any street or road in front of, or adjoining the same, has a lien upon such real property for the labor performed, or the materials furnished for such purposes.

SEC. 4. The liens created by this act are preferred to any lien, mortgage or other incumbrance which may attach subsequently to the time of the commencement of the performance of the labor, or the furnishing of the materials for which the right of lien is given by this act, and are also preferred to any lien, mortgage or other incumbrance which may have attached previously to that time, and which was not filed or recorded so as to create constructive notice of the same prior to that time, and of which the lien claimant had no notice.

SEC. 5. No lien created by this act shall exist, and no action to enforce the same shall be maintained, unless within ninety days from the date of the cessation of the performance of such labor or of the furnishing of such materials, a claim for such lien shall be filed for record as hereinafter provided, in the office of the county auditor of the county in which the property, or some part thereof to be affected thereby, is situated. Such claim shall state, as nearly as may be, the time of the commencement and cessation of performing the labor, or furnishing the material, the name of the person who performed the labor, or furnished the material, the name of the person by whom the laborer was employed (if known) or to whom the material was furnished, a description of the property to be charged with the lien sufficient for identification, the name of the owner, or reputed owner if known, and if not known, that fact shall be mentioned, the amount for which the lien is claimed, and shall be signed by the claimant, or by some person in his behalf, and be verified by the oath of the claimant, or some person in his behalf, to the effect that the affiant believes the claim to be just; in case the claim shall have been assigned the name of the assignee shall be stated; and such claim of lien may be amended in case of action brought to foreclose the same, by order of the court, as pleadings may be, in so far as the interests of third parties shall not be affected by such amendment. A claim for lien substantially in the following form shall be sufficient:

Time for filing lien.

Contents of claim.

....., claimant, vs. ....

Form of claim for lien.

Notice is hereby given that on the ..... day (date of commencement of performing labor or furnishing material) ..... at the request of ..... commenced to perform labor (or to furnish material to be used) upon ..... (here describe property subject to the lien) of which property the owner, or reputed owner, is ..... (or if the owner or reputed owner is not known, insert the word "unknown"), the performance of which labor (or the furnishing of which material) ceased on the ..... day of ..... ; that said labor performed (or material furnished) was of the value of ..... dollars, for which labor (or material) the

undersigned claims a lien upon the property herein described for the sum of ..... dollars. (In case the claim has been assigned, add the words "and ..... is assignee of said claim," or claims, if several are united.)

....., Claimant.

STATE OF WASHINGTON, COUNTY OF ....., ss.

....., being sworn, says: I am the claimant (or attorney of the claimant) above named; I have heard the foregoing claim read and know the contents thereof, and believe the same to be just.

Subscribed and sworn to before me this ..... day of .....

Any number of claimants may join in the same claim for the purpose of filing the same and enforcing their liens, but in such case the amount claimed by each original lienor, respectively, shall be stated: *Provided*, It shall not be necessary to insert in the notice of claim of lien provided for by this act any itemized statement or bill of particulars of such claim.

Joinder of claimants.

SEC. 6. The county auditor must record the claims mentioned in this act in a book to be kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed.

County auditor.

SEC. 7. Any lien or right of lien created by law and the right of action to recover therefor, shall be assignable so as to vest in the assignee all rights and remedies of the assignor, subject to all defenses thereto that might be made if such assignment had not been made.

SEC. 8. In every case in which one claim is filed against two or more separate pieces of property owned by the same person, or owned by two or more persons who jointly contracted for the labor or material for which the lien is claimed, the person filing such claim must designate in the claim the amount due him on each piece of property, otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens upon either of such pieces of property.

SEC. 9. No lien created by this act binds the property subject to the lien for a longer period than eight calendar

Length of time property is bound.

months after the claim has been filed unless an action be commenced in the proper court within that time to enforce such lien; or, if credit be given, then eight calendar months after the expiration of such credit; and in case such action be not prosecuted to judgment within two years after the commencement thereof, the court, in its discretion, may dismiss the same for want of prosecution, and the dismissal of such action, or a judgment rendered therein, that no lien exists, shall constitute a cancellation of the lien.

SEC. 10. The contractor shall be entitled to recover upon the claim filed by him only such amount as may be due him according to the terms of his contract, after deducting all claims of other parties for labor performed and materials furnished; and in all cases where a claim shall be filed under this act for labor performed or materials furnished to any contractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action, the owner may withhold from the contractor the amount of money for which the claim is filed; and in case of judgment against the owner or his property, upon the lien, the owner shall be entitled to deduct from any amount due or to become due by him to the contractor, the amount of the judgment and costs, and if the amount of such judgment and costs shall exceed the amount due by him to the contractor or if the owner shall have settled with the contractors in full, he shall be entitled to recover back from the contractor the amount, including costs for which the lien is established in excess of any sum that may remain due from him to the contractor.

Foreclosure  
of liens.

SEC. 11. The liens provided by this act, for which claims have been filed, may be foreclosed and enforced by a civil action in the court having jurisdiction; in any action brought to foreclose a lien, all persons who, prior to the commencement of such action, have legally filed claims of liens against the same property, or any part thereof shall be joined as parties, either plaintiff or defendant; and no person shall begin an action to foreclose a lien upon any property while a prior action begun to foreclose another lien on the same property is pending, but if not made a party plaintiff or defendant to such prior action, he may

apply to the court to be joined as a party thereto, and his lien may be foreclosed in such action; and no action to foreclose a lien shall be dismissed at the instance of a plaintiff therein to the prejudice of another party to the suit who claims a lien.

SEC. 12. In every case in which different liens are Rank of liens. claimed against the same property, the court, in the judgment, must declare the rank of such lien or class of liens, which shall be in the following order:

1. All persons performing labor.
2. All persons furnishing material.
3. The subcontractors.
4. The original contractors.

And the proceeds of the sale of the property must be applied to each lien or class of liens in the order of its rank; and personal judgment may be rendered in an action brought to foreclose a lien, against any party personally liable for any debt for which the lien is claimed, and if the lien be established, the judgment shall provide for the enforcement thereof upon the property liable as in case of foreclosure of mortgages; and the amount realized by such enforcement of the lien shall be credited upon the proper personal judgment, and the deficiency, if any remaining unsatisfied, shall stand as a personal judgment, and may be collected by execution against the party liable therefor. The court may allow, as part of the costs of the action, the Attorney's fee. moneys paid for filing or recording the claim, and a reasonable attorney's fee in the superior and supreme courts.

SEC. 13. Nothing contained in this act shall be construed to impair or affect the right of any person to whom any debt may be due for labor performed or material furnished to maintain a personal action to recover such debt against the person liable therefor.

SEC. 14. The taking of a promissory note or other evidence of indebtedness for any labor performed or material furnished for which lien is created by law, shall not discharge the lien therefor, unless expressly received as payment and so specified therein.

SEC. 15. Whenever material shall have been furnished Material. for use in the construction, alteration or repair of property

subject to a lien created by this act, such material shall not be subject to attachment, execution, or other legal process, to enforce any debt due by the purchaser of such material, except a debt due for the purchase money thereof, so long as in good faith the said material is about to be applied in the construction, alteration or repair of such property.

Community  
interest.

SEC. 16. The claim of lien, when filed as required by this act, shall be notice to the husband or wife of the person who appears of record to be the owner of the property sought to be charged with the lien, and shall subject all the community interest of both husband and wife to said lien.

SEC. 17. When, for any reason the title or interest in the land, upon which the property subject to the lien is situated cannot be subjected to the lien, the court may order the sale and removal from the land of the property subject to the lien to satisfy the lien.

SEC. 18. The provisions of law relating to liens created by this act, and all proceedings thereunder, shall be liberally construed with a view to effect their objects.

SEC. 19. All rights acquired under any existing law of this state are hereby preserved, and all actions now pending shall be proceeded with under the law as it exists at the time this act shall take effect. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 21, 1893.

## CHAPTER XXV.

[H. B. No. 307.]

CHANGING NAME OF "THE TOWN OF SLAUGHTER," TO  
"THE TOWN OF AUBURN."

AN ACT providing for changing the name of "The town of Slaughter," a municipal corporation of the fourth class situated in King County, State of Washington, to "The town of Auburn."

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

SECTION 1. That the name of "The town of Slaughter," a municipal corporation of the fourth class situated in the County of King and State of Washington, be and the same hereby is changed to "The town of Auburn."

SEC. 2. This act shall take effect and be in force ninety days after the final adjournment of this legislature.

Approved February 21, 1893.

## CHAPTER XXVI.

[H. B. No. 115.]

## COMPENSATION OF ASSIGNEES.

AN ACT amending section eight of an act entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees for the benefit of creditors," approved March 6, 1890, the same being section 2748 of volume 1 of Hill's Statutes and Codes of the State of Washington, and repealing section two thousand and thirty-two (2032) of the Code of Washington Territory of A. D. 1881, the same being section 2774 of volume 1 of Hill's Statutes and Codes of the State of Washington and limiting the compensation of assignees for the benefit of creditors.

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

SECTION 1. That section eight of an act entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees for the benefit of creditors," approved March 6, 1890, the same being section 2748 of volume 1, Hill's Statutes and Codes of the State of Washing-

ton, be amended so as to read as follows: Section 2748. If no exception be made to the claim of any creditor, or if the same has been adjudicated, the court shall order the assignee to make from time to time fair and equal dividends among the creditors of the assets in his hands, in proportion to their claims, and as soon as may be to render a final account of said trust to said court, which may allow such commissions to said assignee in the final settlement as may be considered right and just, not exceeding, however, the fees and compensation allowed by law to administrators and executors.

SEC. 2. That section two thousand and thirty-two (2032) of the Code of Washington Territory of A. D. 1881, the same being section 2774 of volume 1 of Hill's Statutes and Codes of the State of Washington, be and is hereby repealed.

Approved February 21, 1893.

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## CHAPTER XXVII.

[S. B. No. 85.]

### TO PREVENT CRUELTY TO CHILDREN, ANIMALS, FOWLS AND BIRDS.

AN ACT for the prevention of cruelty to children, animals, fowls and birds, and providing punishment therefor.

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

Cruelty to children.

SECTION 1. Whosoever shall torture, maim, cruelly beat, whip or punish, deprive of necessary food or clothing, or compel to labor an unreasonable length of time without proper rest and nourishment, or otherwise cruelly treat any minor, or being the parent or guardian, or having the charge of such minor, shall do, cause or permit to be done any of the acts above mentioned, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars, or impris-

Penalty.

oned in the county jail any length of time not exceeding three months.

SEC. 2. Whosoever shall overdrive, overload, or drive <sup>Cruelty to animals.</sup> when overloaded, overwork, cruelly beat, mutilate, torture, torment or deprive of necessary sustenance, cruelly abandon or neglect, or cause the same to be done, any animal, or being the owner or custodian thereof, shall inflict unnecessary cruelty, or fails to provide it with proper food, drink, or who cruelly works such animals when unfit for labor, carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, shall be punished by fine not exceeding one <sup>Penalty.</sup> hundred dollars, or by imprisonment in the county jail not exceeding three months.

SEC. 3. A corporation violating any of the provisions <sup>Liability of corporation.</sup> of either of the two preceding sections shall be punished by fine, as therein provided; and corporations in regard to animals transported, owned or used by them, or in their custody, shall be responsible for the knowledge and the <sup>Penalty.</sup> acts of their agents and servants.

SEC. 4. Railroad companies in carrying or transporting animals shall not permit them to be confined in cars for a longer period than forty-eight consecutive hours without unloading them for rest, water and feeding for a period of at least two consecutive hours, unless prevented from so unloading them by unavoidable accident. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included. Animals so unloaded shall, during such rest, be properly fed, watered by the owner or person having the custody of them, or in case of his default in so doing, then by the railroad company transporting them, at the expense of said owner or person in custody thereof, and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for such detention of such animals. If animals are transported where they can and do have proper food, water, space and opportunity for rest, the foregoing provision in regard to their being <sup>Stock in transit.</sup>

Penalty.

unloaded shall not apply. Violators of this section shall be punished by fine not exceeding one hundred dollars.

Exhibition of fighting animals.

SEC. 5. When a complaint is made to a court or magistrate authorized to issue warrants in criminal causes, that complainant has good reason to believe that preparations are making for an exhibition of the fighting of fowls, birds, dogs or other animals at or in any place, building or tenement, or that such an exhibition is in progress, such court or magistrate, if satisfied that there is good cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such place, building or tenement, at any hour of the day or night, and take possession of all such fowls, birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition, or knowingly present when preparations are making for such an exhibition.

Penalty.

SEC. 6. All persons arrested under the provisions of the preceding section shall be kept in jail or other convenient place not more than twenty-four hours, exclusive of Sundays and legal holidays, at or before the expiration of which time they shall be brought before a trial justice, or a police or municipal court and tried, unless such trial be continued for cause, and if found guilty, punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding one month.

Forfeiture of animals.

SEC. 7. After such seizure of said fowls, birds, dogs or other animals as provided for in section five of this act, application shall be made to a trial justice or municipal court for an order of forfeiture of the same, and if upon the hearing of the same, such notice having been given of the hearing as the court shall order, it shall be found that such fowls, birds, dogs or other animals, or any of them, at the time of such seizure, were engaged in fighting at an exhibition thereof, or were owned, kept, possessed or trained by any person with intent that they should be so engaged, all such fowls, birds, dogs or other animals shall be adjudged forfeit, and such justice or court shall thereupon issue an order for selling the same at auction to the highest bidder within twenty-four hours, the proceeds to be paid into the common school fund of the county where such seizure is

Sale by auction.

made. Any fowls, birds, dogs or other animals seized as hereinbefore provided which are not adjudged forfeit, shall be delivered to the owner or the person entitled to the possession thereof. The necessary costs in the aforesaid proceedings shall be allowed and paid as costs in criminal prosecutions are paid. Costs.

SEC. 8. Whosoever shall wantonly or cruelly pluck, maim, torture, deprive of necessary food or drink, or wantonly kill any fowl or insectivorous bird, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding twenty dollars. Penalty.

SEC. 9. Any judge, justice of the peace, police judge, sheriff, constable or police officer may arrest any person found committing any of the cruelties hereinbefore enumerated, without a warrant for such arrest, and any officer or member of any humane society, or society for the prevention of cruelty to animals, may cause the immediate arrest of any person engaged in, or who shall have committed such cruelties, upon making oral complaint to any sheriff, constable or police officer, or such officer or member of such society may himself arrest any person found perpetrating any of the cruelties herein enumerated: *Provided*, That said person making such oral complaint or making such arrest shall file with a proper officer a written complaint, stating the act or acts complained of, within twenty-four hours, excluding Sundays and legal holidays, after such arrest shall have been made. Who make arrests.

SEC. 10. All fines herein provided for shall be paid into the common school fund of the county in which such fine shall be imposed. Disposition of fines.

Approved February 23, 1893.

## CHAPTER XXVIII.

[S. B. No. 220.]

## FOR MAINTENANCE OF SOLDIERS' HOME.

AN ACT appropriating money for the maintenance of the soldiers' home.

WHEREAS, There have been paid into the general fund of the state treasury by the treasurer of national home for disabled veteran soldiers, sums aggregating three thousand eight hundred and nineteen  $\frac{23}{100}$  dollars (\$3,819.23): therefore,

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

SECTION 1. There is hereby appropriated out of any money in the general fund of the state treasury not otherwise appropriated, for the maintenance of the state soldiers' home the sum of three thousand eight hundred and nineteen  $\frac{23}{100}$  dollars (\$3,819.23).

Approved February 23, 1893.

## CHAPTER XXIX.

[H. B. No. 163.]

## PROVIDING FOR FILLING VACANCY IN BOARD OF COUNTY COMMISSIONERS.

AN ACT to amend section 1 of an act entitled "An act relative to filling vacancy in board of county commissioners," approved November 23, 1883, the same being section 274 of volume 1 of Hill's Annotated Statutes and Codes of Washington, and declaring an emergency.

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

SECTION 1. That section 1 of an act entitled "An act relative to filling vacancy in board of county commissioners," approved November 23, 1883, the same being section 274 of volume 1 of Hill's Annotated Statutes and

Codes of Washington, be and the same hereby is amended so as to read as follows: Section 1. Whenever a vacancy occurs in a board of county commissioners in any county in this state, either by death, resignation, failure to qualify or otherwise, then at the first regular meeting of the board of county commissioners thereafter, the remaining county commissioners and the judge of the superior court of the county shall appoint some qualified elector to fill the vacancy: *Provided*, That in any county in which there shall be more than one judge of the superior court, the eldest thereof shall perform the duties herein required.

SEC. 2. An emergency is declared to exist, and there-<sup>Emergency.</sup>fore this act will take effect upon its approval by the governor.

Approved February 27, 1893.

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## CHAPTER XXX.

[H. B. No. 171.]

### PAYMENT OF EXPENSES AND SALARIES OF SUPREME AND SUPERIOR COURT JUDGES.

AN ACT to amend section 2 of an act entitled "An act providing for the payment of certain expenses of and the manner in which the salaries of the judges of the supreme and superior courts shall be paid, and declaring an emergency to exist," approved January 27, 1890, and declaring an emergency to exist for the passage of this amendatory act.

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

SECTION 1. Section 2 of an act of the legislature of the State of Washington, entitled "An act providing for the payment of certain expenses of and the manner in which the salaries of the judges of the supreme and superior courts shall be paid, and declaring an emergency to exist," approved January 27, 1890, is hereby amended to read as follows:

SEC. 2. The county auditor of each county shall draw his warrant on the treasurer of such county on the first

Monday of each month for the amount of salary due for the previous month from such county to the judge of the superior court thereof, and said warrant shall be paid by said treasurer out of the salary fund of said county.

Emergency.

SEC. 3. Whereas, the act of which this act is amendatory, unjustly discriminates against the judges of the superior courts of this state as to the manner of the payment of their salaries, and has the effect of practically depriving said judges of a part of their salaries in many of the counties; therefore, an emergency for the immediate passage of this act is declared to exist, and the same shall take effect and be in force from and after its passage and approval by the governor.

Approved February 27, 1893.

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## CHAPTER XXXI.

[H. B. No. 62.]

### DAMAGES DONE BY DOMESTIC ANIMALS.

AN ACT for the detention of domestic animals doing damages, and giving a lien for damages upon such animals.

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

SECTION 1. Any person suffering damage done by any horses, mares, mules, asses, cattle, goats, sheep, swine or any such animals, which shall trespass upon any cultivated land, enclosed by lawful fence, may retain and keep in custody such offending animals until the owner of such animals shall pay such damage and costs, or until good and sufficient security be given for the same.

Notice of restraint.

SEC. 2. Whenever any animals are restrained as provided in section 1 of this act, the person restraining such animals shall within twenty-four hours thereafter notify in writing the owner, or person in whose custody the same was at the time the trespass was committed, of the seizure of such animals, and the probable amount of the damages

Damages.

sustained: *Provided*, He knows to whom such animals belong.

SEC. 3. If the owner or the person having in charge or possession of such animals is unknown to the person sustaining the damage, the notice provided in section 2 of this act shall be given by posting three notices, in three public places in the neighborhood where the animals are restrained, for ten days. Posting notices.

SEC. 4. If the owner or person having such animals in charge fails or refuses to pay the damages done by such animals, or give satisfactory security for the same within twenty-four hours from the time the notice was served, if served personally, and within ten days from the date of posting of the notice as provided in section 3, the person damaged may commence a suit, before any court having jurisdiction thereof, against the owner of such animals, or against the persons having the same in charge, or possession, when the trespass was committed, if known; and if unknown, the defendant shall be designated as John Doe, and the proceedings shall be the same in all respects as in other civil actions, except as herein modified. Suit for damages.

SEC. 5. Upon the trial of an action as herein provided the plaintiff shall prove the amount of damages sustained and the amount of expenses incurred for keeping the offending animals, and any judgment rendered for damages, costs, and expenses against the defendant shall be a lien upon such animals committing the damage, and the same may be sold and the proceeds shall be applied in full satisfaction of the judgment as in other cases of sale of personal property on execution: *Provided*, That no judgment shall be continued against the defendant for any deficiency over the amount realized on the sale of such animals, if it shall appear upon the trial that no damage was sustained, or that a tender was made and paid into court of an amount equal to the damage and costs, then judgment shall be rendered against the plaintiff for costs of suit and damage sustained by defendant. Sale of animals to satisfy judgment.

SEC. 6. If upon the trial it appears that the defendant is not the owner or person in charge of such offending animals, the case shall be continued, and proceedings had as

in the next section provided, if the proper defendant be unknown to plaintiff.

Unknown owner.

SEC. 7. If the owner or keeper of such offending animals is unknown to plaintiff at the commencement of the action, or if on the trial it appears that the defendant is not the proper party, defendant, and the proper party is unknown, service of the summons or notice shall be made by publication, by publishing a copy of the summons or notice, with a notice attached, stating the object of the action and giving a description of the animals seized, in a weekly newspaper published nearest to the residence of the plaintiff, if there be one published in the county; and if not, by posting said summons or notice with said notice attached in three public places in the county, in either case not less than ten days previous to the day of trial.

Publication of notices.

Disposal of funds arising from sale.

SEC. 8. If when such animals are sold, there remains a surplus of money, over the amount of the judgment and costs, it shall be deposited with the county treasurer, by the officer making the sale, and if the owner of such animals does not appear and call for the same, within six months from the day of sale, it shall be paid into the school fund, for the use of the public schools of said county.

Jurisdiction.

SEC. 9. Justices of the peace shall have exclusive jurisdiction of all actions and proceedings under this act when the damages claimed do not exceed one hundred dollars: *Provided, however,* That any party considering himself aggrieved shall have the right of appeal to the superior court as in other cases.

Appeal.

Approved February 27, 1893.

## CHAPTER XXXII.

[H. B. No. 106.]

## RELATING TO WILLS.

AN ACT relating to wills and the custody, control and delivery thereof, and defining the crime of suppressing, secreting or destroying any last will and testament, and providing for the punishment thereof.

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

SECTION 1. Any last will and testament in writing, being enclosed in a sealed envelope or wrapper, and having indorsed thereon the name of the testator or testatrix, and his or her place of residence, and the day when and the person by whom it is delivered, may be deposited by the person making the same, or by any person for him, in the office of the clerk of the superior court, in the county where the maker resides, and such clerk of court shall receive and safely keep the same in a place to be provided therefor and to be marked and designated as the "Files of Wills," and shall give a certificate of deposit thereof to the person so depositing the same, and said will shall be surrendered and redelivered to the maker, or to such person as may be designated by the written order of the maker upon a surrender of such certificate. Deposit of will.

SEC. 2. Such will when so deposited shall, during the life time of the testator or testatrix, be delivered only to himself or herself, or to some person by the maker authorized by order in writing, duly signed, executed and acknowledged before a notary public or other qualified officer in the same manner as is required by the laws of this state in the execution of instruments for the conveyance of real property, and upon the surrender of such certificate; and after the death of the maker said will shall be opened in public before witnesses by the judge of said court and may be retained therein for probate if necessary.

SEC. 3. Any person having the custody or control of any will, shall, within thirty days after he shall have received knowledge of the death of the testator or testa-

trix, deliver said will into the superior court which has jurisdiction, or to the person named in said will as executor; and any person who shall willfully fail or neglect to deliver any such will in accordance with the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail for a period not exceeding six months or by both such fine and imprisonment.

Penalty.

SEC. 4. Any person who shall willfully secrete or destroy any last will and testament of a person then deceased, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment at hard labor in the penitentiary of this state for a term of not less than one year, nor more than five years, or by fine of not less than one thousand dollars, or more than five thousand dollars, or by both such fine and imprisonment.

Approved February 27, 1893.

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## CHAPTER XXXIII.

[H. B. No. 66.]

### ESTABLISHING STATE NORMAL SCHOOL AT WHATCOM.

AN ACT to establish a state normal school in the county of Whatcom.

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

SECTION 1. There shall be established in Whatcom county a school, to be called the Washington state normal school, for the training and education of teachers in the art of instructing and governing in the public schools of this state.

Commission.

SEC. 2. The governor, and two others to be appointed by the governor, shall constitute a commission to examine and locate said school site, in said county of Whatcom, as said commission may designate, said appointees to be residents and citizens of the State of Washington.

SEC. 3. Said commission shall meet at Whatcom, on or before the first day of July, 1893, after the passage of this act, to locate said school site, and the site selected by them shall be and remain the permanent site for the state normal school buildings: *Provided*, That the citizens of Whatcom county shall donate not less than ten acres of land accompanied by a good and perfect title in fee simple to the State of Washington. No discrimination shall be made in selecting said site by any proffer of a larger grant, donation or bonus, but shall establish said school in the most suitable and accessible location.

SEC. 4. Said school shall be governed in the same manner and under the same rules as the state normal schools are governed at present, and laws that may be hereafter enacted for the government of all normal schools of the state.

Approved February 24, 1893.

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## CHAPTER XXXIV.

[H. B. No. 234.]

### SALE OF PERSONAL PROPERTY BELONGING TO THE STATE.

AN ACT providing for the sale of personal property belonging to the state.

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

SECTION 1. The secretary of state, state auditor and state treasurer are hereby created a board of commissioners, who shall be designated "Public property commissioners," of which board the secretary of state shall be secretary, and he shall keep a record of its proceedings.

SEC. 2. The public property commissioners shall have power to sell and convey any personal property belonging to the state, by and with the advice and consent of the governor, in writing, whenever it shall appear to said commis-

sioners that the state has no further use for such property and that it is for the best interests of the state to sell and dispose of the same.

Manner of  
sale.

SEC. 3. The public property commissioners must sell and dispose of any such property for cash, but may sell any such property either at private sale or public auction, and upon such notice as to them may seem for the best interests of the state.

SEC. 4. All money realized from the sale of any such personal property shall be paid over to the state treasurer, who shall give to the state auditor his receipt therefor, and the money so received shall go into the general fund of the state.

Approved February 24, 1893.

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## CHAPTER XXXV.

[H. B. No. 332.]

### ALLOWING SECOND APPEALS IN CERTAIN CASES.

AN ACT allowing a second appeal to the supreme court in certain cases where persons have been convicted of felony, and declaring an emergency.

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

SECTION 1. Whenever, heretofore or hereafter, any person shall have been convicted of a felony in this state and shall have appealed to the supreme court from the judgment entered against him, if his appeal shall have been disposed of, and the judgment against him affirmed without a hearing on the merits, and if the denial of a hearing upon the merits shall have been caused by the supreme court striking out or disregarding his bill of exceptions or statement of facts, for want of the lawful, regular or timely settlement or certification thereof, such person shall, upon giving the notice hereinafter provided for, be entitled to a new and second appeal to said supreme court at any time within sixty days

after the receipt of the *remittitur* from the supreme court on the determination of the first appeal by the clerk of the superior court from which the first appeal was taken, and it is hereby made the duty of the clerk of such superior court immediately upon the receipt by him of such *remittitur* to notify the defendant's attorney of record thereof: *Provided*, That in every case of the kind herein provided for and heretofore determined such new and second appeal may be taken within sixty days after the passage of this act.

Time within which appeal may be taken.

SEC. 2. In every case by this act provided for, the person desiring to take such second appeal shall, within the time in the foregoing section provided, by himself or attorney, give written notice to the prosecuting attorney of the county wherein the judgment was rendered, that he appeals anew from said judgment to the supreme court, and shall within said time for taking such new appeal file in the office of the clerk of said superior court the original of said notice of appeal with a verified proof of service or an admission of service thereon. And shall thereupon be entitled to prepare and file a new bill of exceptions or statement of facts in the case on such new appeal, or at his election may use and have his former bill of exceptions or statement of facts considered on such new appeal. And the bill of exceptions or statement of facts on such new appeal shall thereupon be settled and certified within the time and in the manner prescribed by law for the settlement and certification of bills of exceptions and statement of facts on a first appeal from such a judgment and for the purpose of determining the time within which the bill of exceptions or statement of facts on such second appeal shall be filed, settled and certified; the time therefor shall commence to run from the date of filing the notice of such second appeal in the office of the clerk of the superior court of the proper county: *Provided*, In case the judge who tried the cause, the judgment wherein is appealed from under the provisions of this act, is no longer in office as such judge, he is, notwithstanding, hereby empowered and required to settle and certify the statement of facts on such new appeal as if still in office, and such settlement and

Notice of appeal.

Bill of exceptions.

Statement of facts.

certification shall for all purposes be of the same force and effect as if such judge were still in office.

Time for taking appeal.

SEC. 3. The time for taking the appeal in this act provided for may be extended not to exceed thirty days by the written stipulation of the prosecuting attorney of the proper county and the attorney of record of the defendant in the case filed in the office of the clerk of the superior court of such county.

Staying of sentence.

SEC. 4. No sentence to confinement in the penitentiary shall be stayed by the taking of such second appeal, but every sentence to the death penalty shall be stayed thereby until the hearing and determination of such second appeal; and it is hereby made the duty of the clerk of the superior court which shall have issued any death warrant, immediately upon the notice of second appeal in such case herein provided for being filed in his office, to notify the judge of such court thereof and to exhibit to said judge such notice. And it is hereby made the duty of such court, upon such notice of appeal being to him exhibited, to forthwith recall such death warrant, and the execution of such warrant shall be thereupon suspended pending the hearing and determination of such second appeal, or in case such appeal is not perfected or prosecuted to a final determination until further and final proceedings are had in the cause in due course of law.

Prosecuting attorney.

SEC. 5. In any case in which a notice of second appeal has been given and a death warrant is by reason thereof withdrawn, as herein provided, and the appeal is not perfected as by law required or prosecuted to a final determination, the prosecuting attorney of the proper county shall, upon the expiration of the time for perfecting such appeal, or if such appeal be perfected at any time thereafter that it appears that said appeal is not being prosecuted in good faith to a final determination, serve a written notice on the attorney of record for the defendant, or, if such attorney cannot for any reason be served with such notice, upon the defendant himself, that said prosecuting attorney will, at a time in said notice specified and which shall not be less than thirty days or more than sixty days from the date of said notice, move the supreme court for

Notice of motion to dismiss.

an order dismissing the proceedings under said notice of second appeal. Said notice of motion shall be so served on the defendant or his attorney of record not less than thirty days from the time therein specified for the hearing for [of] the motion for dismissal, and shall briefly state the grounds of such motion. And the original of the notice of motion for dismissal with verified proof of service or admission of service of the same indorsed thereon or thereto attached, shall be immediately, upon the service thereof, filed by the county attorney in the office of the clerk of the superior court of the proper county. And said clerk shall thereupon forthwith transmit to the clerk of the supreme court a full certified transcript of the files and records in his office pertaining to said second appeal and not previously transmitted by him to said clerk, which transcript shall be filed by the clerk of the supreme court in his office.

SEC. 6. Upon the hearing of the motion for dismissal, the defendant may controvert the grounds for dismissal stated in the notice of such motion by affidavits, copies of which shall be served on the prosecuting attorney not less than ten days before the date of hearing such motion specified in the notice, to which affidavits on behalf of defendant the prosecuting attorney may interpose counter affidavits, copies of which shall be served on the defendant not less than two days before the specified date of hearing.

SEC. 7. If upon the hearing of said motion it shall appear to the satisfaction of the supreme court that said second appeal is wrongfully taken, that the same was not perfected as required by law by reason of the culpable neglect of the defendant, or that the same is not prosecuted in good faith, the supreme court shall quash and dismiss said second appeal, reaffirm the judgment appealed from and remit the case back to the superior court with an appropriate order for carrying the judgment so reaffirmed into effect: *Provided*, That the supreme court may in its discretion relieve an appellant in any case in this act provided for from any default or disability resulting from mistake, inadvertence, surprise or accident, and shall in the furtherance of substantial justice disregard any and all technical irregularities and informalities.

Emergency.

SEC. 8. Whereas, there are at present no adequate provisions under the laws of this state for the taking of the appeal in this act provided for; and, whereas, legal provision for such an appeal is deemed essential to the proper and complete administration of justice and the protection of the substantial rights of persons convicted of felony: therefore, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

STATE OF WASHINGTON, HOUSE OF REPRESENTATIVES,  
OLYMPIA, March 2, 1893.

HON. J. H. PRICE, *Secretary of State, Olympia, Wash.:*

HONORED SIR—The following order was made by the house of representatives this day: “The chief clerk be instructed to transmit House Bill No. 332 to the office of the secretary of state, for record, for the reason that the veto message and bill were not returned to the house within the time prescribed by the constitution.” If for any reason you refuse to receive this bill please return the same, with your reasons in writing.

Very respectfully, T. G. NICKLIN, *Chief Clerk.*

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## CHAPTER XXXVI.

[H. B. No. 216.]

### TO PERMIT VALIDATION OF CERTAIN WARRANTS AND OTHER EVIDENCES OF INDEBTEDNESS ON THE PART OF CITIES AND TOWNS.

AN ACT to provide means for the validation of certain warrants and other evidences of indebtedness on the part of cities and towns, issued by the corporate authorities thereof in excess of their legal authority, in cases where any such city or town has, since such attempted incurring of indebtedness, or may hereafter, become consolidated with any other city or town, or has annexed or may hereafter annex any new territory; and declaring an emergency.

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

SECTION 1. In any case where any city or town formerly having a corporate existence in this state has since or may hereafter become consolidated, according to law, with any

other city or town formerly having a corporate existence in this state, or has annexed or may hereafter annex any new territory and where the corporate authorities of either such former city or town had prior to such consolidation or annexation attempted to incur any indebtedness on the part of such former city or town by the issuing of warrants, making of contracts, or creation of other evidences of indebtedness on the part of such former city or town by the corporate authorities thereof, such attempted incurring of any such indebtedness may be ratified and validated in the manner prescribed in this act, when the only ground of the invalidity of such indebtedness so to be ratified is that, at the time of such attempted incurring thereof, the same, together with all other then existing indebtedness of such former city or town, exceeded one and one-half per centum of the taxable property of any such former city or town, ascertained by the last assessment for city or town purposes previous to the attempted incurring of such indebtedness, and that such indebtedness was so attempted to be incurred, without the assent of three-fifths of the voters of such former city or town, voting at an election held for that purpose.

SEC. 2. In any case mentioned in section one of this act, City council. whenever the city council or other legislative body of any consolidated or existing city or town, consisting in part of any such former city or town, or which has annexed, or may hereafter annex any new territory, as in said section mentioned, shall deem it advisable that the ratification authorized by this act shall be obtained, the city council or other legislative body of such consolidated or existing city or town, shall provide for such ratification by ordinance, which shall specify separately, the amount of each distinct class of indebtedness so to be ratified, the date or period of the attempted incurring of each separate class thereof by the corporate authorities of such former city or town (naming it), and the general nature of the indebtedness comprised in each such distinct class, and shall provide for the holding of an election for that purpose, of which thirty Publication of notice. days' notice, to be provided for in such ordinance, shall be given in the official newspaper or newspapers of such con-

consolidated or existing city or town, at which election the attempted incurring of such indebtedness shall be submitted, for ratification or disapproval, to the voters residing within the former corporate limits of such former city or town, the indebtedness whereof is sought to be so ratified, or within the corporate limits of such city or town prior to such annexation. Each distinct class of such indebtedness so specified shall be the subject of a distinct vote in favor of or against the ratification, and such vote shall designate the class of indebtedness referred to by the description thereof used and the amount specified in the ordinance.

Distinct vote  
for each class.

SEC. 3. The city council or other legislative body of such consolidated or existing city or town shall, in the ordinance providing for such election, or in a separate ordinance or ordinances, provide for altering or dividing any existing election precinct or precincts therein, if necessary, so that no precinct embracing any part of the territory lying within the former corporate limits of such former city or town, the indebtedness whereof is sought to be so ratified, shall embrace any territory not lying within such former corporate limits of such former city or town; and shall likewise provide for the segregation by the city clerk of the names of voters registered for the current year in the existing registration lists in such consolidated or existing city or town, and for the making, by copying from such existing registration lists, of new poll-books of registration, so far as may be necessary, and for the making of further registration according to law in such new poll-books, so as to enable the city clerk to prepare, certify and deliver to the judges of said election in any such altered or divided precinct, according to law, a true and correct copy of such new poll-book, containing the names of the voters, and no others, entitled to vote at such election in such altered or divided precinct; and appoint inspectors and judges of such election for the several precincts in which the same is to be held; and prescribe the form of the ballot to be used at such election, and the mode of the voter's indicating thereon his vote for or against each proposition submitted. Said provisions shall be made in conformity with the existing registration

Alteration of  
precincts.

Poll-books.

Ballot.

and election laws of the state as nearly as may be, but the provisions hereof shall prevail over existing laws so far as may be necessary to effectuate the purposes of this act; and such election shall be held and conducted, and the result thereof canvassed and declared, in accordance with the general laws of the state as modified by this act, and in accordance with said provisions to be made in pursuance hereof.

SEC. 4. If at an election held as provided for in this act, three-fifths of the voters residing within the former corporate limits of such former city or town, the indebtedness whereof is so sought to be ratified, and voting at such election, shall vote in favor of the ratification of any distinct class or classes of such indebtedness, and if at the same or a separate election a proposition to fund said separately specified classes of such indebtedness so sought to be ratified, or any of said classes thereof shall be submitted in pursuance of any law of this state, to all the voters in such consolidated or existing city or town, and if three-fifths of the voters in such consolidated or existing city or town voting at such election shall vote in favor of the funding of such indebtedness, or any distinct class or classes thereof, in favor of the ratification of which the voters residing within the former corporate limits of the former city or town shall cast or shall have cast the necessary vote as herein provided, then said indebtedness, or said distinct class or classes thereof, in favor of which such votes shall have been cast as aforesaid, shall thereby become and is hereby declared to be validated, and a binding obligation of such former city or town, in force from the time of the attempted incurring thereof so ratified, bearing such interest, if any, and from such time, as it would have borne if legally incurred in the first instance, and assumed by the consolidated or existing city or town as such indebtedness of the former city or town: *Provided*, That no property within any part of such consolidated or existing city or town, not embraced within the former corporate limits of the former city or town, the indebtedness whereof is so ratified, shall ever be taxed to pay any portion of any indebtedness of such former city or town so ratified, or any interest thereon: *And provided further*, That neither any

Required  
number of  
voters.

Constitutional  
limit.

thing in this act contained, nor the vote or votes cast at any such election or elections as aforesaid, shall be deemed to validate or authorize any indebtedness which, together with all other indebtedness of such former city or town existing at the time of the attempted incurring of the same, exceeded any constitutional or statutory limitation of indebtedness which might be incurred with the assent of three-fifths of the voters in such former city or town, voting at an election to be held for that purpose: *And provided further*, That this act shall apply only to indebtedness attempted to be incurred prior to the passage of this act.

Emergency.

SEC. 5. An emergency exists for the immediate operation of this act; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 3, 1893.

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## CHAPTER XXXVII.

[H. B. No. 278.]

### RELIEF OF INDIGENT UNION AND MEXICAN WAR SOLDIERS, SAILORS AND MARINES.

AN ACT to amend sections one and seven of an act entitled "An act to provide for the relief of indigent Union and Mexican War soldiers, sailors and marines, and the families of those deceased or indigent, and to defray funeral expenses."

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

SECTION 1. That section one of an act entitled "An act to provide for the relief of indigent union and Mexican war soldiers, sailors and marines, and the families of those deceased or indigent, and to defray funeral expenses," approved February 2, 1888, is hereby amended to read as follows: Section 1. For the relief of indigent and suffering union soldiers, sailors and marines who served in the war of the rebellion, in the war of Mexico or in any of the Indian wars in the United States, and their families, or the families of those deceased who need assistance in any city,

town or precinct in this state, the board of commissioners of the county in which such city, town or precinct is situated, may provide such sum or sums of money as may be necessary, to be drawn upon by the commander and quartermaster of any post of the Grand Army of the Republic in said city or town upon the recommendation of the relief committee of said post, in the same manner as is now provided by law for the relief of the poor: *Provided*, Said soldier, sailor or marine or the families of those deceased are and have been residents of the state for at least twelve months, and the orders of said commander and quartermaster shall be the proper vouchers for the expenditure of said sum or sums of money.

SEC. 2. That section seven of said act is hereby amended to read as follows: Sec. 7. The boards of county commissioners of the several counties in this state shall levy, in addition to the taxes now levied by law, a tax not less than one-fortieth of one mill, and not greater than one-fifth of one mill, upon the taxable property of their respective counties, to be levied and collected as now prescribed by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of honorably discharged soldiers, sailors and marines who served in the war of the rebellion, in the war of Mexico or in any of the Indian wars in the United States, and the indigent wives, widows and minor children of such indigent or deceased union soldiers, sailors and marines, to be disbursed for such relief by such board of county commissioners. County commissioners. Tax levy.

SEC. 3. There being no law on this subject for the benefit of indigent soldiers of the Indian wars in the United States, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval. Emergency.

SEC. 4. All laws and parts of laws in conflict with this act are hereby repealed.

Approved March 3, 1893.

## CHAPTER XXXVIII.

[H. B. No. 333.]

## LEGAL PUBLICATION.

AN ACT relating to legal publication.

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

SECTION 1. In any suit or proceeding, in any court of this state, requiring a legal publication, said publication shall be made in any newspaper, of general circulation in the county, designated by the party or his attorney, at whose instance the said publication is made. A tender of a receipt from the publisher of the said newspaper, as full payment for said publication shall be accepted by the sheriff, or court, as payment in lieu of the cash payment of fees for same.

Approved March 3, 1893.

## CHAPTER XXXIX.

[H. B. No. 237.]

## RELATIVE TO ELECTION OF COUNTY COMMISSIONERS.

AN ACT concerning the manner of electing county commissioners and amending sections 272, and 266 of the first volume of Hill's Annotated Statutes and Codes of Washington.

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

SECTION 1. Section 272 of the first volume of Hill's Annotated Statutes and Codes of Washington is hereby amended so as to read as follows: Sec. 272. One county commissioner shall be elected from among the qualified electors of each of said districts by the qualified electors of each district, and, the person receiving the highest number of votes for the office of commissioner from the qualified electors of the district in which he resides, shall be declared duly elected from such district.

SEC. 2. Section 266 of the first volume of Hill's Annotated Statutes and Codes of Washington is hereby amended so as to read as follows: Sec. 266. The board of county commissioners of each county in this state, heretofore divided and numbered as provided by law into three districts in such manner so as to leave one or more fractional voting precincts in any of said districts, shall, at their first session after this act goes into effect, or within three months thereafter, re-district all of such commissioners' districts in the manner provided herein. Such districts shall comprise as nearly as possible one-third of the population of the county: *Provided, however,* That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts. The lines of the districts provided for by this section shall not be changed oftener than once in four years and only when a full board of commissioners is present. Counties hereafter organized shall be divided into districts in the manner provided herein, and shall be designated and known as districts numbered one, two and three.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 3, 1893.

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## CHAPTER XL.

[H. B. No. 95.]

### REQUIRING ALL CANS, CASES OR PACKAGES OF FISH TO BE PLAINLY MARKED.

AN ACT making it a misdemeanor to sell or offer for sale within the State of Washington cans, cases or packages of fish that are not plainly branded or marked on their exterior.

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

SECTION 1. It shall be deemed a misdemeanor to sell, or offer for sale within the State of Washington, any cases or packages of fish packed in other states that are not

plainly marked or branded on their exterior, explanatory of the exact nature or finished condition of the preparation contained, thereby preventing misrepresentation and sale of inferior or imitative brands of fish for the genuine article packed or prepared within said state.

Penalty.

SEC. 2. Each violation of this act shall be punishable by a fine not to exceed ninety-nine dollars, nor less than twenty-five dollars.

Approved March 3, 1893.

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## CHAPTER XLI.

[S. B. No. 218.]

### DEFICIENCY APPROPRIATION FOR STATE PRINTING.

AN ACT making appropriation for the state printing and binding for the balance of the fiscal term ending March 31, 1893.

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

SECTION 1. That there be and is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of fifty-two thousand five hundred dollars (\$52,500) or so much thereof as may be necessary to pay the deficiency for the balance of the fiscal term ending March 31, 1893, for the public printing and binding and for materials used for public printing and binding as provided by an act entitled "An act to provide for the state printing and binding, fixing the compensation of the state printer, prescribing his duties and to provide for the purchase of printing and binding materials, and declaring an emergency," approved February 19, 1890.

SEC. 2. The state auditor is hereby authorized and instructed to issue his warrant or warrants upon the state treasurer for the purpose specified in section one of this act, or so much thereof as may be necessary to liquidate all amounts duly approved by the secretary of state and duly presented to said auditor.

SEC. 3. This act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1893.

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## CHAPTER XLII.

[S. B. No. 95.]

### RELATING TO LIENS OF JUDGMENTS ON REAL ESTATE.

AN ACT relating to the lien of judgments upon real estate, and repealing sections 449, 450, 455, 456, 457 and 460 of title 7, chapter 15 of volume 2 of the General Statutes and Codes of the State of Washington, as arranged and annotated by William Lair Hill.

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

SECTION 1. The real estate of any judgment debtor and such as he may acquire, shall be held and bound to satisfy any judgment of the district or circuit court of the United States, if rendered in this state, or of the superior or supreme court, or any judgment of a justice of the peace for the period of five (5) years from the day on which said judgment was rendered, and such judgments shall be a lien thereupon to commence as follows: Judgments of the superior court of the county in which real estate of the judgment debtor is situated, from the date of the entry thereof; judgments of the district or circuit courts of the United States, if rendered in this state; judgments of the supreme court; judgments of the superior court of any county other than the county in which said judgment was rendered, and judgments of a justice of the peace, from the time of the filing and indexing of a duly certified transcript or abstract of such judgments, as provided by this act, with the county clerk of the county in which said real estate is situated.

Lien commences, when.

SEC. 2. Any judgment of any justice of the peace of any county in this state, shall become a lien upon any real estate of the judgment debtor, and such as he may acquire in that county wherein said judgment was rendered by the

filing of a duly certified transcript from the docket of said justice in the county clerk's office of said county wherein said judgment was rendered, and upon such filing said judgment shall become to all intents and purposes a judgment of said superior court of said county, said judgment of said justice of the peace shall become a lien upon the real estate of the judgment debtor and such as he may acquire in any county other than that in which the same was rendered by the filing in the office of the county clerk of that county a duly certified abstract of the record of said judgment, from the office of the county clerk of that county in which the certified transcript of the said judgment of said justice of the peace was originally filed.

Abstract of judgment.

SEC. 3. An abstract of a judgment as provided for in this act shall contain: (1) The name of the party or parties in whose favor the judgment was rendered. (2) The name of the party or parties against whom the judgment was rendered. (3) The date of the rendition of the judgment. (4) The amount for which the judgment was rendered, and in the following manner, viz.: Principal, \$.....; interest, \$.....; costs, \$.....; total, \$.....

Same.

SEC. 4. A transcript of a judgment of a justice of the peace provided for by this act shall contain an exact copy of the judgment from the justice's docket.

Record of abstracts.

SEC. 5. It shall be the duty of the county clerk to enter in his execution docket any duly certified abstract or transcript of any judgment of any of the courts mentioned in this act, and he shall index the same in the same manner as judgments originally rendered in the superior court of the county of which he is clerk.

SEC. 6. It shall be the duty of the county clerk to keep a proper record index, both direct and inverse, of any and all judgments, abstracts or transcripts of judgments in his office, and all renewals thereof, and such index shall refer to each party against whom the judgment is rendered or whose property is affected thereby, [which index] together with the records of said judgments, shall be open to public inspection during regular office hours.

SEC. 7. When any judgment shall be paid and satisfied, the satisfaction shall be noted upon the records thereof in

the execution docket as satisfied, giving the date of such satisfaction, and when the same shall be signed by the judgment creditor or his attorney the lien thereof against said real estate shall be satisfied and discharged.

SEC. 8. All judgments which are liens upon real estate by reason of their having been filed in any county auditor's office, shall continue to be liens thereupon in the manner now provided by law.

SEC. 9. That sections 449, 450, 455, 456, 457 and 460 of title 7, chapter 15 of volume 2 of the General Statutes and Codes of Washington as arranged and annotated by William Lair Hill, and all acts and parts of acts in conflict with this act be and the same are hereby repealed.

Approved March 3, 1893.

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## CHAPTER XLIII.

[S. B. No. 165.]

### AUTHORIZING JUDGES OF SUPERIOR COURTS TO HOLD SESSIONS OF COURT IN OTHER COUNTIES.

AN ACT to provide for the holding of sessions of the superior court in any county in this state by a judge of the superior court of any other county, or counties, therein, and declaring an emergency.

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

SECTION 1. Whenever a judge of the superior court of any county in this state, or a majority of such judges in any county in which there is more than one judge of said court, shall request the governor of the state to direct a judge of the superior court of any other county to hold a session of the superior court of any such county as is first herein above mentioned, the governor shall thereupon request and direct a judge of the superior court of some other county, making such selection as the governor shall deem to be most consistent with the state of judicial business in other counties, to hold a session of the superior court in the county the judge shall have requested the governor as

aforesaid. Such request and direction by the governor shall be made in writing, and shall specify the county in which he directs the superior judge to whom the same is addressed to hold such session of the superior court, and the period during which he is to hold such session. Thereupon it shall be the duty of the superior judge so requested, and he is hereby empowered to hold a session of the superior court of the county specified by the governor, at the seat of judicial business thereof, during the period specified by the governor, and in such quarters as the county commissioners of said county may provide for the holding of such session.

SEC. 2. Whenever a like request shall be addressed by the judge, or by a majority of the judges (if there be more than one) of the superior court of any county to the superior judge of any other county, he is hereby empowered, if he deem it consistent with the state of judicial business in the county or counties whereof he is a superior judge (and in such case it shall be his duty to comply with such request), to hold a session of the superior court of the county the judge or judges whereof shall have made such request, at the seat of judicial business of such county, in such quarters as shall be provided for such session by the board of county commissioners, and during such period as shall have been specified in the request, or such shorter period as he may deem necessary by the state of judicial business in the county or counties whereof he is a superior judge.

Session,  
when held.

SEC. 3. In any county where there shall be more than one superior judge, or in which a superior judge of another county may be holding a session of the superior court, as in this act provided, there may be as many sessions of the superior court at the same time as there are judges thereof, or assigned to duty therein by the governor, or responding to a request made as provided in section 2 of this act. In such cases the business of the court shall be so distributed and assigned by law, or in the absence of legislation therefor, by such rules and orders of the court as shall best promote and secure the convenient and expeditious transaction thereof. Judgments, decrees, orders and proceedings of any

Number of  
sessions at  
same time.

session of the superior court held by one or more of the judges of said court, or by any judge of the superior court of another county pursuant to the provisions of this act, shall be equally effectual as if all the judges of such court presided at such session.

SEC. 4. Any judge of the superior court of any county in this state who shall hold a session of the superior court of any other county, in pursuance of the provisions of this act, shall be entitled to receive from the county in which he shall hold such sessions the amount of his actual traveling expenses from his residence to the place where he shall hold such sessions, and on his return to his residence, and of the actual traveling expenses of his sojourn at the place where he shall hold such sessions during the continuance thereof. <sup>Traveling expenses.</sup> The county clerk of such county shall, upon the presentation to him by such judge of a statement of such expenses, verified by his affidavit, issue to such judge a certificate that he is entitled to the amount thereof; and upon presentation of such certificate to the auditor of such county he shall draw a warrant on the general fund of such county for the amount in favor of such judge.

SEC. 5. On account of the great press of business in some of the superior courts of this state, an emergency exists for the immediate operation of this act, therefore it shall take <sup>Emergency.</sup> effect and be in force from and after its passage and approval by the governor.

Approved March 3, 1893.

## CHAPTER XLIV.

[S. B. No. 271.]

## APPROPRIATION FOR WORLD'S FAIR COMMISSION.

AN ACT supplementary to an act entitled "An act to provide for the collection, exhibition and maintenance of the products of the State of Washington at the World's Columbian Exposition in 1893," approved March 7th, 1891. Making an appropriation therefor and declaring an emergency.

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

SECTION 1. That for the purpose of exhibiting and maintaining the resources and products of the State of Washington at the city of Chicago, at the World's Columbian Exposition, in 1893, or subsequent years, the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated; and that no expenses shall be incurred or contracted for by the commission charged with the execution of this work in excess of the amount appropriated.

Executive  
committee.

SEC. 2. That the executive committee of the Washington World's Fair Commission, consisting of nine (9) members, as chosen under the act aforesaid, approved March 7th, 1891, is hereby constituted a commission for the purpose of carrying out the objects of this act, and the act to which it is supplementary.

SEC. 3. That to carry out the purposes of this act and the act to which it is supplementary, the commission is hereby authorized and empowered to employ such persons, who may be selected from said commission as in their discretion may become necessary to properly display the State of Washington exhibit.

SEC. 4. That the executive commissioner, and the president of the board of commissioners, are hereby authorized to be and remain in the city of Chicago during the full term of the said exposition, and for such other time as may be necessary for display and disposition of the buildings  
Compensation. and products of the state on exhibition, and that their pay for all services and expenses shall not exceed the sum of

two hundred dollars (\$200) per month each. That if from any cause the president of the commission, or the executive commissioner, shall be unable to perform the duties required under section 4 of this act, the commissioners may designate one of its [their] members to act in his stead during the period of such disability.

SEC. 5. When the World's Columbian Exposition at Chicago shall have closed, the commission hereby constituted shall, by and with the consent of the governor, have the right to sell and dispose of the buildings and all material used therein, in such manner as in their judgment will be most advantageous to the state. The said commission by and with the consent of the governor, shall have full power and authority to dispose of the exhibits owned and controlled by the state, but the exhibits shall, so far as they can be disposed of, be placed in permanent museums, or other exhibition halls, where they may continue to advertise the resources and developments of the State of Washington, and the remaining exhibits shall be sold under the direction of the commission by and with the consent of the governor. All sums of money received from the sale of the buildings at Chicago, or the materials used therein, or from the sale of articles on exhibition, shall be covered into the state treasury, and when so placed in the hands of the state treasurer, he shall issue to the commission a receipt therefor, which shall release the said commission from further liability thereunder.

Disposition of buildings, materials, etc.

Disposition of receipts.

SEC. 6. That in addition to the sum of fifty thousand dollars above appropriated, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, in aid of the woman's department of the World's Columbian Exposition, to be expended under the direction of the lady managers of the World's Columbian Exposition for the State of Washington and their alternates.

Woman's department.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 8. Whereas, the World's Columbian Exposition opens May 1st, 1893, an emergency exists, this act shall

Emergency.

take effect and be in force from and after its passage and approval by the governor.

Approved March 6, 1893.

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## CHAPTER XLV.

[S. B. No. 88.]

### REGULATING THE REGISTRATION OF VOTERS.

AN ACT to amend sections 6, 7, 8, 11 and 16 of an act entitled "An act to provide for and to regulate the registration of voters in cities and towns and in precincts having a voting population of two hundred and fifty (250) or more," approved March 27, 1890, and repealing section 10 thereof, and declaring an emergency.

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

SECTION 1. Section six of an act entitled "An act to provide for and to regulate the registration of voters in cities and towns and in precincts having a voting population of two hundred and fifty (250) or more," approved March 27, 1890, is hereby amended so as to read as follows: Sec. 6. The poll books in this act provided for shall be open at all times during the year for the registration of voters except that they shall be closed in all general and county elections for the purpose of organization (20) twenty days preceding any election to be held in such city, town or precinct. The city or town clerk or officers of registration shall give notice of the closing of such books, by a notice published at least ten days, in a newspaper of general circulation in such city, town or precinct, and by posting either written or printed notices in three of the most public places in any such city, town or precinct at least ten days preceding the day of such closing, and such notice by publication shall have at least two insertions in such newspaper; in all special city, town or precinct elections such notices shall be given by the posting aforesaid only at least five days before such closing, and the poll

Poll books.

Publication  
of notice.

books shall be closed ten days preceding all such special or local elections.

SEC. 2. Section 7 of said act, of which this act is amendatory, is hereby amended so as to read as follows: Sec. 7. The poll books aforesaid shall be so arranged as to admit the alphabetical classification of the names of the voters, and ruled in parallel columns with appropriate heads as follows: Date of registration; name; age; occupation; place of residence; place of birth; time of residence in the state, county, ward and precinct, and if of foreign birth, name and place of court and date of declaration of intention to become a citizen of the United States, or date of naturalization, and with column for signature and one for remarks, and one column for checking the name of voter at the time of voting. If the voter registering is of foreign birth he shall at the time of registering exhibit to the registration officer a certificate of his declaration of intention, or naturalization, or if such certificate be lost, then a certified copy of the same. Under head of place of residence shall be noted the number of lot and block or number and street where the applicant resides, or some other definite description sufficient to locate the residence, and the voter so registering as provided in this section shall sign his name on the registry opposite the entries above required, in the column headed "signature," and and in case any voter shall not be capable of writing his name he shall, on the left hand margin of said column, make his mark by cross or such other mark as is usual in indicating his signature, and some person who personally knows said voter, and is personally known to the registering officer, and who is capable of writing his name, shall sign in said column immediately opposite said mark, as an identifying witness thereto.

Poll book,  
how arranged.

SEC. 3. Section 8 of said act is hereby amended to read as follows: Sec. 8. No person shall be registered unless he appears in person before the city or town clerk or officer of registration at his office during usual office hours, and apply to be registered and give his name, age, occupation, particular place of residence, place of birth, time of residence in the state, county, ward or precinct, and if naturalized, name

Registration.

of court, place where held, and date of naturalization papers, and make and subscribe to the following oath or affirmation:

STATE OF WASHINGTON, }  
COUNTY OF ..... } ss.

Affidavit.

I, ....., do solemnly swear, or affirm, that I am a male person over twenty years, eleven months and ten days of age; that I am a native born, or naturalized citizen of the United States, or was a legal elector of the Territory of Washington at the time of the adoption of the constitution of the State of Washington; that I have been an actual permanent resident of the State of Washington for eleven months and ten days last past, of the county of ..... for seventy days last past, and of the ..... precinct ten days last past, and that I have not lost my civil rights by reason of being convicted of an infamous crime.

Subscribed and sworn to before me this ..... day of .....

Said affidavit shall be bound in book form and preserved with the other records of the city, town or precinct.

Clerk to administer oath.

SEC. 4. Section 11 of said act is hereby amended so as to read as follows: Sec. 11. The city or town clerk, or officer of registration, is hereby empowered to administer all necessary oaths in examining an applicant for registration, or any witness he may offer in his behalf, in order to ascertain his right to be registered under the provisions of this act; and the said clerk, or registration officer, shall closely examine any applicant for registration whose right to registration he may doubt, or who may be challenged, and shall explain to him the necessary qualifications of a voter, and if the applicant for registration be entitled to vote at the next election he shall be registered, otherwise he shall not.

Penalty.

SEC. 5. Section 16 of said act is hereby amended so as to read as follows: Sec. 16. If any person shall falsely swear, or affirm, in taking the oath or making the affirmation prescribed in section 8 hereof, or shall falsely personate another, and procure the person so personated to be registered, or if any person shall represent his name to the city

or town clerk, or officer of registration, to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the registry list otherwise than in the manner provided in this act, he shall be deemed guilty of a felony, and upon conviction be punished by confinement and hard labor in the penitentiary not more than five years nor less than one year.

SEC. 6. Section 10 of the act of which this act is amendatory is hereby repealed.

Whereas, by provision of the act of which this is amendatory applicants for registration may procure themselves to be registered without having the qualifications of an elector, therefore an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval by the governor. Emergency.

Approved March 7, 1893.

## CHAPTER XLVI.

[S. B. No. 129.]

### RELATING TO WORK ON MINING CLAIMS.

AN ACT to amend section 2213 of title 25, chapter 2 of volume 1 of the General Statutes and Codes of the State of Washington as arranged and annotated by Wm. Lair Hill.

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

SECTION 1. That section 2213 of title 25, chapter 2 of volume 1 of said General Statutes and Codes of Washington be amended as follows: SEC. 2 [2213]. In order to hold the possessory right to a location of a mine not less than one hundred dollars' worth of work must be performed or improvements made thereon annually: *Provided*, That the period within which the work required to be done annually on all unpatented claims so located shall commence on the first day of January succeeding the date of location of such claim.

Approved March 7, 1893.

## CHAPTER XLVII.

[S. B. No. 161.]

## REPEALING SECTION OF CODE REQUIRING BIENNIAL CENSUS.

AN ACT to repeal section 237 of chapter 6, title 5, volume 1 of the General Statutes and Codes of Washington as arranged and annotated by William Lair Hill, relating to the taking of the census biennially by the county assessors, and declaring an emergency.

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

SECTION 1. That section 237 of chapter 6, title 5, volume 1 of the General Statutes and Codes of Washington as arranged and annotated by William Lair Hill, relating to the taking of a census biennially by the county assessor, be and the same is hereby repealed.

SEC. 2. An emergency is hereby declared to exist, therefore this act shall be in force from and after its passage and approval by the governor.

Approved March 7, 1893.

## CHAPTER XLVIII.

[H. B. No. 71.]

## PRESCRIBING MANNER OF PAYMENT OF WARRANTS.

AN ACT in relation to county, school, city and town warrants, and the manner of their payment.

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

SECTION 1. That all county, school, city and town warrants shall be paid according to their number, date and issue, and shall draw interest from and after their presentation to the proper treasurer: *Provided*, That no compound interest shall be paid directly or indirectly on any of said warrants.

SEC. 2. No county auditor or clerk of the board of county commissioners shall issue any county warrant within less

than ten days from and after the date of the allowance of such warrant.

SEC. 3. All laws and parts of laws in conflict with any of the provisions of this act are hereby repealed.

Approved March 7, 1893.

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## CHAPTER XLIX.

[H. B. No. 72.]

### RELATING TO ERECTION OF WHARVES AT TERMINI OF PUBLIC HIGHWAYS.

AN ACT to amend section 3272 of the Code of Washington of 1881, the same being section 2137 of volume 1 of Hill's Annotated Statutes and Codes of Washington, relating to the erection of wharves at the termini of public highways.

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

SECTION 1. That section 3272 of the Code of Washington of 1881, the same being section 2137 of volume 1 of Hill's Annotated Statutes and Codes of Washington, be and the same hereby is amended so as to read as follows: Section 2137. (1) Whenever any person shall be desirous of erecting any wharf at the terminus of any public highway, or at any accustomed landing place, he may apply to the county commissioners of the proper county, who, if they shall be satisfied that the public convenience requires said wharf, may authorize the same to be erected and kept up for any length of time not exceeding twenty (20) years. And they shall annually prescribe the rates of wharfage and charges thereon, but there shall be no charge for the landing of passengers or their baggage. (2) No such authority shall be granted to any person other than the owner of the land where the wharf is proposed to be erected, unless such owner shall neglect to apply for such authority; and whenever application shall be made for such authority by any person other than such owner, the board of county commissioners shall not grant the same unless proof shall

Notice of  
intention.

be made that the applicant caused notice in writing of his intention to make such application, to be given by posting up at least three notices in public places in the neighborhood where the proposed wharf is to be erected and one notice at the county court house, twenty days prior to any regular session of the board of county commissioners at which application shall be made and by serving a copy of said notice in writing upon such owner of the land, if residing in the county, at least ten days before the session of the board of county commissioners at which the application is made. (3) When such application is heard, if the owner of such land applies for such authority and files his undertaking with one or more sureties to be approved by the county commissioners in a sum not less than one hundred dollars nor more than five hundred dollars, to be fixed by the county commissioners, conditioned that such person will erect said wharf within the time therein limited, to be fixed by the county commissioners, and maintain the same and keep said wharf according to law; and if default shall at any time be made in the condition of such undertaking damages not exceeding the penalty may be recovered by any person aggrieved before any court having competent jurisdiction, then said county commissioners shall authorize such owner of the land to erect and keep such wharf. (4) If such owner of the land does not apply as aforesaid the commissioners may authorize the same to be erected and kept by such applicant upon his entering into an undertaking as required of such owner of the land.

Amount  
of bond.

Approved March 7, 1893.

## CHAPTER L.

[H. B. No. 159.]

## FOR THE PROTECTION OF PUBLIC HEALTH.

AN ACT for the protection of the public health and to provide for certain boards of health and to regulate their duties, and declaring an emergency.

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

SECTION 1. The town board or common council of every town or city in this state shall hereafter, within thirty days after the adjournment of this legislature and each year thereafter, organize as a board of health, or shall appoint wholly or partially from its own members a suitable number of competent persons who shall organize as a board of health for such town or city. Such organization shall include the election of a chairman and a clerk, and every board of health organized as provided in this act shall immediately after its organization appoint a health officer for the town or city, who shall be *ex officio* a member of the board of health, and its executive officer, and the board of health as thus constituted shall, until their successors in office are duly organized, perform all the duties and have all powers that are given to the boards of health by the general statutes of the state. Every health officer appointed under the provisions of this act shall be, whenever the same is practicable, a reputable physician, and shall hold his office during the pleasure of the board, and until his successor shall have been duly appointed and qualified, and in case of the occurrence of a vacancy in his office the board of health shall immediately fill the same by a new appointment: *Provided*, That the foregoing provisions shall not apply to any town, city or village in which a health board is organized and a health officer appointed under the provisions of a special charter, but every local board of health, whether organized under the provisions of this act or otherwise, shall immediately after each annual or other organization report to the state board of health the names, postoffice addresses and occupations of the chairman, clerk

and health officer thereof, and shall make a similar report whenever, for any reason, a new health officer is appointed.

Duties of  
health officers.

SEC. 2. It shall be the duty of every health officer appointed under the provisions of this act, or by the provisions of special charters, upon the appearance of smallpox, diphtheria, scarlet fever, Asiatic cholera or other dangerous contagious disease in the town or city under his supervision, immediately to investigate all the circumstances attendant upon the appearance of such disease and to make full report thereof to the board of which he is an executive officer, and also to the state board of health; and it shall be the duty of such health officer at all times promptly to take such measures for the prevention, suppression and control of the diseases herein named, as may in his judgment be needful and proper, subject to the approval of the board of which he is a member, and it shall be the duty of every health officer to keep and transmit to his successor in office a record of all his official acts; and the salary or other compensation to be paid to every health officer appointed under the provisions of this act shall be established by the board of health by whom such officer shall be appointed. The term "dangerous contagious disease" as used in this act shall be construed and understood to mean such diseases as the state board of health shall designate as contagious and dangerous to the public health; and health officers shall make report to the state board of health concerning the progress of such diseases and concerning the measures used for their prevention and control with such frequency as to keep the board fully informed with regard thereto, or at such intervals as the said board may direct.

Physicians  
to report.

SEC. 3. Whenever any physician residing and practicing in the state shall know that any person whom he shall be called upon to visit is sick with smallpox, scarlet fever, diphtheria, Asiatic cholera or other dangerous contagious diseases he shall immediately give notice thereof to the board of health of the town, village or city in which such sick person shall be at the time, and any physician who shall refuse or neglect to give such notice for a period of forty-eight hours shall, on conviction thereof, be liable to

a penalty of not less than five nor more than twenty-five Penalty. dollars for each day of such refusal or neglect after the expiration of said forty-eight hours: *Provided*, That the notices herein required may be sent by mail, or except in the case of cities may be given to or left at the residence of any member of the board of health, and notices so mailed or given within the time specified shall be deemed a compliance with the provisions of this section.

SEC. 4. All expenses incurred in carrying out the provisions of this act, or any of them, shall be paid by the town, village or city by which, or on behalf of which, such expenses shall have been incurred. Expenses, how paid.

SEC. 5. Upon complaint made in writing, under oath, by any citizen of the state, before any magistrate or justice of the peace charging the commission of an offense against any of the provisions of this act in his county, it shall be the duty of the county or district attorney to prosecute the offender, and all sums recovered under the provisions of this act shall be for the benefit of the school fund.

SEC. 6. It shall be the duty of every health officer appointed under the provisions of this act and of each member of every board of health of any city or town, to report to the state board of health any information he may receive of any case of smallpox, cholera, yellow fever or typhus fever within three days after receiving any notification or information of the existence of such disease; and any health officer or member of any board of health of any city or town who shall fail or neglect to comply with the provisions of this section shall be liable to a penalty of not less than ten dollars nor more than one hundred dollars for each day of such neglect or refusal to comply with the provisions of this section.

SEC. 7. Whereas, there is no law in existence adequately Emergency. providing for boards of health in towns and cities, an emergency is therefore declared to exist, and this bill shall take effect from and after its passage and approval by the governor.

Approved March 7, 1893.

## CHAPTER LI.

[H. B. No. 236.]

## IN RELATION TO CIGARETTES.

AN ACT making it unlawful for any person or persons to buy, sell, or give away, or manufacture, cigarettes or cigarette paper, and providing the punishment for the violation thereof.

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

SECTION 1. That it shall be unlawful for any person or persons whomsoever, to manufacture, buy, sell, give or furnish to any one cigarettes, cigarette paper or cigarette wrapper.

SEC. 2. That whoever manufactures, buys, sells, gives or furnishes to any person or persons cigarettes, cigarette paper or cigarette wrapper, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars, or be imprisoned in

Penalty.

jail not exceeding six months or both for each offense.

SEC. 3. This act shall be liberally construed to the end that its object shall be enforced.

SEC. 4. All laws, or parts of laws in conflict with the provisions of this act are hereby repealed.

Approved March 7, 1893.

## CHAPTER LII.

[H. B. No. 252.]

## PROSECUTING ATTORNEYS.

AN ACT to amend section 14 of an act entitled "An act in relation to prosecuting attorneys, defining their duties and fixing their compensation," approved February 4, 1886, the same being section 231 of volume 1 of Hill's Annotated Statutes and Codes of Washington.

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

SECTION 1. That section 14 of an act entitled "An act in relation to prosecuting attorneys, defining their duties

and fixing their compensation," approved February 4, 1886, the same being section 231 of volume 1 of Hill's Annotated Statutes and Codes of Washington, be and the same hereby is amended so as to read as follows: Section 14 (231). When any prosecuting attorney fails, from sickness or other cause, to attend a session of the superior court of the county for which he was elected or is unable to perform his duties at such session, the court or judge may appoint some qualified person to discharge the duties of such session, and the person so appointed shall receive a compensation to be fixed by the court, to be deducted out of the stated salary of such prosecuting attorney, not exceeding, however, one-fourth of the quarterly salary of such prosecuting attorney: *Provided*, That in counties wherein there is no person qualified for the position of prosecuting attorney, or wherein no qualified person will consent to perform the duties of that office, the judge of the superior court of that county shall appoint some suitable person, a duly admitted and practicing attorney at law and resident of the State of Washington, to perform the duties of prosecuting attorney for such county, and he shall receive such reasonable compensation for his services as shall be fixed and ordered by the court, the same to be paid by the county for which such services are performed.

Approved March 7, 1893.

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## CHAPTER LIII.

[H. B. No. 285.]

### MEASUREMENT OF LOGS.

AN ACT to amend section 2650 of the Code of Washington of 1881, relating to the scalement and measurement of logs, and declaring an emergency.

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

SECTION 1. That section 2650 of the Code of Washington of 1881, as amended by an act of the legislative assem-

bly of the Territory of Washington, approved November 26, 1883, entitled "An act to amend chapter 207 of the code of said territory relative to the inspection and measurement of logs, and the formation of lumber districts," the same being section 2356 of volume 1 of Hill's Annotated Statutes and Code[s] of the State of Washington, be amended to read as follows: Sec. 2650. When any logs cut, boomed or rafted, in any of the lumber districts herein designated, shall have been scaled or measured as herein provided, the scale bill of such measurement made and certified as herein provided, shall be delivered to the owner of the logs scaled or measured, and it shall constitute the basis by which the quantity of such logs shall be determined, and unless the purchaser shall dispute the correctness of such scale bill so certified as provided by section 2647 of the code of 1881, and cause such boom or raft to be again scaled and the quantity agreed upon before such boom or raft has been removed from the place where the logs were boomed or rafted, said purchaser shall be estopped from disputing the quantity contained in said boom or raft, as shown by such scale bill and certificate.

SEC. 2. Whereas, an emergency exists: therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 7, 1893.

## CHAPTER LIV.

[H. B. No. 65.]

## RELATING TO PRIVATE SALES OF REAL PROPERTY BELONGING TO ESTATES.

AN ACT relating to private sales of real property belonging to estates of decedents, minors and insane persons.

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

SECTION 1. That real property belonging to the estates of decedents, minors, idiots and insane persons may be sold at private sale according to the following provisions.

SEC. 2. That when the court is satisfied after a full hearing upon the petition and an examination of the proof and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for any of the causes specified in the laws of the State of Washington, or if such sale be assented to by all the persons interested in a decedent's estate, an order must be made to sell the whole or so much and such parts of the real estate described in the petition as the court shall judge necessary or beneficial at either public or private sale.

SEC. 3. The order of sale must describe the lands to be sold and the terms of sale, which may be for cash or on a credit not exceeding three years, payable in gross or in installments, and in such kind of money, with interest, as the court may direct. The land may be sold in one parcel or in subdivisions, as the executor, administrator or guardian shall judge the most beneficial to the estate, unless the court otherwise specially directs. Every such sale must be ordered to be made at public auction, unless in the opinion of the court it would benefit the estate to sell the whole or some part of such real estate at private sale. The court may, if the same is asked for in the petition, order or direct such real estate or any part thereof to be sold at either public or private sale, as the executor, administrator or guardian shall judge most beneficial for the estate. If the executor, administrator or guardian objects or refuses to make a sale under the order and as directed therein, he may be com-

Order of sale.

Sale at public auction.

pelled to sell by order of the court made on motion after due notice by any party interested.

Notice of sale.

SEC. 4. When a sale of real estate is ordered to be made at private sale, notice of the same must be posted up in three of the most public places in the county in which the land is situated, and published in a newspaper if there is one printed in the same county; if none then in such paper as the court or a judge thereof may direct, for two weeks successively next before the day on which the sale is to be made, in which the lands and tenements to be sold must be described with common certainty. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to must be at least fifteen days from the first publication of notice and the sale must not be made before that day, but must be made within six months thereafter. The bids or offers must be in writing, and may be left at the place designated in the notice, or delivered to the executor or administrator personally, or may be filed in the office of the clerk of the court to which the return of sale must be made at any time after the first publication of the notice and before the making of the sale. If it be shown that it will be for the best interests of the estate the court or judge may, by an order, shorten the time of notice, which shall not, however, be less than one week, and may provide that the sale may be made on or after a day less than fifteen, but not less than eight days from the first publication of the notice of sale, and the sale may be made to correspond with such order.

Time of notice shortened.

Confirmation of private sale.

SEC. 5. No sale of real estate at private sale shall be confirmed by the court unless the sum offered is at least ninety per cent. of the appraised value thereof, nor unless such real property has been appraised within one year of the time of such sale. If it has not been so appraised, or if the court is satisfied that the appraisement is too high or low, appraisers may be appointed, and they must make an appraisement thereof in the same manner as in case of an original appraisement of an estate; this may be done at any time before the sale or the confirmation thereof.

SEC. 6. The executor, administrator, or guardian must,

when the sale is made upon a credit, take the notes of the purchaser for the purchase money with a mortgage on the property to secure their payment.

SEC. 7. The executor, administrator or guardian after <sup>Return.</sup> making such sale of real property must make a return of his proceedings to the court, which must be filed in the office of the clerk within ten days. A hearing upon the return of the proceedings may be asked for by any interested party by petition, and thereupon the court or judge must fix the day for a hearing, of which notice of at least ten days must be given by the clerk, by notices posted in three public places in the county or by publication in a newspaper, or both, as the court or judge shall direct, and must briefly indicate the land sold, the sum for which it was sold, and must refer to the return for further particulars. Upon the hearing the court must examine the return and witnesses in relation to the same, and if the proceedings were unfair or the sum bid disproportionate to the value, and if it appear that a sum exceeding such bid at least ten per cent., exclusive of the expenses of a new sale, may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given and the sale in all respects conducted as if no private sale had taken place. <sup>Court may vacate sale.</sup> If an offer of ten per cent. more in amount than that named in the return be made to the court in writing by a responsible person, it is in the discretion of the court to accept such offer and confirm the sale to such person or to order a new sale.

SEC. 8. When the return of the sale is made and filed, any person interested in the estate may file written objections to the confirmation thereof and may be heard thereon when the return is heard by the court or judge, and may produce witnesses in support of his objections.

SEC. 9. If it appears to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum, as above specified, cannot be obtained, or if the increased bid in section seven of this act be made and accepted by the court, the court must make an order

confirming the sale and directing conveyances to be executed.

SEC. 10. That in all other respects such sale shall be governed by the laws of the State of Washington now in force governing the sale of real property belonging to such estates.

SEC. 11. All acts or parts of acts conflicting in any manner with this act are hereby repealed.

Approved March 8, 1893.

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## CHAPTER LV.

[H. B. No. 86.]

### REGULATING PRACTICE OF DENTISTRY.

AN ACT to regulate the practice of dentistry in the State of Washington, and declaring an emergency.

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

SECTION 1. The members of the board of dental examiners to be appointed on or before the first Monday in February, 1894, for terms commencing the first Monday of March, 1894, shall be appointed and commissioned by the governor for the following terms, to wit: Two members of said board for the term of one year, and three members of said board for the term of two years. All members of said board appointed subsequent to the year 1894 for regular terms shall be appointed for the term of two years and until their successors, respectively, are appointed and qualified. In each odd numbered year, subsequent to the year 1894, two members of said board shall be appointed, and in each even numbered year three members shall be appointed. Appointments for each year shall be made on or before the first Monday in February of such year, and the term of office of each such member so appointed shall begin on the first Monday of March of such year. At least

Terms of  
members of  
board of  
examiners.

two of said members of said board shall be selected from east of the summit of the Cascade mountains, and at least two from west of said summit. All vacancies occurring in said board of examiners may be filled by the governor at any time. <sup>Vacancies, how filled.</sup> The board of dental examiners appointed under the act entitled "An act to regulate the practice of dentistry, and to protect the people against empiricism in relation thereto in the Territory of Washington," approved January 28, 1888, whose terms of office will expire on the first Monday of March, 1894, are hereby recognized and confirmed as the state board of dental examiners for the State of Washington, and said board shall continue to hold their said offices until the expiration of their said terms, and to perform the duties of the same in accordance with the provisions of this act.

SEC. 2. Each member of said board hereafter shall, before entering upon the duties of his office, take and subscribe an oath or affirmation in substantially the following form:

STATE OF WASHINGTON, }  
 COUNTY OF ..... } ss.

I, ....., do solemnly swear or affirm that I will support the constitution and laws of the United States of America and of the State of Washington, and that I will faithfully perform the duties of the office of member of the board of dental examiners of the State of Washington. So help me God. <sup>Oath of office.</sup>

(Signed) .....

SEC. 3. The board shall choose one of its members president and one secretary thereof, and it shall meet at least twice in each year, in May and November, or oftener at the call of the president and secretary. Thirty days' notice must be given of the time and place of the meeting of said board by publication of such notice in at least four newspapers in general circulation published in the State of Washington, no two of such newspapers to be published in any one county. Three members of said board shall constitute a quorum and the proceedings thereof shall at all reasonable times be open to public inspection. <sup>Organization; meetings.</sup> <sup>Notice of meeting.</sup>

SEC. 4. Any person or persons who desire to begin the practice of dentistry in the State of Washington after the passage of this act shall file his or her name, together with an application for examination, with the secretary of the state board of dental examiners, and at the time of making such application shall pay to the secretary of the board a fee of twenty-five dollars, and shall present him or herself at the first regular meeting thereafter of said board to undergo examination before that body. No person shall be eligible for such an examination unless he or she shall be of good moral character, and shall present to said board his or her diploma from some dental college in good standing and shall give satisfactory evidence of his or her rightful possession of the same: *Provided*, That the said board may admit to examination such other persons of good moral character as shall give satisfactory evidence of having been engaged in the practice of dentistry ten years prior to the date of the application for examination. Said board shall have the power to determine the good standing of any college or colleges from which such diplomas may be granted. Said examination shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practice dentistry. It shall include, written in the English language, questions on the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, operative and surgical dentistry, mechanical dentistry, and, also, demonstrations of their skill in operative and mechanical dentistry. All persons successfully passing such examinations shall be registered as licensed dentists in the board register as hereinafter provided, and also receive a certificate, said certificate to be signed by the president and secretary of said board and in substantially the following form, to wit:

Certificate.

This is to certify that ..... is hereby licensed to practice dentistry in the State of Washington. This certificate must be filed for record in the office of the auditor of any county in which the party holding said certificate desires to practice, and it is unlawful for him (or her) to practice

dentistry in any county in which said certificate is not filed for record.

Dated at ..... this ..... day of ....., A. D. 189.....

.....  
*President of said Board of Dental Examiners.*

.....  
*Secretary of said Board.*

SEC. 5. The certificates in this act provided for shall entitle the holder thereof to practice dentistry in any county in the State of Washington: *Provided*, Such certificate shall first be filed for record in the office of the auditor of the county in which such holder desires to practice, and nothing herein contained shall be construed to permit any holder of any certificate to practice in any county in this state unless such certificate shall have been first recorded in the office of the auditor of such county as herein provided: *Provided further*, That any such holder of a certificate may practice in more than one or any number of counties in this state on having such certificate recorded in each of such counties in which such holder desires to so practice. Said board of dental examiners shall, upon satisfactory proof of the loss of any certificate issued under the provisions of this act, issue a new certificate in place thereof. Any person failing to pass the first examination successfully may demand a second examination at a subsequent meeting of said board, and no fee shall be charged to [for] said examination: *Provided*, That the second examination is taken before the expiration of one year.

Certificate to be recorded.

SEC. 6. It shall be the duty of said board to meet at the city of Olympia in said state on the 2d day of May, 1893, and within ten days thereafter to transfer to a register to be provided by them for that purpose, the name, residence and place of business of each and every person who at the time of the passage of this act, pursuant to said act of the legislature of the Territory of Washington, approved January 28, 1888, shall be qualified to practice dentistry in the State of Washington, and who shall then be registered on the books of the board. It shall be the duty of the secretary of the said board to send to each person so registered prior to the passage of this act, without fee, a certificate

Register.

Certificate. similar in form to the other certificate provided for by this act, signed by the president and secretary of said board of examiners, which certificate the holder thereof shall have recorded with the county auditor of the county in which the holder desires to practice, within ninety days from the date of said certificate.

Auditor's record.

SEC. 7. The county auditor of each county is required to record, in a special book to be kept by him for that purpose, all certificates issued under the provisions of this act which may be presented to him for that purpose. After the record of any such certificate, such auditor shall return the same with a certificate of its record to the party entitled to the same. Said auditor shall receive for such filing and record a fee of one dollar.

Penalty.

SEC. 8. Any person who, as principal, agent, employer, employé, assistant, or in any manner whatever shall practice dentistry, or who for reward or hire shall do any act of dentistry without having first filed for record and had recorded in the office of the auditor of the county wherein he shall so practice or do such act, a certificate from said board of dental examiners entitling him to so practice, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than two hundred dollars, or be confined for any period not exceeding six months in the county jail for each and every offense: *Provided*, The foregoing provisions of this section shall not, prior to the 2d day of July, A. D. 1893, apply to any person who shall be a duly licensed and practicing dentist in this state at the time of the passage of this act, and whose name shall be registered as such in the records of said board. After said 2d day of July, A. D. 1893, all the provisions of this section shall apply to all persons whomsoever. All fines recovered under this act shall be paid into the common school fund of the county in which the conviction is had.

SEC. 9. In any prosecution for misdemeanor under the provisions of this act, the certificate of the county auditor of the county within which such misdemeanor is alleged to have been committed, to the effect that there is no certificate of the board of dental examiners of this state on file

in such auditor's office issued under the provisions of this act to the person accused of such misdemeanor, shall be sufficient proof *prima facie* that such person is not entitled to practice dentistry in such county.

SEC. 10. In order to provide the means for carrying out and maintaining the provisions of this act, the said board of examiners shall charge such person applying to or appearing before them for examination for a certificate of qualification the fee hereinbefore provided for, which fee <sup>Fee.</sup> shall be in no case returned; and out of the funds coming into the possession of the board from the fees so charged the sum of five dollars for each day actually engaged in the duties of their office and all legitimate and necessary expenses incurred in attending to the duties of said board shall be paid to each member of said board. <sup>Compensation of board.</sup> Said board may also pay out of said fund all expenses which may be reasonably incurred by them in carrying out and maintaining the provisions of this act. Said board may, if deemed best by said board, with the consent of the prosecuting attorney of any county, employ and compensate out of said fund special counsel to assist in the prosecution in the courts of such county and the supreme court of any offense alleged to have been committed under the provisions of this act in such county. Said expenses shall be paid from the fees received by the board under the provisions of this act, and no part of the salary or expenses of said board shall ever be paid out of the state treasury. All moneys received in excess of salaries and expenses as above provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board and carrying out the provisions of this act, he giving such bond as the board may from time to time direct; and said board shall make an annual report of its proceedings to the governor on or before the fifteenth day of October of each year, together with an account of moneys received and disbursed by them pursuant to this act.

SEC. 11. All persons shall be said to be practicing dentistry within the meaning of this act, who shall for a fee or salary, or other reward paid either to himself or to another

person for operations or parts of operations of any kind, treat diseases or lesions of the human teeth or jaws or correct malpositions thereof, but nothing in this act contained shall be taken to apply to *bona fide* students of dentistry or one in pursuit of clinical advantages, under the direct supervision of a preceptor or licensed dentist in this state, during the period of their enrollment in a dental college and attendance upon a regular uninterrupted course in such a college, nor to physicians in the regular discharge of their duties.

Prosecuting  
attorney.

SEC. 12. It shall be the duty of the prosecuting attorney for each county to attend to the prosecution of all complaints made under this act, both upon the preliminary hearing in the justice court or before any magistrate before whom such complaint may be made, and also upon any hearing in the court, either upon such complaint or upon any information or indictment filed against any person under this act: *Provided*, Nothing in this act shall be construed to prevent the prosecution of any person for violation of any provision of this act upon information of the prosecuting attorney directly. The attorney general of this state shall appear in the supreme court and attend to the prosecution of all criminal cases arising under this act which may be appealed to said court or be taken to said court by writ of error.

SEC. 13. Sections 1, 3, 4, 5, 6, 7, 8, 9 and 10 of the act of the Territory of Washington entitled "An act to regulate the practice of dentistry and to protect the people against empiricism in relation thereto in the Territory of Washington," approved January 28, 1888 (said sections being sections 2854, 2856, 2857, 2858, 2859, 2860, 2861, 2862 and 2863 of the first volume of Hill's Statutes and Codes of Washington), are hereby repealed.

SEC. 14. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 15. Whereas, no adequate law relative to the practice of dentistry exists, and great embarrassment and inconvenience in relation thereto in this state will arise from delay of time when this act shall take effect; it is, there-

fore, declared that an emergency exists, and that this act shall take effect and be in force from and after the approval by the governor.

Approved March 8, 1893.

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## CHAPTER LVI.

[H. B. No. 114.]

### RELATIVE TO GARNISHMENTS.

AN ACT in relation to garnishments.

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

SECTION 1. The clerks of the superior courts in the various counties in the state may issue writs of garnishment returnable to their respective courts in the following cases:

1. Where an original attachment has been issued in accordance with the statutes in relation to attachments.

2. Where the plaintiff sues for a debt and makes affidavit that such debt is just, due and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee.

3. Where the plaintiff has a judgment wholly or partially unsatisfied in the court from which he seeks to have a writ of garnishment issued.

SEC. 2. In the case mentioned in subdivision two of the Bond. preceding section the plaintiff shall execute a bond with two or more good and sufficient sureties, to be approved by the clerk issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, conditioned that he will prosecute his suit and pay all damages and costs that may be adjudged against him for wrongfully suing out such garnishment.

SEC. 3. Before the issuance of the writ of garnishment the plaintiff or some one in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, and that the plaintiff has reason to believe, Affidavit.

and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, or that the garnishee is an incorporated or joint stock company, and that the defendant is the owner of shares in such company or has an interest therein.

SEC. 4. When the foregoing requisites have been complied with the clerk shall docket the case in the name of the plaintiff as plaintiff and of the garnishee as defendant, and shall immediately issue a writ of garnishment directed to the garnishee, commanding him to appear before the court from which it is issued within twenty days after the service of the writ upon him, if the same be served upon him within the county in which the same is issued, or within thirty days if served in any other county in this state, and to answer on oath what, if anything, he is indebted to the defendant, and was when such writ was served, and what personal property or effects, if any, of the defendant he has in his possession or under his control, or had when such writ was served.

Joint stock  
company.

SEC. 5. Where it appears from the plaintiff's affidavit that the garnishee is an incorporated or joint stock company, in which the defendant is the owner of shares, or is interested therein, the writ of garnishment shall further require the garnishee to answer upon oath what number of shares, if any, the defendant owns in such company, or owned when such writ was served.

SEC. 6. Said writ may be substantially in the following form:

STATE OF WASHINGTON.

*To A B, greeting:*

Form of writ of  
garnishment.

Whereas, in the superior court of the State of Washington, in and for ..... county, in a certain cause wherein C D is plaintiff and E F is defendant, the plaintiff claiming an indebtedness against the said E F of ..... dollars, besides interest and cost of suit, has applied for a writ of garnishment against you:

Now, therefore, you are hereby commanded to be and appear before the said court within twenty days after the

service upon you of this writ, if served within ..... county, and within thirty days after the service of this writ upon you if served in any other county of this state, then and there to answer upon oath what, if anything, you are indebted to the said E F, and were when this writ was served upon you, and what effects, if any, of the said E F you have in your possession or under your control, and had when this writ was served (and if the garnishee be an incorporated or joint stock company, in which the defendant is alleged to be the owner of shares, or interested therein, then the writ shall proceed; and further, to answer what number of shares, if any, the said E F owns in such company, and owned when this writ was served upon you).

SEC. 7. The writ of garnishment shall be dated and tested in like manner as the writ of attachment, and the name and office address of the plaintiff's attorney shall be indorsed thereon, or in case the plaintiff has no attorney, then the name and address of the plaintiff shall be indorsed thereon, and may be delivered to the sheriff by the clerk who issues it, or he may deliver it to the plaintiff, or his agent or attorney for that purpose.

SEC. 8. The sheriff, on receiving the writ of garnishment, shall immediately proceed to serve the same on the garnishee, in like manner as summons is served, and shall make return thereof in like manner as a return of summons is made. Service of writ.

SEC. 9. From and after the service of such writ of garnishment, it shall not be lawful for the garnishee to pay to the defendant any debt or to deliver to him any effects, nor shall the garnishee if an incorporated or joint stock company, in which the defendant is alleged to be the owner of shares or to have an interest, permit or recognize any sale or transfer of such shares or interest; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, effects, shares, or interest as may be necessary to satisfy the plaintiff's demand. Sale or transfer by garnishee.

SEC. 10. The answer of the garnishee shall be under oath in writing and signed by him, and shall make true answers to the several matters inquired of in the writ of

Service of  
answer.

garnishment, and shall be served upon the plaintiff or his attorney and filed with the clerk of the superior court.

SEC. 11. Should it appear from the answer of the garnishee that he is not indebted to the defendant, and was not so indebted when the writ of garnishment was served on him, and that he has not in his possession or under his control any personal property or effects of the defendant, and had not when the writ was served; and when the garnishee is an incorporated or joint stock company in which the defendant is alleged to be the owner of shares of stock or interested therein, if it shall further appear from such answer that the defendant is not, and was not when the writ was served, the owner of any of such shares or interested in such company, and should the answer of the garnishee not be controverted as hereinafter provided, and within the time hereinafter provided, the court shall enter judgment discharging the garnishee.

Judgment  
by default.

SEC. 12. Should the garnishee fail to make answer to the writ within the time prescribed therein, it shall be lawful for the court, and on or after the time to answer such writ has expired, to render judgment by default against such garnishee for the full amount claimed by plaintiff against the defendant, or in case plaintiff has a judgment against defendant, for the full amount of such judgment with all accruing interest and costs.

SEC. 13. Should it appear from the answer of the garnishee or should it be otherwise made to appear, as hereinafter provided, that the garnishee is indebted to the defendant in any amount, or was so indebted when the writ of garnishment was served, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless such amount shall exceed the amount of plaintiff's claim or demand against the defendant with interest and costs, in which case it shall be for the amount of such claim or demand, interest and costs: *Provided, however,* If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the trial hereinafter provided for, that the garnishee is indebted to the principal defendant in any sum, but that such

indebtedness is not matured and is not due and payable, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in said order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee shall pay said sum at the time specified in said order, said payment shall operate as a discharge, otherwise judgment shall be entered against him for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in like manner as other judgments provided for in this act: *Provided further*, That if judgment shall be rendered in favor of the principal defendant, or if any judgment rendered against him be satisfied prior to the date of payment specified in said order, the garnishee shall not be required to make the payment hereinbefore provided for, nor shall any judgment in such case be entered against him.

Enforcement  
of judgment.

SEC. 14. Execution may be issued on the judgment against the garnishee herein provided for in like manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing the same to the clerk of the superior court from which such execution was issued; and in cases where judgment has been rendered against the defendant the amount made on the execution shall be applied to the satisfaction of the judgment, interest and costs against the defendant. In case judgment has not been rendered against the defendant at the time execution issued against the garnishee is returned, any amount made on said execution shall be paid to the clerk of the court from which such execution issued who shall retain the same until judgment be rendered in the action between the plaintiff and defendant. In case judgment be rendered therein in favor of the plaintiff, the amount made on the execution against the garnishee shall be applied to the satisfaction of such judgment and the surplus, if any there be, shall be paid to the defendant. In case judgment be rendered in such action in favor of the

Execution.

defendant, the amount made on said execution against the garnishee shall be paid to the defendant.

Personal effects.

SEC. 15. Should it appear from the garnishee's answer or otherwise that the garnishee has in his possession or under his control, or had when the writ was served, any personal property or effects of the defendant liable to execution, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. In cases where a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in like manner as any other property is sold upon an execution issued on said judgment. In cases where judgment has not been

Sheriff to retain personal effects, when.

rendered in the principal action, the sheriff shall retain said personal property or effects in his possession until the rendition of judgment therein, and in case judgment is rendered in said principal action in favor of the plaintiff, said goods or effects, or sufficient of them to satisfy such judgment, may be sold in like manner as other property is sold on execution, by virtue of an execution issuing on said judgment. In case judgment shall be rendered in said action against the plaintiff and in favor of the defendant, such effects and personal property shall be by the sheriff returned to the defendant: *Provided, however,* That in cases where such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in like manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the superior court, and like disposition shall be made of such proceeds at the termination of the action as would have been made of such personal property or effects under the provisions of this section, in case such sale had not been made.

Sale of personal effects.

SEC. 16. Should the garnishee adjudged to have effects or personal property of the defendant in his possession or under his control as provided in the preceding article, fail or refuse to deliver them to the sheriff on such demand, the officer shall immediately make return of such failure

or refusal, whereupon, on motion of the plaintiff, the garnishee shall be cited to show cause why he should not be attached for contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal, he shall be fined for such contempt and imprisoned until he shall deliver such personal property or effects.

SEC. 17. Where the garnishee is an incorporated or joint stock company, and it appears by the answer or otherwise that the defendant is or was, when the writ of garnishment was served, the owner of any shares of stock in such company or any interest therein, the court shall render a decree ordering the sale under execution in favor of the plaintiff, against the defendant, of such shares or interest of the defendant in such company, or so much thereof as may be necessary to satisfy such execution.

SEC. 18. The sale so ordered shall be conducted in all respects as other sales of personal property under execution, and the sheriff making such sale shall execute a transfer of such shares or interest to the purchaser with a brief recital of the judgment of the court under which the same was sold.

SEC. 19. Such sale shall be valid and effectual to pass to the purchaser all the right, title and interest which the defendant had in such shares of stock, or in such company, and the proper officers of such company shall enter such sale and transfer on the books of the company in the same manner as if the sale had been made by the defendant himself.

SEC. 20. If the plaintiff should not be satisfied with the answer of the garnishee he may controvert the same by affidavit in writing signed by him, stating that he has good reason to believe and does believe that the answer of the garnishee is incorrect, stating in what particulars he believes the same is incorrect.

SEC. 21. The defendant may also in like manner controvert the answer of the garnishee.

SEC. 22. If the answer of the garnishee is controverted, as provided in the two preceding sections, an issue shall be formed, under the direction of the court, and tried as other

cases: *Provided, however,* No pleadings shall be necessary on such issue other than the affidavit of the plaintiff, the answer of the garnishee and the reply of the plaintiff or defendant controverting such answer, unless otherwise ordered by the court.

SEC. 23. No current wages or salary for personal services rendered by any person having a family dependent on him for support within sixty days next preceding the service of the writ shall be subject to garnishment, and where it appears upon the trial or by the answer of the garnishee, when not controverted as hereinbefore provided, that the garnishee is indebted to such defendant for such current wages or salary, the garnishee shall be discharged as to such indebtedness.

Costs.

SEC. 24. Where the garnishee is discharged upon his answer, the costs of the proceeding, including a reasonable compensation to the garnishee for attorneys' fees, shall be taxed against the plaintiff; where the answer of the garnishee has not been controverted and the garnishee is held thereon such costs shall be taxed against the defendant and included in the judgment. Where the answer is controverted the costs shall abide the issue of such contest.

SEC. 25. It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects, or where the garnishee is an incorporated or joint stock company, in which the defendant was the owner of shares of stock or other interest therein for the garnishee to show that such indebtedness was paid or such effects delivered, or such shares of stock or other interest in such company were sold under the judgment of the court in accordance with the provisions of this act.

Justices of  
the peace.

SEC. 26. The provisions of this act shall not apply to actions and proceedings before justices of the peace, but garnishments shall be made in such actions and proceedings in the manner now provided by existing laws.

SEC. 27. All acts and parts of acts in conflict with this act be and the same hereby are repealed.

Approved March 8, 1893.

## CHAPTER LVII.

[H. B. No. 215.]

## AMENDING MUNICIPAL INCORPORATION LAW.

AN ACT to amend an act entitled "An act to amend sections 105, 106, 114 and 117 of an act entitled 'An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency,' and approved March 26 [27], 1890," approved March 9, 1891, and declaring an emergency.

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

SECTION 1. That section 1 of "An act to amend sections 105, 106, 114 and 117 of an act entitled 'An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency,' and approved March 27, 1890," approved March 9, 1891, be amended to read as follows: The mayor, members of the city council, treasurer, health officer, marshal, clerk and city attorney shall be elected by the qualified electors of said city at a general municipal election to be held therein on the first Tuesday after the first Monday in December in each year. The mayor, treasurer, health officer, marshal, clerk and attorney shall hold office for the period of one year from and after the first Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified. Members of the city council shall hold office for the period of two years from and after the first Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified: *Provided*, That the first city council elected under the provisions of this act shall at their first meeting so classify themselves by lot as that three of their number shall go out of office at the expiration of one year and three at the expiration of two years. The city council may, in their discretion, appoint a pound master to hold office during the pleasure of the council, and a city engineer who shall hold office during the pleasure of the council.

Time of election.

Councilmen's term of office.

Pound master.

SEC. 2. That section 3 of said act be amended to read

as follows: Sec. 3. The city council of such city shall have power—

*Ordinances:* (1) To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

Water front.

*City Real Estate:* (2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes (and to purchase and plat land for the purpose of cemeteries and to provide by ordinance for the regulation thereof), to control, dispose of and convey the same for the benefit of the city: *Provided,* That they shall not have the power to sell or convey any portion of any water front, but may rent such water front for a term not exceeding ten years, and may improve part of such water front by building inclines or wharves for the accommodation of shippers, and to charge and collect for the use of the same such amounts as will compensate the city for the expenses incurred and the repairs needed from time to time; to prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof, and to cause the impounding and sale of any such animals.

*Water:* (3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs or other works necessary or proper for supplying water for the use of such town or its inhabitants, or for irrigating purposes therein.

*Public Highways:* (4) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and cross walks therein or upon any part thereof; to cause to be planted, set out and cultivated shade trees therein; and generally to manage and control all such highways and places.

*Sewers:* (5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers shall have been constructed to make proper connections therewith, and to use the same for proper purposes, and in case the owners of property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made and to assess against the property in front of which such connections are made the costs and expenses thereof.

*Fire Extinguishment:* (6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

*Poll Tax:* (7) To impose on and collect from every male inhabitant between the ages of twenty-one and fifty years an annual street poll tax not exceeding two dollars, and no other road poll tax shall be collected within the limits of such city: *Provided*, That any member of a volunteer fire company in such city shall be exempt from such tax.

*Dog Tax:* (8) To impose and collect an annual license not exceeding two dollars on every dog owned or harbored within the limits of the city (and may provide for the killing of all dogs not duly licensed found at large).

*Property Tax:* (9) To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; and for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year shall not exceed one dollar Entire levy. on each one hundred dollars of the assessed value of all real and personal property within such city.

*Liquor Tax:* (10) To license, for purposes [of] regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

*River Improvements:* (11) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and to remove obstructions therefrom; to improve the water front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof.

*Municipal Buildings:* (12) To erect and maintain buildings for municipal purposes.

*Tracks and Pipes:* (13) To permit, under such restrictions as they may deem proper, the laying of railroad tracks, and the running of cars drawn by horses, steam or other power thereon, and the laying of gas and water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of telegraph, telephone and electric lines therein.

*Ward Divisions:* (14) In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: *Provided*, That no change in the boundaries of any ward shall be made within sixty days next before the date of such general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from such ward, apportioning the same in proportion to the population of such wards. And thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by a general vote of the whole city, as may be designated in such ordinance: *Provided further*, That when additional territory is added to the city that it

thereafter, by act of the council, be annexed to contiguous wards without affecting the right to re-district at the expiration of twenty months after last previous division.

*Policemen:* (15) To appoint and remove such policemen and other appointed officers as they may deem proper, and to fix their duties and compensations.

*Violation of Ordinances:* (16) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars nor the term of such imprisonment exceed the term of three months.

*Prison Labor:* (17) To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property or works within the city.

*Fire Limits:* (18) To establish fire limits, with proper regulations.

(19) The city council may appropriate from the general fund an amount not exceeding one-fourth of one mill of the taxable property of the city for the purpose of establishing and maintaining a public library.

(20) To punish the keepers and inmates and lessors of houses of ill-fame, gamblers and keepers of gambling tables.

*Other Acts:* (21) To make all such ordinances, by-laws, rules, regulations and resolutions, not inconsistent with the constitution and laws of the State of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws.

SEC. 3. Whereas, an emergency exists, this act shall be Emergency. deemed of immediate importance and shall take effect and be in full force from and after its passage.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1893.

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## CHAPTER LVIII.

[H. B. No. 217.]

### AUTHORIZING THE FUNDING OF INDEBTEDNESS IN CASES OF CONSOLIDATION OF CITIES OR TOWNS.

AN ACT authorizing cities and towns, in cases where any such city or town has been or may hereafter be formed by the consolidation of two or more former cities or towns, or has annexed or may hereafter annex any new territory, and where the corporate authorities of either such former city or town, or of such city or town prior to such annexation, attempted to incur indebtedness on its part in excess of their legal authority, to submit to the voters of such consolidated or existing city or town propositions to fund indebtedness thereof by the issuing of bonds therefor, at the same election at which said previous attempted incurring of such indebtedness or any [part] thereof, on the part of either such former city or town or of such city or town prior to such annexation, may be ratified, or at a separate election; and declaring an emergency.

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

SECTION 1. If, in any case where any city or town in this state has been or may hereafter be formed by the consolidation of two or more cities or towns, or has annexed or may hereafter annex any new territory, an election shall be held, in accordance with the constitution and laws of this state, for the purpose of submitting to the voters residing within the former corporate limits of either such former city or town, or of such city or town prior to such annexation, for ratification or disapproval, the attempted incurring on the part of such former city or town or of such city or town prior to such annexation by the corporate authorities thereof, of any indebtedness thereof, such consolidated or existing city or town may submit to all the voters therein, at the same or a separate election, any prop-

osition to fund such indebtedness so sought to be ratified or any part thereof or any existing indebtedness of such consolidated or existing city or town, or both. The proposition to ratify any such indebtedness so previously attempted to be incurred on the part of either such former city or town, or on the part of such city or town prior to such annexation, and the proposition to fund the same may be submitted, respectively, to the voters residing within the corporate limits of such former city or town or in such city or town prior to such annexation, and to all the voters in such consolidated city or town, respectively, in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted.

Submitted  
to voters.

Distinct vote  
on each  
proposition.

SEC. 2. If at any such election any such indebtedness so proposed to be ratified shall be validated in accordance with the requirements of the constitution and laws of this state, any vote cast at the same or a separate election in accordance with the requirements of section one of this act, upon a proposition to fund such indebtedness so validated, by the issuing of bonds therefor, shall have the same effect as an assent to or dissent from the funding of such indebtedness, as if such indebtedness had been validated previously to the passage of the ordinance submitting such proposition to fund the same.

SEC. 3. Any alteration or division of any existing election precinct or precincts in such consolidated or existing city or town, and any segregation of the names of voters registered for the current year in the existing registration lists in such consolidated or existing city or town, and any new poll books of registration, and any further registration in such new poll books, which may be made for the purposes of any such election held to submit a question of ratification, as aforesaid, in accordance with any law authorizing such election to submit such question of ratification, shall so far as applicable govern the holding of the

Inspectors  
and judges  
of election.

election herein authorized to submit a proposition or propositions to fund. The city council or other legislative body of such consolidated or existing city or town shall, in the ordinance providing for the election herein authorized, or in a separate ordinance or ordinances, appoint inspectors and judges of such election for the several precincts in said city or town, and prescribe the form of the ballot to be used at such election, and the mode of the voter's indicating thereon his vote for or against each proposition submitted. Said provisions shall be made in conformity with the existing registration and election laws of the state as nearly as may be, but the provisions hereof shall prevail over existing laws so far as may be necessary to effectuate the purposes of this act; and the election herein authorized shall be conducted and the result thereof canvassed and declared in accordance with the general laws of the state as modified by this act, and in accordance with said provisions to be made in pursuance hereof.

Emergency.

SEC. 4. An emergency exists for the immediate operation of this act; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 8, 1893.

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## CHAPTER LIX.

[ H. B. No. 263. ]

### TO PREVENT MAKING OF DEFICIENCIES IN PUBLIC INSTITUTIONS.

AN ACT to prevent the making of deficiencies in the public institutions and departments of the State of Washington, and providing for an emergency board.

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

SECTION 1. That in case of an emergency requiring the expenditure of a greater sum of money than the amount appropriated by the legislature for any institution or department established by the laws of this state, or requiring

the expenditure of money not specifically provided by law, there is hereby created an emergency board consisting of the governor, secretary of state, state auditor, state treasurer and attorney general. But no expenditure in excess of the amount appropriated by the legislature shall be made for any state institution or department except upon a permit granted by such emergency board.

SEC. 2. The governor shall be the president and the secretary of state shall be the secretary of the board. The secretary shall keep a complete record of all the proceedings. Any board or officer contemplated in this act desiring to ask authority to create a deficiency shall notify the secretary in writing setting forth fully the facts in connection with the case. As soon as can be done conveniently the secretary shall arrange for a meeting of the board and shall notify the board or officer of the time and place of meeting and request his or their presence at such meeting. The said emergency board may, in their discretion, either grant or refuse a permit to make an expenditure in excess of the amount appropriated by the legislature for such institution or department. But before a permit is granted it must have the approval of not less than four members of the emergency board who shall sign the same.

Approved March 8, 1893.

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## CHAPTER LX.

[H. B. No. 377.]

### PROVIDING FOR TAKING OF EXCEPTIONS, AND SETTLING AND CERTIFYING BILLS OF EXCEPTIONS AND STATEMENTS OF FACTS.

AN ACT providing for and regulating the taking of exceptions, and the settling and certifying of bills of exceptions and statements of facts, and declaring the effect thereof.

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

SECTION 1. An exception is a claim of error in a ruling or decision of a court, judge or other tribunal, or officer

exercising judicial functions, made in the course of an action or proceeding or after judgment therein.

SEC. 2. It shall not be necessary or proper to take or enter an exception to any ruling or decision mentioned in section one of this act, which is embodied in a written judgment, order or journal entry in the cause. But this section shall not apply to the report of a referee or commissioner, or to findings of fact or conclusions of law in a report or decision of a referee or commissioner, or in a decision of a court or judge upon a cause or part of a cause, either legal or equitable, tried without a jury.

Exceptions,  
how taken.

SEC. 3. Exceptions to the report of a referee or commissioner, or to findings of fact or conclusions of law in a report or decision of a referee or commissioner, or in a decision of a court or judge upon a cause or part of a cause, either legal or equitable, tried without a jury, may be taken by any party, either by stating to the judge, referee or commissioner when the report or decision is signed, that such party excepts to the same, specifying the part or parts excepted to (whereupon the judge, referee or commissioner, shall note the exceptions in the margin or at the foot of the report or decision); or by filing like written exceptions within five days after the filing of the report or decision, or, where the report or decision is signed subsequently to the hearing and in the absence of the party excepting, within five days after the service on such party of a copy of such report or decision or of written notice of the filing thereof.

Same.

SEC. 4. Exceptions to a charge to a jury, or to a refusal to give as a part of such charge instructions requested in writing, may be taken by any party by stating to the court, after the jury shall have retired to consider of their verdict, and, if practicable, before the verdict has been returned, that such party excepts to the same, specifying by numbers of paragraphs or otherwise the parts of the charge excepted to, and the requested instructions the refusal to give which is excepted to; whereupon the judge shall note the exceptions in the minutes of the trial, or cause the stenographer (if one is in attendance) so to note the same.

SEC. 5. Exceptions to any ruling upon an objection to

the admission of evidence, offered in the course of a trial or hearing, need not be formally taken, but the question put or other offer of evidence, together with the objection thereto and the ruling thereon, shall be entered by the court, judge, referee or commissioner (or by the stenographer, if one is in attendance) in the minutes of the trial or hearing, and such entry shall import an exception by the party against whom the ruling was made. Entered in minutes.

SEC. 6. Exceptions to any ruling or decision made in the course of a trial or hearing, or in the progress of a cause, except those to which it is provided in this act that no exception need be taken and those to which some other mode of exception is in this act prescribed, may be taken by any party by stating to the court, judge, referee or commissioner making the ruling or decision, when the same is made, that such party excepts to the same; whereupon such court, judge, referee or commissioner shall note the exception in the minutes of the trial, hearing or cause, or shall cause the stenographer (if one is in attendance) so to note the same. Same.

SEC. 7. Alleged error in any order, ruling or decision to which it is provided in this act that no exception need be taken, or in any report, finding of fact, conclusion of law, charge, refusal to charge, or other ruling or decision which shall have been excepted to by any party as prescribed in this act, shall be reviewed by the supreme court, upon an appeal taken by the party against whom any such ruling or decision was made, or in which he has joined, from any other appealable order or from the final judgment in the cause, where such error, if found to exist, would materially affect the correctness of the judgment or order appealed from: *Provided*, The ruling or decision, the alleged error in which is sought to be so reviewed, together with the exception thereto, if any, was a matter of record in the cause in the first instance, or before the hearing of the appeal has been brought into the record in the manner prescribed in this act. And any such alleged error shall also be considered in the court wherein or by a judge whereof the same was committed, upon the hearing and decision of a motion for Exceptions reviewed on appeal.

Exception must be of record.

a new trial, a motion for judgment notwithstanding a verdict, or a motion to set aside a referee's report or decision, made by a party against whom the ruling or decision to be reviewed was made, whether the alleged erroneous ruling or decision is a part of the record or not, where the alleged error, if found to exist, would materially affect the decision of the motion. But no exception to any appealable order or to any final judgment shall be necessary or proper in order to secure a review of such order or judgment upon direct appeal therefrom.

No exception necessary.

Bill of exceptions.

SEC. 8. Any party to any action or proceeding may, at any stage thereof, have any rulings or decisions of the court, or a judge, referee or commissioner thereof, in the cause, together with the necessary evidence, papers or proceedings connected therewith or on which the same were based, and the exceptions thereto, if any, not already a part of the record in the cause, or so much of all or any thereof as is not already a part of the record, made a part of the record in the cause, by the certifying of a bill of exceptions as in this act provided. And any such party may, after the making of an appealable order or the final judgment in the cause, have all rulings, decisions, evidence, papers, proceedings and exceptions in the cause, or so much thereof as may be material to an appeal from such appealable order or from the final judgment, as the case may be, not already a part of the record, made a part of the record in the cause by the certifying of a statement of facts, as in this act provided. The certifying of a bill of exceptions or statement of facts shall not prevent the subsequent certifying of other bills of exceptions or statements of facts, or both, comprising other matters in the cause, at the instance of the same or another party; but only one bill of exceptions or statement of facts can be settled or certified after the rendition of the final judgment in the cause.

One bill of exceptions after final judgment.

Must file and serve copy of statement of facts.

SEC. 9. A party desiring to have a bill of exceptions or statement of facts certified must prepare the same as proposed by him, file it in the cause and serve a copy thereof on the adverse party, and shall also serve written notice of the filing thereof on any other party who has appeared in the cause. Within ten days after such service any other

party may file and serve on the proposing party, any amendments which he may propose to the bill or statement. Amendments. Either party may then serve upon the other a written notice that he will apply to the judge of the court before whom the cause is pending or was tried, at a time and place specified, the time to be not less than three nor more than ten days after service of the notice, to settle and certify the bill or statement; and at such time and place, or at any other time or place specified in an adjournment made by order or stipulation, the judge shall settle and certify the bill or statement. Notice to settle. If the judge is absent at the time named in a notice or fixed by adjournment, a new notice may be served. New notice. If no amendment shall be served within the time aforesaid, the proposed bill or statement shall be deemed agreed to and shall be certified by the judge at the instance of either party, at any time, without notice to any other party on proof being filed of its service, and that no amendments have been proposed; and if amendments be proposed and excepted, the bill or statement as so amended shall likewise be certified on proof being filed of its service and the service and acceptance of the amendments.

SEC. 10. Depositions and other written evidence on file shall be appropriately referred to in the proposed bill or statement, and when it is certified the same or copies thereof, if the judge so direct, shall be attached to the bill or statement and shall thereupon become a part thereof.

SEC. 11. The judge shall certify that the matters and proceedings embodied in the bill or statement, as the case may be, are matters and proceedings occurring in the cause and that the same are thereby made a part of the record therein; and, when such is the fact, he shall further certify that the same contains all the material facts, matters and proceedings heretofore occurring in the cause and not already a part of the record therein, or (as the case may be) such thereof as the parties have agreed, to be all that are material therein. Certificate of judge. The certificate shall be signed by the judge, but need not be sealed; and thereupon all the matters and proceedings embodied in the bill of exceptions or statement of facts, as the case may be, shall become and thenceforth remain a part of the record in the cause, for What certificate to contain. Signed but not sealed.

all the purposes thereof and of any appeal therein. The judge may correct or supplement his certificate according to the fact, at any time before an appeal is heard. And if the judge refuse to settle or certify a bill of exceptions or statement of facts, or to correct or supplement his certificate thereto, in a proper case, he may be compelled so to do by a mandate issued out of the supreme court, either pending an appeal or prior thereto.

Supplemental certificate.

When judge ceases to be judge, may certify.

SEC. 12. If the judge before whom the cause was pending or tried shall from any cause have ceased to be such judge he shall, notwithstanding, settle and certify, as the late judge, any bill of exceptions or statement of facts that it would be proper for him to settle and certify if he were still such judge, and such acts on his part shall have the same effect as if he were still in office; and he may be compelled by mandate so to do, as if still in office. If such judge shall die or remove from the state while in office or afterwards, within the time within which a bill of exceptions or statement of facts, in a cause that was pending or tried before him, might be settled and certified under the provisions of this act, and before having certified such bill or statement, such bill or statement may be settled by stipulation of the parties with the same effect as if duly settled and certified by such judge while still in office. But if the parties cannot agree, and if such judge, when removed from the state, does not attend within the state and settle and certify a bill of exceptions or statement of facts in case one has been duly proposed, his successor in office shall settle and certify such bill or statement in the manner in this act provided, and in so doing he shall be guided, so far as practicable, by the minutes taken by his predecessor in office, or by the stenographer, if one was in attendance on the court or judge, and may, in order to determine any disputed matter not sufficiently appearing upon such minutes, examine under oath the attorneys in the cause who were present at the trial or hearing, or any of them.

When judge removes or dies, how settled.

Time in which to file.

SEC. 13. A proposed bill of exceptions or statement of facts must be filed and served either before or within thirty days after the time begins to run within which an appeal

may be taken from the final judgment in the cause, or (as the case may be) from an order with a view to an appeal from which the bill or statement is proposed: *Provided*, That the time herein prescribed may be enlarged either before or after its expiration, once or more, but not for more than sixty days additional in all, by stipulation of the parties, or, for good cause shown and on such terms as may be just, by an order of the court or judge wherein or before whom the cause is pending or was tried, made on notice to the adverse party. And the certifying of a bill of exceptions or statement of facts provided for by this act, and the filing and service of the proposed bill or statement, the notice of application for the settlement thereof, and all other steps and proceedings leading up to the making of the certificate, shall be deemed steps and proceedings in the cause itself, resting upon the jurisdiction originally acquired by the court in the cause, and no irregularity or failure to pursue the steps prescribed by this act on the part of any party, or the judge, shall affect the jurisdiction of the judge to settle or certify a proper bill of exceptions or statement of facts.

No irregularity to affect jurisdiction.

SEC. 14. The copy of a proposed bill or statement which is served as in this act prescribed, shall be returned to the party serving the same upon the bill or statement being certified, if he has appealed to the supreme court, or upon his thereafter appealing, for his use in preparing his brief on the appeal, and the time limited by any law or rule of court for the service and filing of his brief shall be enlarged by any delay in returning such copy as herein required to the extent of such delay; and when he serves his brief he shall return such copy to the party on whom it was originally served, and his brief shall not be deemed served till such copy is so returned by him.

Bill or statement to be returned to party serving same.

SEC. 15. All reports of referees or commissioners, with the testimony and other evidence returned into court therewith, all findings of fact and conclusions of law made in writing by a judge, referee or commissioner and signed by him, all charges to a jury made wholly in writing, all instructions requested in writing to be given as part of a charge, all verdicts, general or special, and all rulings and

What shall be part of record.

decisions embodied in a written judgment, order or journal entry in the cause, together with all exceptions, if any, taken to any thereof, as well as all papers and matters hitherto deemed a part of the record, shall be deemed and are hereby declared to become, upon being filed in the cause, or, as the case may be, embodied in a journal entry, a part of the record in the cause, for all the purposes thereof and of any appeal therein; and it shall not be necessary or proper, for any purpose, to embody the same in any bill of exceptions or statement of facts.

Unnecessary  
when cases are  
consolidated.

SEC. 16. When two or more causes shall have been consolidated it shall not be necessary, for any purposes of an appeal which concerns only one or more, and not all of the original causes, to embody in a bill of exceptions or statement of facts any fact, matter or proceeding that relates solely to an original cause with which the appeal is not concerned; and the bill or statement shall be certified as in this act prescribed, notwithstanding the omission therefrom of such facts, matters and proceedings.

Governs what  
actions.

SEC. 17. This act shall apply to and govern all civil actions and proceedings, both legal and equitable, and all criminal causes, in the superior courts, but shall not apply to courts of justices of the peace or other inferior courts or tribunals from which an appeal does not lie directly to the supreme court.

SEC. 18. This act shall govern proceedings had after it shall take effect, in actions then pending as well as those in actions thereafter begun; but it shall not affect any right acquired or proceeding had prior to the time when it shall take effect, nor restore any right or enlarge any time then already lost or expired. And except as above provided all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 8, 1893.

## CHAPTER LXI.

[H. B. No. 20.]

## APPEALS TO THE SUPREME COURT.

AN ACT relating to appeals to the supreme court.

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

SECTION 1. Any party aggrieved may appeal to the supreme court in the mode prescribed in this act from any or every of the following determinations, and no others, made by the superior court, or a judge thereof, in any action or proceeding:

Who may appeal.

1. From the final judgment entered in any action or proceeding, and an appeal from any such final judgment shall also bring up for review any order made in the same action or proceeding either before or after the judgment, in case the record sent up on the appeal, or any supplementary record sent up before the hearing thereof, shall show such order sufficiently for the purposes of a review thereof.

2. From any order refusing to vacate an order of arrest in a civil action.

3. From any order granting or denying a motion for a temporary injunction, heard upon notice to the adverse party, and from any order vacating or refusing to vacate a temporary injunction: *Provided*, That no appeals shall be allowed from any order denying a motion for a temporary injunction or vacating a temporary injunction, unless the judge of the superior court shall have found, upon the hearing, that the party against whom the injunction was sought was insolvent.

Temporary injunction.

4. From any order refusing to discharge an attachment.

Attachment.

5. From any order appointing or removing, or refusing to appoint or remove, a receiver.

Receiver.

6. From any order affecting a substantial right in a civil action or proceeding, which either, (1) in effect determines the action or proceeding and prevents a final judgment therein; or (2) discontinues the action; or (3) grants a new trial; or (4) sets aside or refuses to affirm an award of arbitrators, or refers the cause back to them.

7. From any final order made after judgment, which affects a substantial right; and an appeal from any such order shall also bring up for review any previous order in the same action or proceeding which involves the merits and necessarily affects the order appealed from, in case the record sent up on the appeal, or any supplementary record sent up before the hearing thereof, shall show such previous order sufficiently for the purposes of a review thereof. But an appeal shall not be allowed to the state in any criminal action, except when the error complained of is in setting aside the indictment or information, or in arresting the judgment on the ground that the facts stated in the indictment or information do not constitute a crime, or is some other material error in law not affecting the acquittal of a prisoner on the merits.

Criminal  
action.

SEC. 2. The party appealing shall be known as the appellant, and the adverse party as the respondent, and they shall be so designated in all papers in the cause after the notice of appeal shall have been given or served; but the title of the cause shall in other respects remain unchanged.

Title remain  
unchanged.

Time for  
taking appeal.

SEC. 3. In civil actions and proceedings an appeal from final judgment based on a verdict of a jury must be taken within six months after the date of the entry of such judgment; an appeal from any other final judgment within six months after service of written notice of the entry thereof upon the party appealing or his attorney in the cause, but in no case more than one year after the entry thereof; and an appeal from any order from which an appeal is allowed by this act, within five days after the entry of the order if made at the time of the hearing, and in all other cases within five days after the service of a copy of such order, with written notice of the entry thereof, upon the party appealing or his attorney. In criminal causes an appeal must be taken within one year after the entry of final judgment.

Notice of  
appeal.

SEC. 4. A party desiring to appeal to the supreme court under the provisions of this act may, by himself or his attorney, give notice in open court or before the judge, if the judgment or order appealed from is rendered or made at chambers, at the time when such judgment or order is ren-

dered or made, that he appeals from such judgment or order to the supreme court, and thereupon the court or judge shall direct the clerk to make an entry of such notice in the journal of the court. If the appeal be not taken at the time when the judgment or order appealed from is rendered or made, then the party desiring to appeal may, by himself or his attorney, within the time prescribed in section three of this act, serve written notice on the prevailing party or his attorney that he appeals from such judgment or order to the supreme court, and within five days after the service of such notice he shall file with the clerk of the superior court the original or a copy of such notice, with proof or the written admission of the service thereof, and thereupon the clerk shall enter such notice, with the proof or admission of service thereof, in the journal of the court. The giving or service of a notice of appeal as prescribed in this section shall effect the appeal, but the same shall become ineffectual if an appeal bond for costs and damages Appeal bond. be not given as required by section six of this act. Two or more appealable orders with or without the judgment may be embraced in one appeal: *Provided*, The time allowed in this act for appealing from each of such orders has not expired. The appellant in his notice of appeal shall designate with reasonable certainty from what judgment or orders, whether one or more, the appeal is taken, and if from part of any judgment or order, from what particular part.

SEC. 5. All parties whose interests are similarly affected Who may join in notice of appeal. by any judgment or order appealed from may join in the notice of appeal whether it be given at the time when such judgment or order is rendered or made, or subsequently; and any such party who has not joined in the notice may at any time within ten days after the notice is given or served, serve an independent notice of like appeal, or join in the appeal already taken by filing with the clerk of the superior court a statement that he joins therein or in some part thereof, specifying in what part. Any such party who does not so join shall not derive any benefit from the appeal unless from the necessity of the case; nor can he independently appeal from any judgment or order already

Expenses, costs  
and damages.

appealed from, more than ten days after service upon him of written notice of the former appeal, unless such former appeal be afterwards dismissed. All parties who so join in an appeal after the notice is given or served shall be liable for the expenses thereof, and for costs and damages to the same extent and upon the same conditions as if they had originally joined in the notice. When the notice of appeal is not given at the time when the judgment or order appealed from is rendered or made, it shall be served in the manner required by law for the service of papers in civil actions and proceedings, upon all parties who have appeared in the action or proceeding: *Provided*, That where the record and files in the cause do not disclose the address of a party on whom service should be made, or of his attorney, and neither such party nor his attorney can be found within the county in which the judgment or order appealed from was rendered or made (of which fact a return by the sheriff that they cannot be so found shall be proof), the notice of appeal need not be served on such party, but the appeal may be taken by filing the notice and such sheriff's return with the clerk. Service on an attorney who was the attorney of record for a party in the cause at the time when the judgment or order appealed from was rendered or made, shall be deemed service on such party in all cases where service is required by this act.

Service.

Appeal bond.

SEC. 6. An appeal in a civil action or proceeding shall become ineffectual for any purpose unless at or before the time when the notice of appeal is given or served, or within five days thereafter, an appeal bond to the adverse party conditioned for the payment of costs and damages as prescribed in section seven of this act, be filed with the clerk of the superior court, or money in the sum of two hundred dollars be deposited with the clerk in lieu thereof. But no bond or deposit shall be required when the appeal is taken by the state, or by a county, city, town or school district thereof, or by a defendant in a criminal action.

Same.

SEC. 7. The appeal bond must be executed in behalf of the appellant by one or more sufficient sureties, and shall be in a penalty of not less than two hundred dollars in any case; and in order to effect a stay of proceedings as in this

section provided, the bond, where the appeal is from a final judgment for the recovery of money, shall be in a penalty double the amount of the damages and costs recovered in such judgment and in other cases shall be in such penalty, not less than two hundred dollars, and sufficient to save the respondent harmless from damages by reason of the appeal, as a judge of the superior court shall prescribe. It shall be conditioned that the appellant will pay all costs and damages that may be awarded against him on the appeal, or on the dismissal thereof, not exceeding two hundred dollars. An appeal shall not stay proceedings on the judgment or order appealed from or on any part thereof, unless the original or a subsequent appeal bond be further conditioned that the appellant will satisfy and perform the judgment or order appealed from in case it shall be affirmed, and any judgment or order which the supreme court may render or make, or order to be rendered or made by the superior court, and (where such condition is applicable) shall pay all rents of or damages to property accruing during the pendency of the appeal, out of the possession of which any respondent shall be kept by reason of the appeal. If the bond is intended to stay proceedings on only a part of the judgment or order it shall be varied so as to secure the part stayed alone. When such bond, further conditioned as hereinabove prescribed, has been filed the appeal shall operate so long as it shall remain effectual under the provisions of this act to stay proceedings upon the judgment or order appealed from; but in case of an appeal from an order other than an order granting a new trial, no appeal or appeal bond shall operate to stay proceedings in the cause except proceedings upon the order appealed from; and no appeal or stay shall vacate or affect any part of a judgment or order not appealed from and where an appeal is taken from an order vacating a temporary injunction, the appellant can not proceed further in the cause in the superior court during the pendency of the appeal, except so far as may be rendered necessary by proceedings of an adverse party.

SEC. 8. In all cases where a final judgment shall be rendered by any superior court of this state in a cause wherein Temporary injunction.

a temporary injunction has been granted, and the party at whose instance such injunction was granted shall appeal from such judgment, such injunction shall remain in force during the pendency of such appeal, if, within five days after service on him of notice of the entry of the final judgment, such appellant shall file with the clerk of the superior court a bond, with one or more sufficient sureties, in a penalty to be fixed by said court, conditioned that the appellant shall pay to the respondent all costs and damages that may be adjudged against the appellant on the appeal, and all costs and damages that may accrue to the respondent by reason of the injunction remaining in force.

Bond.

Final judgment in temporary or final injunction.

SEC. 9. In all cases where a final judgment shall be rendered by the supreme court of this state in a cause wherein a temporary or final injunction has been granted and the party at whose instance such injunction was granted shall appeal from such judgment to the supreme court of the United States, such injunction shall remain in force during the pendency of such appeal, if, within sixty days after the rendition of such judgment of the supreme court of this state, such appellant shall file with the clerk of the supreme court a bond, with one or more sufficient sureties, in a penalty to be fixed by said court, conditioned that the appellant shall pay to the respondent all costs and damages that may be adjudged against the appellant on the appeal, and all costs and damages that may accrue to the respondent by reason of the injunction remaining in force.

Appeal bond.

SEC. 10. An appeal bond, whether conditioned so as to effect a stay of proceedings or not, shall be of no force unless accompanied by the affidavit of the surety or sureties therein attached thereto, in which each surety shall state that he is a resident of this state and is worth a certain sum mentioned in such affidavit, over and above all debts and liabilities, in property within this state, exclusive of property exempt from execution, and which sums so sworn to by the surety or sureties, shall be at least equal to the penalty named in the bond if there be but one surety, or shall amount in all to at least twice such penalty if there be more than one surety.

SEC. 11. Any respondent may except to the sufficiency of the surety or sureties in an appeal bond, within ten days after the service on him of the notice of appeal or within five days after the service on him of the bond or written notice of the filing thereof, by serving on the appellant a notice stating that he so excepts, and specifying a place at the county seat, and a time, not less than three nor more than ten days distant, at which the surety or sureties are required to attend before the superior court in which the judgment or order appealed from was rendered or made, or before a judge thereof, and to justify their sufficiency as sureties. At the time and place named in such notice, or to which the proceeding may be thence adjourned by the court or judge, the surety or sureties must attend before the court or judge, and may be then and there examined in detail, under oath, as to their property and other qualifications as sureties, by any respondent or by the judge, or by both. If the judge upon such examination is satisfied that the surety or sureties are qualified as such, to the extent to which they are required by section eight of this act to make affidavit, then he shall make a certificate to that effect indorsed upon or attached to the bond, which shall thereupon stand as a sufficient appeal bond to the effect expressed in the condition thereof; but if he is not so satisfied, or if the sureties fail to attend and justify, then the judge shall in like manner certify to that effect, and thereupon the bond shall become void: *Provided*, That in such case the appellant may, within five days after the making of such certificate, file a new appeal bond, in conformity with the requirements of this act, and subject to the requirement of justification of the sureties therein, as hereinabove provided; but in case such new appeal bond be found insufficient, no new bond can thereafter be filed in lieu thereof. In case the original or new appeal bond be not conditioned so as to effect a stay of proceedings, however, an additional appeal bond may be filed at any time thereafter when the appellant desires to effect a stay as provided in this act, during the pendency of the appeal. The examination of the sureties taken upon their justification shall be reduced to writing and subscribed by the

Exception to  
sureties on  
appeal bond.

Sureties to  
justify.

Judge's  
certificate.

New appeal  
bond.

sureties, if either party so requires, and attached to the certificate made thereon.

Stay of proceedings.

SEC. 12. When an appeal bond is conditioned so as to effect a stay of proceedings, if execution has issued the clerk shall on demand of the appellant, issue to the sheriff a certificate that proceedings have been stayed, which shall countermand the execution; and thereupon the sheriff shall release any property levied on and not already sold, and return the execution into court.

Application for new bond.

SEC. 13. If any respondent shall have cause to believe, after any appeal bond shall have been filed and the sureties therein have justified or the time for requiring their justification has expired, that the sureties have since become disqualified as such, so that the bond is no longer an adequate security, he may apply by motion to the supreme court to require a new or additional bond; and upon the hearing of such motion the court may receive evidence in support of and in opposition to the motion in such manner, and may make such order thereon, as it shall deem proper.

Clerk of court.

SEC. 14. Within four months after an appeal shall have been taken by notice as provided in this act, the clerk of the superior court shall prepare and certify and send up to the supreme court, at the expense of the appellant (except in criminal appeals prosecuted in *forma pauperis*, and in such cases at the expense of the county), the original briefs on appeal filed and any original bill of exceptions or statement of facts, and a copy of so much of the record and files as the appellant shall deem material to the review of the matters embraced within the appeal. The papers and copies so sent up, together with any thereafter sent up as hereinbelow provided, shall constitute the record on the appeal. Any bill of exceptions or statement of facts on file when the record is so sent up shall be sent up as a part thereof, unless the superior court or a judge thereof has not yet passed on an application for the settlement and certifying of such bill or statement. In case any bill of exceptions or statement of facts shall be filed or certified, or any other addition to the record or files shall be made after the record on appeal shall have been sent up, a supplementary record on

What constitutes record on appeal.

Supplementary record on appeal.

appeal embracing so much thereof as the appellant deems material, or (as may be proper) a copy thereof may be prepared, certified and sent up at any time prior to the hearing of the appeal. And in case the respondent deems any part of the files or record not already sent up to be material to the review of the matters embraced within the appeal, he may cause the clerk, in like manner, at his expense, to prepare, certify and send up a supplementary record on appeal embracing such omitted files or records, or (as may be proper) copies thereof, at any time prior to the hearing of the appeal. Any such supplementary record or records, if filed in the supreme court prior to the hearing of the appeal, shall be considered by the court as part of the record on appeal, so far as the same may be material to a review of the matters embraced within the appeal. When the review of an original paper in the cause may be important to a correct decision of the appeal, the court or judge may order the clerk to transmit the same to the clerk of the supreme court and the same shall be transmitted accordingly, and shall be under the control of the supreme court.

SEC. 15. Within ninety days after an appeal shall have been taken by notice as provided in this act, the appellant shall serve on the respondent three copies and shall file with the clerk of the superior court fifteen copies, together with proof or written admission of service as aforesaid, of a printed brief on the appeal upon his part, which brief shall clearly point out each error that the appellant relies on for a reversal, and shall conform to such regulations of its contents in other respects, and its form and size, as the supreme court by its rules may have prescribed. Within thirty days after the service of the appellant's brief, the respondent shall likewise serve and file with the clerk of the superior court, with like proof of service, the like numbers of copies of a printed brief on the appeal upon his part, which shall likewise conform to the rules of the supreme court. The time for service and filing of briefs, as in this section prescribed, may be extended by order of the superior court for good cause shown, or by stipulation of the parties concerned; and if the time for filing any statement of facts shall be extended by order or stipulation, the time

Time for filing  
and serving  
copies of brief.

Time for  
service and  
filing of briefs  
extended.

herein prescribed for serving and filing the appellant's brief shall thereby be correspondingly extended. The appellant may also serve and file in the supreme court at any time before the hearing of the appeal shall begin like numbers of a further printed brief or briefs strictly in reply to the respondent's brief, and either party may, after the filing of his briefs and not less than one day prior to the hearing of the appeal, submit to the supreme court and to the adverse party a written or printed statement of any additional authorities, with suitable comment thereon strictly in support of the positions taken in his brief hereinabove required to be filed. But the appellant shall not be permitted to urge in any such reply brief or statement of additional authorities, or on the hearing, any grounds for reversal not clearly pointed out in his original brief.

Additional  
authorities.

Supreme court  
acquires  
jurisdiction.

SEC. 16. Upon the taking of an appeal by notice as provided in this act, and the filing of a bond to render the appeal effectual, the supreme court shall acquire jurisdiction of the appeal for all necessary purposes, and shall have control of the superior court and of all inferior officers in all matters pertaining thereto, and may enforce such control by a mandate or otherwise, and, if necessary, by fine and imprisonment, which imprisonment may be continued until obedience shall be rendered to the mandate of the supreme court. But the superior court shall, nevertheless, retain jurisdiction for the purpose of all proceedings by this act provided to be had in such court, and for the purpose of settlement and certifying of bills of exceptions and statements of facts, and for all purposes in so far as the cause is not affected by the appeal.

Calendar.

SEC. 17. All appeals in which the record shall have [been] filed in the supreme court at least ten days before the beginning of any stated session of the court, shall be placed on the calendar of the court for hearing at such session; and the subsequent filing of a supplementary record shall not affect the position of the appeal on the calendar. But the hearing of an appeal may at any time be postponed by the court or continued for the session, of its own motion or for good cause shown, and on such terms as may be just.

SEC. 18. Any respondent may move the supreme court, <sup>Motion to dismiss.</sup> at such time and in such manner as the court by its rules may have prescribed, to dismiss an appeal either on the ground that the court has no jurisdiction of an appeal from the judgment or order from which the appeal was taken, or that the notice of appeal was not served or filed within the time limited by law, or is insufficient, or that the appeal bond was not filed within the time limited by law, or is not in form or substance such as to render the appeal effectual, or that the appellant's brief has not been served or filed, or that the record on appeal has not been sent up, or that the appeal has not been diligently prosecuted or on any ground going to the merits of the further prosecution of the appeal, or on any two or more of the grounds hereinabove mentioned; and there may be combined with a motion to dismiss a motion to affirm the judgment or order <sup>Motion to affirm.</sup> appealed from, or a motion for damages on the ground that the appeal was taken merely for delay, or was manifestly unauthorized by law, or both such motions. A general appearance in the supreme court shall not be a waiver of the right to make any motion herein authorized.

SEC. 19. If the supreme court, on the hearing of any <sup>Hearing of motion.</sup> such motion or motions, shall find the grounds, or any thereof, alleged for the same to be well taken and true in fact, the court may grant the same, in whole or in part; but when any such motion does not go to the substance of the appeal or to the right of appeal, and the court shall be of the opinion that the moving party can be compensated in costs or by the imposition of other terms for any delay of the appellant which is made the ground of any such motion (except a failure to take the appeal within the time limited by law), the court in its discretion may deny the motion, on such terms as may be just. The court shall, upon like terms, allow all amendments in matters of form <sup>Amendments.</sup> curative of defects in appellate proceedings, to the end that substantial justice be secured to the parties; and no appeal shall be dismissed for any informality or defect in the notice of appeal or the service thereof, if from the notice or other parts of the record on appeal it appears that

the adverse party has had sufficient notice of the appeal, describing the judgment or order appealed from with such certainty that his substantial right would not be prejudiced by the hearing of the appeal.

SEC. 20. No withdrawal of an appeal, and no dismissal which does not go to the substance of or the right to the appeal, shall preclude any party from taking another appeal in the same cause, within the time limited by law.

Review.

SEC. 21. Upon an appeal from a judgment, the supreme court may review any intermediate order or determination of the court below which involves the merits and materially affects the judgment, appearing upon the record sent up from the superior court. Any questions of fact or of law, decided upon trials by the court or by referees, in either legal or equitable causes, may be reviewed, when exceptions to the findings of fact or to the conclusions of law, or both, have been duly taken, by either party and sent up in the record on appeal; and in actions legal or equitable, tried by the court below without a jury, wherein a statement of facts or bill of exceptions shall have been certified, the evidence of facts shown by such bill of exceptions or statement of facts shall be examined by the supreme court *de novo*, so far as the findings of fact or a refusal to make findings based thereon shall have been excepted to, and the cause shall be determined by the record on appeal, including such exceptions or statement.

Decision to be  
in writing.

SEC. 22. Upon an appeal from a judgment or order, or from two or more orders with or without the judgment, the supreme court may affirm, reverse or modify any such judgment or order appealed from, as to any or all of the parties, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had; and, if the appeal is from a part of a judgment or order, may affirm, reverse or modify as to the part appealed from. The decision of the court shall be given in writing, and no cause shall be deemed decided until the decision in writing is filed with the clerk. In giving its decision, if a new trial is granted, the court shall pass upon and determine all the questions of law involved in the

cause presented upon such appeal and necessary to the final determination of the cause.

SEC. 23. Upon the affirmance of any judgment or order for the payment of money, the collection of which, in whole or in part, has been stayed by an appeal bond, as in this act provided, the court may award to the respondent damages upon the amount superseded; and, if satisfied by the record that the appeal was taken for delay only, the court must so award such damages not exceeding fifteen per cent. of the sum by such judgment or order recovered or directed to be paid, as will effectually tend to prevent the taking of appeals for delay only.

Award of damages.

SEC. 24. Upon the affirmance of a judgment or [on] appeal for the payment of money, the supreme court shall render judgment against both the appellant and his sureties in the appeal bond for the amount of the judgment appealed from (in case the bond was conditioned so as to support such judgment) and for the damages and costs awarded on the appeal; and in any other case of affirmance the supreme court shall likewise render judgment against both the appellant and his sureties in the appeal bond for the amount recoverable according to the condition of the bond, in case such amount can be ascertained by the court without an issue and trial.

Judgment against appellant and sureties.

SEC. 25. If a petition for re-hearing or an appeal be filed within thirty days after the filing of the decision of the supreme court, the *remittitur* upon the appeal shall not be sent down to the lower court till such petition shall have been acted upon by the supreme court. But at the expiration of thirty days after the filing of the decision of any cause on appeal in case no petition for re-hearing shall be filed, or in case such a petition is filed and is denied by the court, then forthwith upon such denial the clerk of the supreme court shall send down to the superior court from which the appeal was taken a *remittitur* in the cause, which shall consist of the judgment of the supreme court, and a certified copy of the opinion of the court in case any judgment or order appealed from was reversed or modified thereby.

Remittitur.

SEC. 26. If the supreme court affirm or modify any judg-

ment or order appealed from, it may remand the cause to the court below with directions to carry the same into effect, or it may itself issue the necessary process for that purpose to the sheriff of the proper county, as it may deem advisable. If the cause is remanded to the court below to have such judgment or order carried into effect, the decision of the supreme court, and its order entered thereon, upon being certified to the court below and entered on its records, shall have the same force and effect therein as if made and entered by the court below during its session. Executions issued from the supreme court shall be similar to those from the superior court, and of like force and effect, and returnable in the same time.

Executions  
from supreme  
court.

SEC. 27. If by a decision of the supreme court the appellant becomes entitled to a restoration of any part of the money or property that was taken from him by means of the judgment or order appealed from, either the supreme court or the court below may direct an execution or writ of restitution to issue for the purpose of restoring to the appellant his property, or the value thereof. But property acquired by a purchaser in good faith, under a judgment subsequently reversed, shall not be affected by such reversal.

Execution or  
writ of  
restitution.

SEC. 28. The death of a party after the rendition of a final judgment in the superior court shall not affect any appeal taken, or the right to take an appeal; but the proper representatives in personalty or realty of the deceased party, according to the nature of the case, may voluntarily come in and be admitted parties to the cause, or may be made parties at the instance of another party, as may be proper, as in case of death of a party pending an action in the superior court, and thereupon the appeal may proceed or be taken as in other cases; and the time necessary to enable such representatives to be admitted or brought in as parties shall not be computed as part of the time in this act limited for taking an appeal, or for taking any step in the progress thereof.

Death not to  
affect appeal  
or right of  
appeal.

Costs.

SEC. 29. Costs shall be allowed in the supreme court, irrespective of any costs taxed in the case in the court below, to the prevailing party in the supreme court, on any

appeal in any civil action or proceeding as follows: The fees of the clerk of the supreme court paid by the prevailing party, the fees of the clerk of the court below for preparing, certifying and sending up the records on appeal, or any supplementary record, paid by the prevailing party, and twenty-five dollars attorneys' fees, besides his necessary disbursements for the printing of briefs, and any sum actually paid or incurred by the prevailing party as stenographer's fees, not exceeding ten cents a folio, for making a transcript of the evidence or any part thereof included in the bill of exceptions or statement of facts; but when the judgment of the court below shall be affirmed in part and reversed in part, or affirmed as to some of the parties and reversed as to others, or modified, the costs shall be in the discretion of the court, and when the judgment is reversed and a new trial ordered, the court may in its discretion direct that costs of the prevailing party shall abide the result of the action. When in the opinion of the supreme court a brief of the prevailing party shall be unnecessarily long, or improper in substance, the court may in its discretion order the disallowance as costs of any part or the whole of the disbursements for printing the same.

SEC. 30. An appeal by a defendant in a criminal action shall stay the execution of the judgment of conviction. In case the defendant has been convicted of a felony, and has been unable to furnish the bail bond required by section thirty-one of this act, pending the appeal, the time during which he remains in the jail of the county from which the appeal is taken shall be deducted from the term for which he was theretofore sentenced to the penitentiary, if judgment against him be affirmed.

SEC. 31. In all criminal actions, except capital cases in which the proof of guilt is clear or the presumption great, upon an appeal being taken from a judgment of conviction, the court in which the judgment was rendered, or a judge thereof, must, by an order entered in the journal or filed with the clerk, fix and determine the amount of bail to be required of the appellant; and the appellant shall be committed until a bond to the State of Washington in the sum so fixed be executed on his behalf by at least two sureties

Judge of court  
to fix amount  
of bail.

possessing the qualifications required for sureties on appeal bonds by section ten of this act, such bond to be conditioned that the appellant shall appear whenever required, and stand to and abide by the judgment or orders of the appellate court, and any judgment and order of the superior court that may be rendered or made in pursuance thereof. If the appellant be already at large on bail, his sureties shall be liable to the amount of their bond, in the same manner and upon the same conditions as if they had executed the bond prescribed by this section; but the court may by order require a new bond in a larger amount or with new sureties, and may commit the appellant until the order be complied with.

SEC. 32. Personal appearance of any party in the supreme court shall not be necessary on appeal in either civil or criminal actions. In criminal actions the defendant shall be entitled to close the argument.

SEC. 33. When in a criminal action the judgment against the defendant is reversed and it appears that no offense whatever has been committed, the supreme court must direct that the defendant be discharged; but if it appear that the defendant is guilty of an offense, although defectively charged in the indictment or information, the supreme court, if the defendant is in prison, must direct the keeper of the place of confinement to cause the prisoner to be returned to the sheriff of the proper county, there to abide the order of the superior court thereof; and such keeper shall be entitled to the usual fees therefor.

Period of  
imprisonment  
deducted.

SEC. 34. If a defendant who has been in prison during the pendency of an appeal, upon a new trial ordered by the supreme court, shall be again convicted, the period of his former imprisonment shall be deducted by the superior court from the period of imprisonment to be fixed on the last verdict of conviction.

SEC. 35. A transcript of any order or judgment, or both, of the supreme court, certified under the seal of the court, shall be sufficient authority to any court, or to any officer on whom it may be served, to proceed according to its mandate.

SEC. 36. The supreme court shall hear and determine all

causes removed thereto in the manner hereinbefore provided, upon the merits thereof, disregarding all technicalities, and shall upon the hearing consider all amendments which could have been made as made.

SEC. 37. The supreme court is hereby authorized to make all needful rules and regulations not inconsistent with law concerning practice and procedure in cases appealed to the supreme court. Rules and regulations.

SEC. 38. The mode provided by this act for appealing cases to the supreme court, and for securing a revision of the same therein, shall be exclusive and shall supersede all other methods heretofore provided. But no rights acquired under statutes which are abrogated by this act shall be lost by reason of the passage of this act, and all appeals pending when this act takes effect may be prosecuted to their determination as if this act had not been passed.

SEC. 39. Except as otherwise provided in section thirty-eight of this act, all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 8, 1893.

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## CHAPTER LXII.

[S. B. No. 21.]

### RIGHT OF EMINENT DOMAIN BY MUNICIPAL CORPORATIONS OTHER THAN CITIES OF THE FIRST CLASS.

AN ACT giving the power and regulating the mode of procedure to acquire, take or damage private property by municipal corporations except cities of the first class, and of ascertaining and securing compensation therefor, and repealing laws in conflict with this act.

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

SECTION 1. Municipal corporations, except cities of the first class, are hereby empowered and authorized to acquire, condemn, take or damage private property for public corporate uses, and for such purposes may proceed to acquire,

take, or damage the same, in the manner provided by chapter nine of the laws of 1890, relating to "Appropriation of lands by corporations, to regulate proceedings for," entitled "An act to regulate the mode of proceeding to appropriate lands, real estate or property, by corporations for corporate purposes, and of ascertaining and securing compensation therefor, and repealing laws in conflict with this act, and declaring an emergency," approved March 21, 1890.

SEC. 2. All laws in conflict with this act are hereby repealed.

Approved March 8, 1893.

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## CHAPTER LXIII.

[S. B. No. 53.]

### STATE LIBRARY.

AN ACT relating to the state library, and declaring an emergency.

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

SECTION 1. The state library of the state shall be kept by a librarian, who shall be appointed by the governor, by and with the advice and consent of the senate, whose term of office shall be for four years next following his appointment, and until his successor is appointed and qualified; and in case of a vacancy the governor shall appoint a librarian to fill the unexpired term.

Oath of office. SEC. 2. The state librarian, before he enters upon the duties of his office, shall qualify by an oath, to be filed in the office of secretary of state, that he will support the constitution of the United States and the constitution of the State of Washington, and that he will faithfully perform his duties; and he shall also give a bond in the sum of two thousand dollars, payable to the state, with two or more sureties, to be approved by the secretary of state, that he will perform his duties as required by law.

Bond.

SEC. 3. The state librarian shall appoint an assistant li-<sup>Assistant.</sup>  
brarian, by and with the advice and consent of the board  
of library commissioners, who shall qualify in like manner  
as the librarian. The compensation of said assistant li-<sup>Compensation.</sup>  
brarian shall be eight hundred (\$800) dollars per annum,  
to be paid in like manner as the state librarian is paid.  
The assistant librarian shall, under the direction of the  
state librarian, keep the library open to the public, for the  
use of books in the library rooms, every evening, Sunday  
excepted, between the hours of seven and ten o'clock.

SEC. 4. It shall be the duty of the librarian to keep a<sup>Duties of  
librarian.</sup>  
correct account of all books in the library, and keep said  
books in an orderly manner on the shelves of said library,  
except as he allows them to be taken from the shelves as  
hereinafter provided, and to use that reasonable diligence  
which a careful man would do in his own private office; to  
keep a record of all books taken from the library rooms;  
to collect the books outstanding into the library; to keep  
all the books marked so that it may be known that they  
belong to the state library; to have bound all books and  
papers that require binding; to act as secretary to the  
board of library commissioners; to report to the governor  
of the state biennially, in November preceding each ses-  
sion of the legislature, all increase or decrease in said state  
library and the sources of such increase and decrease; pre-  
pare a supplemental catalogue and have the same printed  
and distributed when required so to do by the board of li-  
brary commissioners, and when his term of office expires  
deliver all accounts and papers concerning said library and  
all of said library to his successor in office.

SEC. 5. The librarian shall collect all outstanding books<sup>Same.</sup>  
belonging to the library, prior to the session of the legis-  
lature and supreme court, for the use of the members of  
the legislature and officers thereof and the attorneys and  
judges of said court and other officers of state.

SEC. 6. The persons named in the preceding section and<sup>Who may  
use books.</sup>  
all other persons shall be allowed the use of the books in  
the library rooms in accordance with the rules and regula-  
tions prescribed by the library commissioners for the gov-  
ernment of the library, but shall in no case be permitted

to take any book therefrom belonging to the law department of the library, except to a room in the building occupied by the library, nor shall he be permitted to take any book from the library room unless he first deposits with the acting librarian a receipt therefor: *Provided, however,* That the members of the legislature, during the session thereof, the judges of the supreme court and other state officers may take books from the library and the library building by first depositing with the acting librarian a receipt therefor. All persons violating the provisions of this section shall forfeit and pay to the state librarian an amount equal to three times the value of the book or books so taken, which amount shall, when so collected, be deposited with the state treasurer to the credit of the special state library fund.

Penalty.

SEC. 7. No books shall be taken outside the city which is the seat of the state government, and all persons violating the provisions of this section shall forfeit and pay to the state librarian an amount equal to three times the value of the book or books so taken, to be collected and deposited as provided in the preceding section: *Provided,* That the provisions of this section shall not apply to the attorney general or his assistants, in cases wherein the state is interested and in which the books taken are required.

Penalty.

SEC. 8. Any person may take a book from the library, at the discretion of the librarian, provided such book is one belonging to the general department and not to the law department of the library, by first depositing in money with the state librarian, the value of the said book, if it be one not belonging to a set; and if it be one belonging to a set, then by depositing in money, double the value of the book taken, and also by depositing with the librarian a receipt for said book, signed by the person taking it, and any person obtaining a book under the provisions of this section shall return the same to the librarian within fifteen days from the time the same is taken under the penalty of the forfeiture of the money so deposited which shall be deposited as provided in section six of this act. The person returning the book shall be entitled to his receipt which he gave for the same, and to his money which he

Regulating  
the use of  
books.

deposited, less the amount of damage done to the book returned.

SEC. 9. Any person who shall take from the state library any book without first receipting to the librarian for the same, and any person who shall purposely destroy, mutilate, alter, deface, conceal or cover up the state marks on any book belonging to the state library, shall in either case be deemed to intend to embezzle the same and guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty dollars nor more than Penalty. two hundred dollars, and shall also deliver up such book or books.

SEC. 10. All actions prosecuted under this act shall be deemed criminal actions, and shall be prosecuted as other crimes and misdemeanors are prosecuted in the name of the state, and all courts of justices of the peace shall have concurrent jurisdiction with the superior courts in all cases where the penalty is less than one hundred dollars, and in all other cases the superior courts shall have the jurisdiction thereof.

SEC. 11. All moneys recovered under the provisions of this act to which the state is entitled shall be paid immediately to the state treasurer, to the credit of the state library fund.

SEC. 12. The board of library commissioners provided Board of library commissioners. in section seventeen of this act, may exchange or sell such books and documents belonging to the library as to the said board may seem conducive to the best interest of the said library, and the said board shall buy with the proceeds of such sale or sales, or shall receive in exchange for books so exchanged such books as they shall direct.

SEC. 13. It shall be the duty of the secretary of state Secretary of state. to deposit with the state librarian a sufficient number of copies of each volume of the supreme court reports of this state, for him to distribute to the libraries of the several states and territories practicing a like comity with this state. The account of the librarian for expenses of transporting the same shall be paid out of the state treasury by warrant drawn by the state auditor, who shall receive proper vouchers for the same.

Expenditures.

SEC. 14. The state librarian is hereby authorized to pay freight and other charges upon books or other documents sent to the library, and to buy such wrapping paper, twine, postage stamps and stationery as may be found necessary for the use of the state library, taking proper vouchers therefor; and upon presentation of said vouchers, approved by the secretary of state, the state auditor shall issue a warrant upon the state treasurer, in favor of the librarian, for the amount so found due.

Care and custody of capitol.

SEC. 15. In addition to the duties of the state librarian hereinbefore named, he shall have the care and custody of the capitol buildings and grounds when the legislature is not in session, and shall report their condition to the secretary of state at least sixty days prior to the commencement of each session of the legislature.

Salary.

SEC. 16. The state librarian shall be allowed an annual salary of fifteen hundred dollars, to be paid monthly, and the state auditor shall draw warrants on the state treasurer for said amounts.

Board of library commissioners.

SEC. 17. The governor, the secretary of state and the attorney general of the state shall constitute a board of library commissioners, who shall make such rules for the conduct of the library as they may deem advisable, and shall exercise a general supervision over the said library. They shall obtain by purchase, or otherwise, books, reports, maps, etc., for the said state library, and the said commissioners are hereby authorized to expend therefor in the aggregate a sum not exceeding four thousand dollars annually: *Provided*, That at no time shall such purchases exceed the amount in the hands of the state treasurer to the credit of the special state library fund.

SEC. 18. When purchases of books for the state library are made, as provided in the preceding section, the vouchers therefor having been certified by one or more of said commissioners, shall be presented to the state auditor, who shall issue warrants for the same upon the state treasurer, to be paid out of the special state library fund.

SEC. 19. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 20. Whereas, the existing law relating to the state

library is essentially defective and insufficient: therefore, an Emergency. emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the governor.

Approved March 8, 1893.

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## CHAPTER LXIV.

[S. B. No. 117.]

### TO SECURE SECRECY IN THE TRANSMISSION OF TELEGRAPH AND TELEPHONE MESSAGES.

AN ACT to secure secrecy in the transmission of telegraph and telephone messages.

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

SECTION 1. That whoever shall willfully and maliciously cut, break, tap, or make any connection with, or read, or copy, by the use of telegraph or telephone instruments or otherwise, in any unauthorized manner, any message, either social or business, sporting, commercial or other news reports, from any telegraph or telephone line, wire, or cable, so unlawfully cut or tapped, in this state, or make unauthorized use of the same, or who shall willfully and maliciously prevent, obstruct or delay by any means or contrivance whatsoever, the sending, conveyance or delivery, in this state, of any authorized communication, sporting, commercial or other news reports, by or through any telegraph or telephone line, cable or wire under the control of any telegraph or telephone company doing business in this state, or who shall willfully and maliciously aid, agree with, employ or conspire with any other person or persons to do any of the aforementioned unlawful acts, shall be deemed guilty of felony, and shall be punished by a fine of not less than five hundred dollars nor more than three thousand dollars, or by imprisonment in the penitentiary for a period of not less than one nor more than five years; or by Penalty.

both fine and imprisonment within the limits hereinbefore specified, at the discretion of the court.

SEC. 2. Prosecutions under this act shall be by information or indictment in any court having criminal jurisdiction.

Approved March 8, 1893.

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## CHAPTER LXV.

[H. B. No. 94.]

### RELATING TO FORMATION OF NEW SCHOOL DISTRICTS.

AN ACT concerning the formation of new school districts, changing the boundaries and transferring territory from one district to another.

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

SECTION 1. In forming new districts or transferring territory from one district to another or changing boundaries of districts, no school district shall be cut down to less than four sections of land unless said district can support six months' school per year after deduction of territory. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1893.

CHAPTER LXVI.

[H. B. No. 98.]

FIXING FEES AND COMPENSATION OF JUSTICES OF THE PEACE.

AN ACT fixing the fees and compensation of justices of the peace, and declaring an emergency.

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

SECTION 1. The fees and compensation of justices of the peace shall be as follows, to wit:

For docketing each cause, to be charged but once.....	\$0 25
For issuing notice.....	25
For issuing warrant in criminal cases.....	50
For taking recognizance of bail, including justification.....	75
For committing to jail.....	25
For issuing subpoena, with any number of names.....	25
For entering judgment on trial, by confession or by default..	25
For each folio of certified copy of proceeding of any kind before a justice of the peace, or of papers filed therein, including certificate.....	10
For issuing any writ or venire.....	25
For taking affidavits or acknowledgments, each.....	25
For attending with clerk of county commissioners at the opening of polls, per diem.....	3 00
For filing each paper in a cause, other than exhibits.....	05
For approving a bond, including justification.....	50
For administering an oath, except in a judicial proceeding before such justice.....	15
For taking depositions, for each folio.....	10
For solemnization of marriage and making return thereof....	5 00
For each continuance or adjournment granted by consent or on motion of either party.....	25
For trial of each cause.....	1 00

SEC. 2. In any civil action commenced before or transferred to a justice of the peace receiving a salary, the plaintiff may, at the time of such commencement or transfer, pay to such justice the sum of two dollars, which sum shall be all the fees and charges which any party to such action shall be compelled to pay to such justice up to and including the rendition of judgment in such action, unless process in replevin, attachment or garnishment shall issue therein, in which case the party procuring such process may pay to such justice the sum of one dollar as full payment for the fees and charges of such justice incident to

Fees where justice receives salary.

the proceedings under such process; but in case said action is transferred from such justice before final judgment, such justice shall repay to any party making such payments any sum in excess of what said party would have been compelled to pay by section one hereof.

SEC. 3. No justice of the peace in any civil action or proceeding shall be entitled to or receive any fees or compensations not provided for by this act.

SEC. 4. Whereas, justices of the peace are, by law, in this state allowed fees which are deemed excessive, and the immediate reduction thereof is deemed expedient: therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 9, 1893.

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## CHAPTER LXVII.

[H. B. No. 180.]

### AUTHORIZING FISH COMMISSIONER TO MAKE RESEARCH.

AN ACT to authorize the Fish Commissioner to make research for the purpose of enforcing the fish laws of the State of Washington.

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

SECTION 1. The fish commissioner of the State of Washington and his deputies are hereby authorized to inspect all canneries, boats, nets, wheels, traps and other appliances and all property used in the catching and packing of fish, or in the fish industry, for the purpose of enforcing the fish laws of the State of Washington, and to that end said commissioner and his deputies are authorized to enter on said property and make inspection thereof.

Approved March 9, 1893.

## CHAPTER LXVIII.

[H. B. No. 283.]

## SUGAR BOUNTY.

AN ACT granting a bounty for the production and manufacture of sugar in the State of Washington.

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

SECTION 1. Any person, firm or corporation shall receive from the state treasury the sum of one-half cent for each and every pound of sugar manufactured within the State of Washington by such person, firm or corporation from sugar producing plants grown within the state.

SEC. 2. Any person, firm or corporation shall receive <sup>Bounty.</sup> from the state treasury the sum of one-half cent for each and every pound of sugar manufactured within the State of Washington from sugar yielding plants grown within said state by such person, firm or corporation.

SEC. 3. No bounty shall be paid upon sugar not containing at least ninety per cent of crystalized sugar. The quantity and quality of sugar upon which bounty is claimed shall be determined by the president of the state agricultural college, with whom all claimants shall from time to time file verified statements showing the quantity and quality of sugar manufactured by them, and upon which such bounty is claimed. <sup>Quantity required.</sup> The said president of the state agricultural college shall, without unnecessary delay, visit, or cause to be visited by such person as he shall designate in writing, the factory where such sugar has been produced or manufactured, and inspect the sugar so manufactured, and take such evidence, by the sworn testimony of the officers or <sup>Inspection.</sup> employés of such factory or others, as to the amount and quality of sugar so manufactured, as to him, or the person so designated by him, shall appear satisfactory and conclusive. The sugar so manufactured shall be placed by the manufacturer in original packages, which shall be examined and branded by the said president, or person by him designated, with a suitable brand showing the quantity and quality of sugar contained in each of said several packages,

of which an accurate account shall be kept by said inspector and filed in the office of the said president of the state agricultural college. The cost of such brand, together with any and all analysis that the said president or other authorized persons shall require to be made shall be borne by the claimant.

Claim.

SEC. 4. When any claim arising under this act is filed, verified and proven to the satisfaction of the president of the state agricultural college, as herein provided, he shall certify the same to the auditor of the state, who shall draw a warrant upon the state treasurer for the amount due thereon, payable to the party or parties to whom the said sum or sums are due: *Provided*, That no greater sum than \$50,000 shall be paid out of the state treasury as a bounty in any one year.

Books of account.

SEC. 5. Every person, firm or corporation manufacturing sugar pursuant to the provisions of this act shall keep full and complete books of account, which shall show the quantity and kind of sugar producing plants received by such person, firm or corporation from any person, firm or corporation, the approximate per cent. of saccharine matter contained in such plants, the name of the grower and the place where the same was grown, also the quantity of sugar manufactured from such plants.

SEC. 6. The president of the agricultural college shall have power to prescribe all necessary regulations for the keeping of such accounts and the form in which they shall be kept, and no bounty shall be paid to any manufacturer failing to conform to such regulations.

SEC. 7. The benefits of this act shall accrue to any person, firm or corporation, and to all persons furnishing them sugar producing plants, that shall commence the erection of a sugar manufactory within two years from the passage of this act and shall have completed the same ready for operation by the first day of July, 1896, and the bounty herein provided for shall be paid to said persons, firms or corporations for the period of five years from the completion of the said manufactories. This act shall be taken and considered to be a contract and irrevocable with all such persons, firms or corporations as shall commence and

complete the erection of such manufactory within the time hereinbefore specified, and with all persons, firms and corporations furnishing them sugar growing plants as herein provided.

Approved March 9, 1893.

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## CHAPTER LXIX.

[H. B. No. 302.]

### RELATING TO PUBLIC ROADS.

AN ACT relating to the construction, repair and improvement of public roads; providing revenue for such purpose; defining the powers and duties of certain officers in relation thereto, and fixing their compensation; and to repeal an act entitled "An act to provide for keeping highways in repair, and for the levy and collection of road poll and road property taxes, and declaring an emergency," approved March 7, 1890, and declaring an emergency.

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

SECTION 1. The board of county commissioners shall, as often as they may deem it necessary, but not oftener than once a year, divide their respective counties, or any part thereof, into suitable and convenient road districts, and cause a brief description thereof to be entered on the county records. Each county commissioner shall be *ex officio* road commissioner of the several road districts in his commissioner district, and shall see that all of the orders of the board of county commissioners pertaining to roads in his district are properly executed: *Provided*, When in any county the members of the board of county commissioners are not elected by districts, it shall be the duty of the board of county commissioners, by proper order to be entered on its records, to divide such county into commissioners' districts to correspond with the number of members of such board, and to assign to each member of the board one of such districts, of which he shall be such road commissioner: *Provided*, That no member of the board of

county commissioners shall receive any compensation for any service whatever, performed by him, or required of him by any of the provisions of this act other than his salary or per diem as county commissioner.

Time for election of road supervisor.

SEC. 2. There shall be elected in the several counties in this state, at the hour of two o'clock P. M., on the first Saturday in December in the year eighteen hundred and ninety-three, and on the first Saturday in December annually thereafter, a road supervisor in each road district, who shall hold office for one year from and after the second Monday in January next succeeding his election, and until his successor is elected and qualified. At least ten

Notice of election.

days prior to the election herein provided for, the road supervisor of each district shall post or cause to be posted notices of the time and place when and where such election will be held. At such election the road supervisor shall, if present, act as chairman and judge; but if the supervisor is not present, the voters shall elect one of their number, who shall be a taxpayer in the district, as chairman and judge, and they shall also select a clerk of election, who shall act as judge also, and shall be a taxpayer in the district. The voters present shall select a third person to act as judge, who shall likewise be a taxpayer in the district. All qualified electors in the district may vote at such election, and the person receiving the highest number of votes at such election shall be declared elected as road supervisor. The clerk of election shall keep a record of the proceedings at such election. The chairman and clerk of such meeting shall, within ten days thereafter, certify the result of such election to the board of county commissioners, who shall canvass the returns in the same manner that the returns of any general or special election are canvassed. The ballots cast at such election shall be returned to the county commissioners with the returns of such election, and if the county commissioners have reason to believe that the return of such election has not been properly made and the result correctly returned to them, they may re-count the ballots and declare the result of such election. If any road district shall fail to elect a road supervisor as hereinbefore provided, it shall be the duty of the county

Electors.

Certificate of election.

Returns.

auditor to report to the board of county commissioners at their next regular February meeting, all districts which have failed to elect road supervisors at the time hereinbefore provided, and the board of county commissioners shall, at such meeting, appoint supervisors to fill all vacancies in such road districts: *Provided*, That any road supervisor who has failed to post or cause to be posted the notice of election for road supervisor as hereinbefore provided, shall not be eligible to appointment by the board of county commissioners. All road supervisors elected or appointed under the provisions of this act shall give their official bond in such sum as the board of county commissioners may fix, conditioned that they will faithfully perform all the duties required by law, or the orders of the county commissioners, and that they will account for all money received by them in their official capacity, and they shall take the usual oath of office. The bond and oath of office required to be filed by road supervisors shall be filed within twenty days after they receive notice of their election or appointment from the county auditor, and when such bond and oath of office is filed and the bond approved by the county auditor as clerk of the board of county commissioners, the county auditor shall furnish to each road supervisor a certificate that such bond and oath of office has been filed, and the bond approved, and such certificate shall authorize the person to whom it is issued to perform the duties and exercise the powers of road supervisor for the district in and for which he has been elected or appointed.

SEC. 3. The boards of county commissioners of the several counties in the state shall have general supervision over the roads in their respective counties. They must cause to be opened and worked such roads as are necessary for public convenience, which have been laid out and established according to law; levy such taxes for road and bridge purposes as are by law provided for; order and direct road supervisors especially in regard to work to be done on particular roads in their districts; in their discretion cause to be erected and maintained on such public roads as they may designate, guide posts, properly in-

County  
commissioners  
to fill vacancy.

Official bond.

County  
commissioners  
to have general  
supervision.

scribed; in their discretion let out by contract to the lowest bidder, the construction or improvement of any road or bridge on the public roads, when the expense of such construction or improvement will exceed the sum of fifty dollars; remove any road supervisor for inefficiency or neglect of duty or malfeasance in office; order such warrants drawn on the county treasurer and payable out of the funds to the credit of any district as are necessary to pay for labor performed in said district under the direction of the road supervisor, except such work as may be performed by residents of the district in payment of road poll tax or property road tax as hereinafter provided.

Duties of  
the road  
supervisor.

SEC. 4. The road supervisor must take charge of all the public roads in his district, and keep them clear from obstructions, and in good repair, and destroy or cause to be destroyed, at least once a year, all Canada, Chinese and bull thistles or other noxious weeds growing or being on any of the roads in his district; he shall have general supervision of all work ordered done in his district by the board of county commissioners, and shall apply such labor as may be due the district from persons entitled to perform labor on the roads in such district in payment of such taxes as are provided may be paid in labor by residents of the district, in the manner most conducive to the interest of the district and in the way to get the best results from such labor.

Levy for  
general road  
and bridge  
fund.

SEC. 5. The board of county commissioners shall, annually, at the time of making the tax levy for county purposes, levy a tax of not more than three mills on the dollar on all of the taxable property in the county for a general road and bridge fund, from which fund they shall order paid such sums as may be found necessary for the construction, repair and improvement of bridges and such roads as all of the inhabitants in the county are interested in, or to assist weak and impoverished districts in keeping their roads in repair. At the same meeting the county commissioners shall levy a property road tax of not more than five mills on the dollar on all the taxable property in the county, which tax shall be known as the "segregated road fund," and when collected shall be placed to the credit of the dis-

"Segregated  
road fund"  
levy.

tract in which the property on which it was assessed is located, and from which fund shall be paid such sums as are necessary for the proper maintenance of the roads in such district: *Provided*, That no property lying and being within the corporate limits of any incorporated city or town shall be chargeable with property road tax for the "segregated road fund."

SEC. 6. Every male inhabitant of this state over twenty-one years and under fifty years of age, residing outside of the limits of an incorporated city or town, unless by law exempt, shall annually pay a road poll tax of four dollars which shall be assessed and collected by the road supervisor of the district in which any person liable therefor resides, and which must be collected by the road supervisor on or before the first day of December of the year for which such road poll tax is charged. Such road poll tax must be paid on demand to the road supervisor as hereinafter provided. Road poll tax.

SEC. 7. The road supervisor shall annually, in the month of March, make a list of all the persons in his district liable for road poll tax for that year, and shall demand from each person on such list the amount due from such person as such road poll tax. If any person liable for the road poll tax herein required to be assessed and collected, refuses to pay the same when demanded by the road supervisor, and such person is in the employ of any person, firm, corporation or company in such district, the road supervisor shall demand the payment of the road poll tax due from such person, from the person, firm, corporation or company having such person in their employ, and from thenceforth the employer of such person shall be liable for such road poll tax, and the road supervisor shall enforce payment of the same as hereinafter provided. If any person, firm, corporation or company refuses or neglects to pay the road poll tax due from such person, firm, corporation or company, or for which they may become liable under the provisions of this act, the road supervisor is hereby authorized and empowered, and required, to collect the said tax by seizure and sale of any personal property belonging to such person, firm, corporation or company List of persons  
liable to road  
poll tax.  
  
Penalty.

Seizure and  
sale of  
property.

that may be found in the county in and for which such road supervisor is elected and in which such tax is due. When any property is seized by the road supervisor under the provisions of this act, it may be sold by the road supervisor, after having first given two days' notice to the owner of such property and by posting or causing notice of the time and place of sale of such property to be posted in three conspicuous places in the district in which the said road poll tax is due, for at least two days prior to such sale: *Provided*, That if the tax and all costs and expenses of the seizure of such property is paid before the sale, to the road supervisor, he shall release the property seized and deliver the same to the owner thereof at any place said property may then be. The road supervisor shall be allowed two dollars for seizing property under the provisions of this act, and shall be allowed mileage at the rate of ten cents per mile for each mile necessarily traveled in making such seizure and sale. All sales of property made under the provisions of this act shall be at public auction, and a sufficient quantity of the property seized shall be sold to pay the tax due and all costs and charges of the seizure and sale. All excess over the taxes due and the mileage and costs of sale of any property hereunder, must be returned to the owner, and until claimed by such owner must be deposited in the county treasury, subject to the orders of the owner, or his heirs, or legal representatives.

Sales to be at  
public auction.

SEC. 8. Any person liable for road poll tax under the provisions of this act may pay the same in labor on the public roads in the district in which he resides: *Provided*, Such labor shall be done at such time and in such manner as the road supervisor of the district shall direct.

Duties of road  
supervisor.

SEC. 9. The road supervisor shall annually between the first day of April and the first day of December put his roads in his district in as good repair as the money at his disposal will permit, and for this purpose is hereby authorized to expend all of the money collected by him on account of road poll tax due from residents of his district on the public roads in such district. The road supervisor shall give all persons who have not paid their road poll tax in money at least three days' notice, in writing or in

Notice to  
work roads.

person, when and where he will be required to appear and to perform labor on the public roads, in the district, in payment of his road poll tax, and every person who shall appear at the hour of eight o'clock A. M. and perform eight hours faithful and diligent labor on the public roads under the direction of the road supervisor, shall be entitled to a credit of two dollars per day for his personal labor, and if required to furnish a team and a wagon, plow or other implement for use on the public roads, he shall be entitled to a credit of four dollars per day for his labor with such team and wagon, plow or other implement, when furnished with team: *Provided*, That when employing persons on the public roads in his district under the provisions of this section, the road supervisor shall not warn less than five men to appear on any one day.

Not less than five to be warned.

SEC. 10. The county auditor shall, on or before the first Monday in April in each year, deliver to each road supervisor road poll tax receipts in blank, and shall charge the supervisor with four dollars for each road poll tax receipt so delivered to him. Such road poll tax receipts shall be numbered, and shall be signed with the efficient [official] signature of the county auditor, and shall bear his official seal. The county auditor shall give the road supervisor credit for each of said road poll tax receipts returned to him in blank at the time of his final settlement, as hereinafter provided.

Road poll tax receipts.

SEC. 11. Any person residing or owning property outside of the limits of any incorporated city or town, shall be entitled to perform labor on the public roads in the district in which he resides or owns property, to an amount approximating the amount of property road tax for which he will be chargeable on the tax roll for the then ensuing year, as hereinafter provided. Every person who desires to perform labor on the public roads in the district in which he resides or owns property, subject or liable to property road tax, to an amount approximating the property road tax for which he will be chargeable the then ensuing year, must, on or before the fifteenth day of March in such year, notify the road supervisor in writing that he desires to perform such labor on the public roads, and shall give the road supervisor a particular description of the real property

Who may perform labor on roads.

Supervisor to be notified in writing.

Supervisor to  
prepare list.

owned by him, which description shall be sufficiently accurate to enable the property to be identified on the tax roll for the preceding year. The road supervisor shall, immediately after the first day of April, prepare a list of all persons, with a description of the property owned by each, who desire to perform labor on the public roads to an amount approximating the property road tax for which they will be liable for that year, and shall send such list to the county treasurer, who shall enter thereon, opposite the description of each piece or parcel of land thereon, the amount of property road tax that was charged against such land for the preceding year, and shall then return the list to the road supervisor, who shall allow any person whose name appears on such list to perform work on the public roads in the district to an amount not exceeding in value the amount of property road tax exhibited on such list, as having been taxed to the property of such person for the preceding year: *Provided*, That such persons appear at the time and place required by the road supervisor to perform such work.

Notice of time  
and place.

SEC. 12. On the return of such list to the road supervisor by the county treasurer, the road supervisor shall give each person named therein at least three days' notice of the time and place when and where he will be required to appear to perform labor on the public roads in the district, and, if necessary, the road supervisor may require any person to furnish a team and wagon, plow, scraper or other implement for use on the roads in such district, and every person who appears and performs labor on the public roads in the district in which he resides or owns property, as herein provided, shall be allowed two dollars per day for his personal services and four dollars per day for his personal services with the services of a team and wagon, plow, scraper or such other implement he has been required to furnish with team for use on the public roads. All persons required to perform labor on the roads under the provisions of this act shall appear at the time and place designated by the road supervisor, and shall perform eight hours of faithful and diligent labor in each day, at such labor and in such manner as the road supervisor may direct.

Per diem.

SEC. 13. The road supervisor shall give to each person performing labor on the public roads according to the provisions of the two preceding sections, a certificate, stating therein the name of the person, the number of days he has been employed and the total amount due him for labor on the public roads according to the provisions of said sections of this act. The certificate issued by the road supervisor, as herein provided, shall be received by the county treasurer on payment of the property road tax charged on the tax rolls of the county for the then ensuing year against the property of the person to whom it was issued: *Provided*, That at the time such certificate is presented to the treasurer it shall be accompanied with the money for the payment of all of the taxes charged against the said property for such year. If the property road tax of any person amounts to more than the face value of the certificate held by such person, the balance of such property road tax must be paid in money.

Certificate  
for work.

SEC. 14. The road supervisor shall be allowed two dollars and fifty cents per day for each day employed on the public roads in his district under the provisions of this act, not exceeding fifty days in any one year.

Compensation  
of supervisor.

SEC. 15. The road supervisor of each district shall report to the board of county commissioners, at each regular meeting of the board, the amount of money collected by him from road, poll and property tax since the preceding settlement, and shall furnish a statement of the persons who have been employed on the roads in his district under any of the provisions of this act, and the amount or value of the labor performed by them, and on what roads such labor was performed. The road supervisor shall, at the expiration of his term of office, account for all the poll tax receipts delivered to him by the county auditor, and shall surrender all that remain in his hands unused, and shall turn over to his successor in office all money remaining in his hands.

Supervisor's  
report.

SEC. 16. All persons filling the office of road overseer at the time this law goes into effect are hereby authorized to perform all the duties and exercise all of the powers conferred upon road supervisors by this act, and such over-

Overseers.

seers shall in all respects be considered as road supervisors until the next regular election for such officers.

Expenditure  
of money.

SEC. 17. The road supervisor of each district is authorized, by and with the consent of county commissioners, to expend all money to the credit of his district in the repair and improvement of the roads in his district, but all claims against such district for labor performed on the roads therein, except as provided for residents and owners of property in such district to perform labor on the roads in such district, shall be audited by the board of county commissioners before being paid, and shall be paid by the warrant of the county auditor drawn on the county treasurer and payable out of the funds of the district in which such labor was performed.

SEC. 18. An act entitled "An act to provide for keeping highways in repair, and for the levy and collection of road property taxes, and declaring an emergency," approved March 7, 1890, is hereby repealed, and all other laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 19. Whereas, the present road law is unsatisfactory in many particulars, and the passage of this act will materially assist in securing much needed improvement of the public roads this season, therefore an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 9, 1893.

## CHAPTER LXX.

[H. B. No. 331.]

RELATING TO THE ORGANIZATION, CLASSIFICATION  
AND INCORPORATION OF MUNICIPAL INCORPORATIONS.

AN ACT to amend sections 107, 109, 113, 116, 124, 125, 126, 132, 133, 134, 135 and 136 of an act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency, approved March 27, 1890.

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

SECTION 1. That section 107 of an act providing for the organization, classification, incorporation and government of municipal corporations, approved March 27, 1890, be amended to read as follows: Sec. 107. The clerk, treasurer, city attorney and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city in such penal sum as the city council by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter *ex officio* incumbent. Any other officer shall give such bond when required by the city council. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the mayor. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office: *Provided, however,* That no city officer shall be eligible upon any bond.

Bonds of city officers.

Oath of office.

SEC. 2. That section 109 of said act be amended to read as follows: Sec. 109. The members of the city council shall receive no compensation whatever, except while acting as a board of equalization. The treasurer, clerk, marshal, city attorney and health officer shall severally receive, at stated times, a compensation, to be fixed by ordinance by the city council, which compensation shall not be increased or diminished after their election, or during their

Compensation.

several terms of office. Nothing herein contained shall be construed to prevent the city council from fixing such several amounts of compensation, in the first instance, during the term of office of any such officer or after his election. The compensation of all other officers shall be fixed from time to time by the city council.

Organization  
of council.

SEC. 3. That section 113 of said act be amended to read as follows: Sec. 113. The city council, together with the mayor, shall meet on the first Tuesday in January, next succeeding the date of said general municipal election, shall take the oath of office, and shall hold regular meetings at least once in each month, but not to exceed one regular meeting in each week, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor, by written notice delivered to each member at least three hours before the time specified for the proposed meeting: *Provided, however,* That no ordinance shall be passed, or contract let, or entered into, or bill for the payment of money allowed, at such special meeting, or at any adjourned regular or special meeting. All meetings of the city council shall be held within the corporate limits of the city at such place as may be designated by ordinance, and shall be public.

Special  
meetings.

Ordinances  
and franchises.

SEC. 4. That section 116 of said act be amended to read as follows: Sec. 116. No ordinance and no resolution granting any franchise for any purpose shall be passed by the city council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, nor without being first submitted to the city attorney. All ordinances shall be published in a newspaper printed within said city. Such publication shall be made by the newspaper designated as the official newspaper of such city, if there be one. If there be no official newspaper, nor other newspaper published in said city, then publication shall be made in such manner as the city council may direct. No ordinance, resolution or order for the payment of money shall have any validity or effect unless passed by the votes of at least four councilmen: *Provided, however,* That no ordinance, franchise or valuable privilege shall be granted unless by the votes of at least five members of the

council. No ordinance shall take effect until five days from and after the date of its last publication. And no ordinance shall contain more than one subject, which shall be clearly expressed in its title. And no ordinance, or any section thereof, shall be revised or amended unless the new ordinance contain the entire ordinance or section revised, or amended, and the ordinance or section so amended shall be repealed.

SEC. 5. That section 124 of said act be amended to read as follows: Sec. 124. The city council are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, alleys, avenues, high-<sup>Street work.</sup> ways and public places of such city. The expense or cost of improving and repairing streets, sidewalks, alleys, squares and other public highways and places within the city, removing obstructions therefrom, grading, planking, paving, macadamizing, graveling and curbing the same, and constructing gutters, culverts and sidewalks therein, shall be assessed as follows: The city council shall, before or during the grading, paving or other improvement of any <sup>Assessments for street improvements.</sup> street or alley, the cost of which is to be levied and assessed upon the property benefited, first pass a resolution or ordinance declaring its intention to make such improvement and stating in such resolution or ordinance the name of the street or alley to be improved, the points between which the said improvement is to be made, the general character of the proposed improvement, and the estimate of the cost of the same, and that the cost of the same is to be assessed against the property abutting (and included in the assessment district herein provided) on such street proposed to be improved, and shall fix a time not less than ten days in which protests against such proposed improvement may be filed in the office of the city clerk. It shall be the duty of such <sup>Publication of resolution.</sup> clerk to cause such resolution to be published in the official newspaper of the city in at least two consecutive issues before the time fixed in such resolution for filing such protests, and affidavit of such publication shall be filed on or before the time fixed for such filing. If protests against <sup>Protests.</sup> the proposed improvement by the owners of more than two-thirds of the front feet of lots and lands abutting on

such proposed improvement and included in the assessment district therein provided, be filed on or before the date fixed for such filing, the council shall not proceed further with the work unless six members of said council shall vote to proceed with such work. If no such protest is filed, or if such protest is filed and six councilmen shall vote to proceed with said work, the council shall at its next regular meeting proceed to consider the same, and shall then or at a subsequent time proceed to enact an ordinance for such improvement. By the provisions of such ordinance a local improvement district shall be established to be called "Local Improvement District No. —;" which shall include all the property fronting on the street to be improved between the points named in such resolution, to the distance back from such street, if platted in blocks, to the center of the blocks, if platted into lots only to the center of each lot, and if not platted, to the distance of one hundred and twenty feet. Such ordinance shall provide that such improvement shall be made, and that the cost and expense thereof shall be taxed and assessed upon all the property in such local improvement district, which cost shall be assessed in proportion to the number of feet of such lands and lots fronting thereon, and included in said improvement district, and in proportion to the benefits derived by said improvement: *Provided*, That the city council may expend from the general fund for said purposes such sums as in their judgment may be fair and equitable in consideration of benefits accruing to the general public by reason of such improvements. The expense of all improvements in the space formed by the junction of two or more streets or where one main street terminates in or crosses another main street, and also all necessary street crossings or crossways at corners or intersections of streets, and the expenses of establishing, building and repairing bridges in such city shall be paid by such city. The expense incurred in making and repairing sewers in any street shall be paid by the city out of the sewer fund. In all the streets constituting the water front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from

Local  
improvement  
district.

Proportionate  
assessment.

Certain  
expenses paid  
by city.

the center line thereof to the said water front, or to such property of the city bounded thereon, shall be paid for by such city; but no contract for any such work shall be given except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center lines of said streets, avenues or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the code of civil procedure. Said suit shall be in the name of the city of \_\_\_\_\_ (naming it) as plaintiff. And in any such proceeding where the court trying the same shall be satisfied that the work has been done or material furnished, which according to the true intent of the act would be properly chargeable upon the lot or land through or by which the street, alley or highway improved or repaired may pass, a recovery shall be permitted or a charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable on such lot or land notwithstanding any informalities, irregularities or defect in any of the proceedings of such municipal corporation or any of its officers.

SEC. 6. That section 125 of said act be amended to read as follows: Sec. 125. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city, or for the purpose of rights-of-way for drains, sewers and aqueducts, and for the purpose of widening, straightening or diverting the channels of streams and the improvement of water fronts, and the city council can not agree with the owner thereof as to the price to be paid, the city council may proceed to acquire, take or damage

the same in the manner provided by chapter 9 of the laws of 1890, relating to "appropriation of lands by corporations; to regulate proceedings for," entitled "An act to regulate the mode of proceeding to appropriate lands, real estate or property by corporations for corporate purposes, and of ascertaining compensation therefor and repealing laws in conflict with this act, and declaring an emergency," approved March 21, 1890.

Taxes.

SEC. 7. That section 126 of said act be amended to read as follows: The city council shall have power, and it shall be their duty, to provide by ordinance a system for the assessment, levy and collection of all city taxes or assessments not inconsistent with the provisions of this chapter; which system shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state governing cities of the second class in reference to the assessment, levy and collection of municipal taxes, except as to the officers by whom such duties are to be performed, and as herein provided. All taxes assessed, including taxes for previous years unpaid or unsatisfied, together with any penalty for delinquency and the costs of collection and interest, shall constitute liens on the property assessed from and after the first day of November in each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by actions in any court of competent jurisdiction, to foreclose such liens: *Provided*, That any property sold for such taxes or assessments shall be subject to redemption within the time and in the manner provided, or that hereafter may be provided, by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes.

Sale of  
property  
for taxes.

Duties of city  
treasurer.

SEC. 8. That section 132 of said act be amended to read as follows: Sec. 132. It shall be the duty of the treasurer to receive and safely keep all moneys which shall

come into his hands as city treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the city clerk. He shall pay out said moneys on warrants signed by the mayor and countersigned by the clerk, and not otherwise. He shall make quarterly settlements with the city clerk, and shall receive such compensation as the city council shall by ordinance determine, but not less than three hundred dollars and not more than twelve hundred dollars per annum. Upon each quarterly settlement he shall file a statement of his account with the city clerk. He shall collect all taxes and assessments levied by the city council and all delinquent taxes and assessments. He shall, upon the receipt of any tax list, give his receipt for the same to the city clerk. He shall receive from the clerk all city licenses, and collect the same, and shall perform such other duties as the city council may by ordinance direct.

SEC. 9. That section 133 of said act be amended to read as follows: Sec. 133. The city clerk shall perform the duties of city assessor, and the office of city assessor is hereby abolished. Clerk to be assessor.

SEC. 10. That section 134 of said act be amended to read as follows: Sec. 134. It shall be the duty of the city clerk, between the first Monday of February and the first Monday of May of each year, to make a true list of all taxable property within the city as the same shall appear in the last preceding county assessment returned by the county assessor. The mode of making out said list and proceedings relating thereto shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed and the value thereof, as returned by the county assessor, and shall contain all other matters required to be stated in such lists by county assessors. Said clerk shall verify said list by his oath, and shall file the same on or before the first Monday of May in each year. He shall during said time, also make a list of all male persons residing within the limits of such city over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before Duties of city clerk.

the first Monday of May in each year, file the same. Said clerk or his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties. It shall be the duty of the city clerk to keep a full, true record of all the proceedings of the city council and the board of equalization. The proceedings of the city council shall be kept in a book marked "Records of the city council." The proceedings of the board of equalization shall be kept in a separate book marked "Records of the board of equalization." He shall keep a book which shall be marked "City accounts," in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received, and in which shall be entered upon the debtor side all warrants drawn on the treasury. He shall also keep a book marked "Treasurer's account," in which he shall keep a full account of the transactions of the city with the treasurer. He shall also keep a book marked "City licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when it expires and the amount paid. He shall also keep a book marked "City ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of such city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be *prima facie* evidence of the contents of the ordinance and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceedings. Said records shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the city council and the board of equalization, shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The city clerk shall also keep a book marked "Demands and warrants," in which he shall

note every demand against the city and file the same. He shall state therein under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll of any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment roll and make out and deliver to the treasurer a tax list in the usual form, taking his receipt therefor. He may appoint a deputy for whose acts he and his bondsmen shall be held responsible; and he and his deputy shall have the power to administer oaths and affirmations, to take affidavits, and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall be the custodian of the seal of such city. He shall make a quarterly statement in writing, showing the receipts and expenditures of the city for the preceding quarter and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year and a full statement of the financial condition of the affairs of the city, which shall be published. He shall perform such other services as this act and the ordinances of the city council shall require.

SEC. 11. That section 135 of said act be amended to read as follows: Sec. 135. It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of said city. He is authorized to bring suit in the name of such city in the proper court for the collection of any tax. He shall perform such other duties as the city council may by ordinance direct.

SEC. 12. That section 136 of said act be amended to read as follows: Sec. 136. The department of police of said city shall be under the direction and control of the city marshal, subject to the direction of the city council; and for the sup-

pression of any riot, public tumult, disturbance of the peace or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers and watchmen in said city, and every citizen shall also lend him aid when required, for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute, before the police justice, all breaches or violations of, or non-compliance with, any city ordinance which shall come to his knowledge. He shall have charge of the city prison and prisoners, and of any chain gang which may be established by the city council. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the city council, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the city marshal. He may also, with the concurrence of the mayor, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the city council shall require, and shall receive such compensation as shall be fixed by ordinance.

SEC. 13. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1893.

## CHAPTER LXXI.

[H. B. No. 415.]

PROVIDING FOR THE ASSESSMENT AND COLLECTION OF  
TAXES IN CITIES OF FIRST CLASS.

AN ACT providing for the assessment and collection of taxes of cities of the first class and specifying the duties of certain county officers in regard thereto, and declaring an emergency.

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

SECTION 1. It shall be the duty of the county assessor in each county in which there is a city of the first class, as soon as the county and state boards of equalization have finally fixed the valuation of the property in such county for state and county taxation in each year, to certify to the city comptroller of each city of the first class in such county a summary of the valuation of all real estate and personal property in such city, or subject to taxation therein, as shown by the assessment roll of such county, as finally fixed by the said boards, and also a list of all residents of such city liable to pay a poll tax. It shall be the duty of the county assessor in making up his assessment roll for the county to place the property within the limits of any such city subject to taxation therein in as compact a form as practicable on said roll, so that the city taxes may be extended in the same manner as state and county taxes are extended, and that portion of said assessment roll embracing persons and property subject to taxation in such city shall constitute also the assessment roll of such city of the first class for the levy and collection of the taxes thereof. When by reason of a change in the boundaries of any such city or otherwise, the rate of taxation is required to differ in different districts thereof, the real and personal property in each district shall be properly segregated for that purpose, and such segregation shall duly appear in the summary certified as aforesaid.

SEC. 2. The city council of each city of the first class shall within thirty days after receiving the certificate of the county assessor, as provided in the preceding section, by ordinance in each year fix the rate of taxes to be levied

Council to fix  
rate of taxes.

and levy the taxes upon all taxable property, both real and personal, in such city, or subject to taxation therein, as shown by said roll, needed to raise sufficient revenue to carry on the different departments of the municipal government thereof for one year, which year shall be the fiscal year (to be designated in the ordinance) fixed by the charter of such city, and shall be either the current or ensuing fiscal year as required by such charter, or, in the absence of a charter requirement, as such ordinance shall provide. Any other general taxes authorized by the charter of such city to be levied with the annual tax levy may be included in such levy.

Clerk to  
certify.

SEC. 3. The city council shall cause the city clerk to certify a copy of the ordinance making such levy to the county auditor, or other officer authorized to extend state and county taxes, who shall extend the same upon the general assessment roll of such county in the same manner and at the same time that he extends the levy for state and county purposes, and shall in turn certify the same to the county treasurer, who shall proceed to collect such taxes in the same manner and at the same time and with the same power to enforce payment as in the case of state and county taxes. All city taxes may be extended in one column without distinguishing the various funds or purposes for which the same are levied, and a copy of the ordinance making the levy for such city shall be recorded in full in each book making up the assessment roll.

County  
treasurer  
collector  
of city taxes.

SEC. 4. The county treasurer of each county in which there is or shall be a city of the first class is hereby constituted *ex officio* collector of city taxes of such city, and before entering upon the duties of his office he shall execute in favor of such city and file with the clerk thereof a good and sufficient bond in an amount equal to that of the bond required of him as county treasurer, such bond to be approved by the mayor of such city, or other authority thereof by whom the bond of the city treasurer is required

Bond.

City treasurer.

to be approved. All special assessments and special taxation for local improvements assessed on property benefited shall be collected by the city treasurer except as otherwise provided by this act.

SEC. 5. All such city taxes and poll taxes collected shall belong to such city, and the county treasurer shall turn over all such taxes so collected to the city treasurer on the first Monday in each month, and take a receipt therefor in duplicate, and at the same time he shall certify to the city comptroller the amounts of taxes so collected, and turn over and deliver with such certificate one copy of the receipt of the city treasurer therefor. The county treasurer shall also render to the city comptroller on each Monday between the first day of January and the first day of May a statement of all taxes collected for such city during the preceding week.

Time for turning over city taxes.

SEC. 6. All taxes of any such city assessed under the provisions of this act becoming delinquent shall be collected and enforced by the same officers and in the same manner as delinquent county and state taxes now are or may hereafter be collected and enforced. Any real property sold to the county for state, county and city taxes shall be held by the county for the common benefit of the county and city in proportion to the equitable interest of each in the taxes, costs and expenses for which the same were sold. All provisions of law relating to discount on state and county taxes and penalties, interest and costs thereon and the times when the same become due, payable or delinquent shall apply to city taxes levied under authority of this act.

Delinquent taxes.

SEC. 7. All delinquent taxes now or hereafter owing to any city not levied as provided in this act shall be collected and enforced in the manner provided by the charters of the respective cities by which the same were levied.

SEC. 8. The assessment roll of the county made as herein provided shall be deemed and held to be also the assessment roll of any city of the first class therein, and in cases where the charter of any such city requires delinquent assessments for local improvements, or any special taxes or assessments whatever to be entered on the annual tax roll of such city, the city treasurer shall from time to time certify the same, together with the accumulated penalties and interest thereon, to the county treasurer, who shall enter the same on the general county assessment roll against the

Assessment roll of county to be assessment roll of city.

property so taxed or assessed in a separate column head, "Delinquent local assessments, city of ....., " in the manner directed by such charter, and the same shall be a part of the tax due on such property and with interest shall be collected as other taxes, separate account being kept thereof, and if not paid within the time fixed for the payment of other taxes, shall be collected as other taxes are collected, together with the additional charges, penalties and interests authorized to be charged and collected on other delinquent taxes; and all other proceedings shall be taken thereon as if the same were originally a part of the general tax assessed against such property.

SEC. 9. This act shall supersede all conflicting provisions of law or charters of cities of the first class relating to the assessment, equalization and collection of general taxes for municipal purposes, and no such city board of equalization shall exercise any jurisdiction for the equalization of property for general city taxes: *Provided*, That in any city whose charter requires the annual tax levy to be made between April 1st and August 1st, a tax levy shall be made in the year 1893 in the manner provided by such charter, and all proceedings in relation to the assessment, equalization, levy and collection of city taxes therein to be levied prior to August first, 1893, shall be taken and completed as if this act had not been passed; but another tax levy for such city shall be made in the year 1893 at the time and in the manner required by this act for the fiscal year next succeeding the year for which the levy first mentioned is made.

Compensation  
of county  
treasurer.

SEC. 10. Each city of the first class shall pay to the county treasurer for duties performed by him in collection of city taxes a salary of five hundred dollars per year, payable monthly from the treasury of such city, as other salaries are paid, which salary shall be in addition to the salary otherwise provided by law. Each city shall also pay the county one thousand dollars per annum for clerk hire.

Emergency.

SEC. 11. Whereas, great public inconvenience results from the payment of separate taxes to the authorities of cities of the first class, and the expense of separate assessments for such cities and for counties is oppressive: there-

fore, an emergency exists for the immediate effect of this act, and therefore the same shall be in force from and after its passage.

Approved March 9, 1893.

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## CHAPTER LXXII.

[S. B. No. 237.]

### PROVIDING FOR ASSESSMENT OF TAXES IN MUNICIPAL CORPORATIONS OF THE THIRD AND FOURTH CLASS.

AN ACT to provide for the assessment and collection of taxes in municipal corporations of the third and fourth class in the State of Washington, and declaring an emergency.

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

SECTION 1. That all taxes levied for municipal purposes by municipal corporations of the third and fourth class shall be assessed and collected in the manner hereinafter provided.

SEC. 2. For the purpose of assessment of all property in said municipal corporations the county assessor of the county wherein such corporation is situated shall be *ex officio* assessor.

SEC. 3. For the purpose of collection of all taxes levied by said municipal corporations for municipal purposes, the county treasurer of the county wherein such corporation is situated shall be *ex officio* tax collector.

SEC. 4. The assessment of said property shall be made by said assessor at the same time and in the same manner, and the property shall be listed and described in its proper order as to numerical arrangement on the rolls as the assessment is made and entered of the other property in the county. Said property shall be listed in its proper numerical order on the general assessment rolls of the county, and the assessor shall note on such roll[s] the fact that such property is situated in the town of ..... (stating the

City and county assessment to be made at same time.

name), and said assessment roll shall be prepared with a column wherein to enter the amount of tax levied by such municipal corporation.

SEC. 5. Said assessment shall be equalized by the county and state board of equalization in the same manner as other assessments are equalized.

County  
auditor.

SEC. 6. As soon as the county auditor has completed the changes ordered by the state board of equalization, he shall forthwith notify the clerk of said corporation of the total assessed valuation of the property situated in such corporation as equalized by said state board, and the proper officers of such corporation shall forthwith proceed to fix and determine their levy for municipal purposes for such year, which levy shall immediately be certified to said county auditor, under the hand and seal of the clerk of said corporation. The county auditor shall thereupon extend, in a column to be provided for that purpose, said tax upon the property shown by such assessment roll to be within such corporation as fixed by such levy, at the same time and in the same manner as he extends the general county and state taxes, and deliver said roll to the county treasurer.

County  
treasurer.

SEC. 7. The county treasurer, upon the receipt of such roll, shall proceed to collect and receipt for the municipal taxes thereon extended at the same time and in the same manner as he proceeds in the collection of the other taxes on such roll.

Same.

SEC. 8. The county treasurer shall make a certified return at the end of each month to the treasurer of such corporation of the amounts collected by him on account of such taxes from the time he shall commence the collection thereof until the whole tax collected shall be paid over.

SEC. 9. All municipal taxes so levied by any municipal corporation of the third or fourth class, either upon personal or real property, shall become due and collectible, and shall be declared delinquent at the same time and in the same manner as state and county taxes.

Penalty.

SEC. 10. All delinquent municipal tax of municipal corporations of the third and fourth class shall be subject to the same penalty and be collected in the same manner and

in the same action and by the same officers as the state and county taxes levied against the same property.

SEC. 11. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 12. Whereas, the municipal corporations of the Emergency. third and fourth class are about to commence their annual assessment; and whereas, the county assessment is about to commence; and whereas, two assessments of the same property is unnecessary: an emergency is declared to exist, and this bill shall take effect and be in force immediately after its passage and approval by the governor.

Approved March 9, 1893.

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### CHAPTER LXXIII.

[S. B. No. 125.]

#### PUBLICATION AND COPYRIGHT OF SUPREME COURT REPORTS.

AN ACT to amend sections two and four of an act entitled "An act to provide for the publication, distribution and sale of the supreme court reports of the State of Washington, and declaring an emergency," approved February 25, 1891.

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

SECTION 1. That section two of the act entitled "An act to provide for the publication, distribution and sale of the supreme court reports of the State of Washington, and declaring an emergency," approved February 25, 1891, be amended so as to read as follows: Sec. 2. Neither the reporter of the supreme court nor the state printer shall have any pecuniary interest in the volumes of the reports. The reporter of the supreme court shall secure the copyright of the said reports in his own name, and shall immediately after securing the copyright upon any volume of reports assign the same to the secretary of state for the use and benefit of the state; and all papers and certificates relating to such copyright shall be filed and preserved in the office of the secretary of state.

SEC. 2. That section four of an act entitled "An act to provide for the publication, distribution and sale of the supreme court reports of the State of Washington, and declaring an emergency," approved February 25, 1891, be and the same is hereby amended to read as follows: Sec. 4. Whenever the reporter of the supreme court shall have prepared sufficient copy to make a volume of reports he shall deliver said copy to the secretary of state, who shall thereupon make requisition upon the state printer for 500 copies of said volume; and from time to time thereafter whenever the supply of any volume shall have been exhausted, it shall be the duty of the secretary of state to make requisition for the publication of so many additional copies of such volume as may be necessary to meet the probable demand therefor.

Approved March 9, 1893.

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## CHAPTER LXXIV.

[S. B. No. 241.]

### FOR THE RELIEF OF STEVENS COUNTY.

AN ACT for the relief of Stevens county.

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

SECTION 1. The state auditor is authorized and empowered to audit the cost bills of Stevens county in criminal cases not heretofore presented and allowed and to draw warrants on the treasurer for the amounts found due thereon and the sum of seven hundred and nineteen (\$719) dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated to pay the amounts found due by the state auditor.

Approved March 9, 1893.

## CHAPTER LXXV.

[H. B. No. 148.]

## QUALIFICATIONS AND COMPENSATION OF COUNTY COMMISSIONERS.

AN ACT relative to the qualifications and compensation of county commissioners.

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

SECTION 1. The board of county commissioners in the several counties in this state may hold regular sessions at the county seat of their respective counties commencing on the first Mondays of February, May, August and November, at each of which they may transact any business which may be required by law, but counties so desiring may omit the February and August terms: *Provided always*, That the number of days [on] which the county commissioners may hold regular sessions in counties of the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth classes shall not exceed thirty days in the aggregate in any one year: *And provided always*, That the number of days [on] which the county commissioners may hold regular sessions in counties of the twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth classes shall not exceed twenty-five days in the aggregate in any one year: *And provided always*, That the number of days which the county commissioners may hold regular sessions in counties of the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth classes shall not exceed twenty days in the aggregate in any one year.

Sessions of county board of commissioners.

SEC. 2. The county commissioners in any and all of the classes of counties from the fourteenth class to the twenty-ninth class, both inclusive, mentioned in section one of this act, may hold extra sessions when the business of the county requires it, but shall receive no pay or compensation therefor, unless ordered as hereinafter provided by the superior court holding terms in the county where such extra sessions are held: *Provided*, That the provisions of this act shall not be construed as affecting the present law regarding the meeting of the board of commissioners for

Extra sessions.

the purpose of equalizing the taxes of the various counties in this state.

Compensation  
for extra  
services.

SEC. 3. Whenever a county commissioner of any of the classes of counties mentioned in section two hereof shall claim or demand pay or compensation for attendance upon extra sessions of the board of county commissioners, or shall claim or demand pay or compensation for any extra services or expenses, or for any services except the per diem and mileage allowed for attendance upon regular sessions of said board, he shall make out and file with the clerk of the superior court aforesaid, a petition showing in detail the amount claimed, together with a statement of the facts which he claims made such extra services and expenses necessary, which petition shall be verified by the oath of the commissioner claiming thereunder; and said commissioner shall thereupon immediately cause a copy of said petition, together with a written notice showing when same was filed with the clerk, to be delivered to the county attorney of said county, who shall apply to said court for an order to show cause why the prayer of said petition should not be granted. And said court shall grant an order ordering and directing all persons whom it may concern to show cause before said court at the court house in said county at a time therein mentioned (which shall not be less than fifteen days from date of said order), why the prayer of said petition should not be granted; said order shall recite the substance of said petition. Said application for an order to show cause shall be made by the county attorney as follows: If the court is in session or in chambers in said county at the time said notice and petition is delivered to the county attorney he shall make immediate application for said order. If said court is not in session or in chambers in said county at said time, he shall make the application on the first day of the next session in said county or on the first day thereafter that court is in chambers in said county.

SEC. 4. Said order when granted shall be immediately filed with the clerk of said court and the said clerk shall within one day from the day the same is filed, deliver a

certified copy thereof to the sheriff of the county for service.

SEC. 5. Said order shall be served by the sheriff of said county by posting, at least ten days before the return day of said order, one copy thereof in some conspicuous place in the court house in said county, and one copy thereof in each of two other conspicuous places in said county, and shall make due return of the service thereof at least five days before the day set for hearing the same.

SEC. 6. Upon the hearing of such petition any person or persons so desiring may appear and resist said petition. If, upon the hearing, the court shall find that the bill and petition is true, just and correct, and that the business of the county demanded the services or expenses, or both, mentioned in said petition, or any part thereof, it shall order the amount prayed for, or so much thereof as the court shall find said commissioner justly entitled to, paid to said commissioner, and upon presentation of a certified copy of said order, the county treasurer shall pay the amount specified and ordered paid to said commissioner. But if the court shall find that said petition is not true, or that said commissioner is not entitled to any part of the amount claimed in said petition, the court shall dismiss said order and order the costs of said proceedings taxed against the commissioner verifying said petition, and the clerk thereupon shall enter judgment against said commissioner for the costs of such proceedings: *Providing*, That nothing in this section contained shall be so construed as to deprive any county commissioner of the right to a trial by jury in any case wherein his claim has been in whole or in part disallowed by the judge.

SEC. 7. Each county commissioner in this state, before <sup>Bond.</sup> he enters upon the duties of his office, shall give a bond to the county, with at least two sureties thereon, in the amount hereinafter specified; which bond and the sureties thereon shall be approved by the clerk of the superior court of the proper county. The said bond, when so approved, shall be filed and recorded by said clerk in his office. Said bond shall be payable to the county, and the same shall be con-

ditioned that such commissioner shall well and faithfully discharge the duties of his office, and not approve, audit or order paid any illegal, unwarranted or unjust claim against the county for personal services: *Provided*, That the county commissioners heretofore elected, and who shall have already entered upon the duties of their office, shall have ninety days from and after the day this act goes into effect in which to make and file their bonds. The amount for which said bonds shall be given is as follows:

Amount  
of bond.

In counties of the first, second, third, fourth and fifth classes, twenty thousand dollars (\$20,000).

In counties of the sixth, seventh, eighth, ninth and tenth classes, fifteen thousand dollars (\$15,000).

In counties of the eleventh, twelfth, thirteenth, fourteenth and fifteenth classes, ten thousand dollars (\$10,000).

In counties of the sixteenth, seventeenth, eighteenth, nineteenth and twentieth classes, seven thousand five hundred dollars (\$7,500).

In counties of the twenty-first, twenty-second, twenty-third and twenty-fourth classes, five thousand dollars (\$5,000).

In counties of the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth classes, two thousand dollars (\$2,000).

SEC. 8. County commissioners in counties of the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth classes may charge and receive mileage as hereinafter stated, and not otherwise:

Mileage.

1. For attendance on any regular session of the board of county commissioners, ten cents per mile for each mile traveled in going to and returning from the county seat: *Provided*, That only one such trip shall be charged for at each regular session.

2. For attendance upon extra sessions of said board and for other necessary traveling on county business, such mileage, not exceeding ten cents per mile for each mile traveled, as may be allowed or ordered by the superior

court of the proper county under the provisions of this act.

SEC. 9. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 9, 1893.

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## CHAPTER LXXVI.

[H. B. No. 31.]

### PAYMENT OF AGENTS OF STATE LAND COMMISSION.

AN ACT appropriating money for the payment of agents for the state land commission.

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

SECTION 1. That there be and hereby is appropriated out of any money in the state treasury not otherwise appropriated the sum of forty thousand dollars (\$40,000.00) to pay the agents of the state land commission for their services in examining and reporting lands at the rate of compensation as provided for by section 6 of an act entitled "An act to provide for the selection of lands granted to the State of Washington under an act of congress approved February 22, 1889, for the purpose of the erection of public buildings and a penitentiary; the use and support of agricultural and scientific normal schools, and charitable, penal, and reformatory institutions; also providing for the selection of lands granted to the State of Washington under sections 1947, 2275 and 2276 of the revised statutes of the United States," approved March 10, 1891.

SEC. 2. This act shall take effect from and after its passage and approval by the governor.

Approved March 9, 1893.

## CHAPTER LXXVII.

[H. B. No. 181.]

AUTHORIZING ARRESTS BY THE FISH COMMISSIONER  
OR DEPUTIES.

AN ACT authorizing the Fish Commissioner and his deputies to make arrests.

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

SECTION 1. The fish commissioner and his deputies shall have authority to arrest without writ, rule, order or process any person in the act of committing a crime in violation of the fish laws of this state, and they are hereby made peace officers of this state for that purpose.

SEC. 2. If any person knowingly and willfully resists or opposes such officer in the discharge of his said duties he shall be punished by imprisonment, in the county jail, not exceeding one year, or by fine, not exceeding one thousand (1,000) dollars nor less than fifty (50) dollars, or by both fine and imprisonment, at the discretion of the court.

Approved March 9, 1893.

## CHAPTER LXXVIII.

[H. B. No. 182.]

AUTHORIZING APPOINTMENT OF SPECIAL DEPUTIES BY  
THE FISH COMMISSIONER.

AN ACT to authorize the fish commissioner to appoint a special deputy in each county.

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

SECTION 1. The fish commissioner is hereby authorized to appoint a special deputy in each county of this state, who shall be a resident of the county for which he shall be appointed, such special deputy to see that the fish laws of the state are observed within the county for which he shall be appointed.

SEC. 2. Such special deputy shall receive as his compensation one-half of all fines recovered upon prosecution procured by him for violation of the fish laws of this state, and shall receive no other compensation.

Approved March 9, 1893.

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## CHAPTER LXXIX.

[H. B. No. 208.]

### AUTHORIZING COUNTIES TO VALIDATE CERTAIN INDEBTEDNESS.

AN ACT to enable counties to validate certain indebtedness attempted to be incurred on the part of such counties by the corporate authorities thereof in excess of their legal authority, and declaring an emergency to exist.

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

SECTION 1. Any county in this state may ratify, in the manner prescribed in this act, the attempted incurring of any indebtedness of such county by the issuing of warrants, making of contracts or creation of other evidences of indebtedness on the part of such county by the board of county commissioners or other officers of such county at any time prior to the time when this act shall take effect, when the only ground of the invalidity of such indebtedness so to be ratified is that, at the time of such attempted incurring thereof, the same, together with all other then existing indebtedness of such county, exceeded one and one-half per centum of the taxable property in such county, ascertained by the last assessment for state and county purposes previous to the attempted incurring of such indebtedness, and that such indebtedness was so attempted to be incurred without the assent of three-fifths of the voters therein voting at an election held for that purpose.

SEC. 2. Whenever the board of county commissioners of any such county shall deem it advisable that the ratification authorized by this act shall be obtained, they shall

County commissioners  
to pass  
resolution.

provide therefor by resolution, which shall specify separately the amounts of each distinct class of such indebtedness proposed to be ratified, with the date of the attempted incurring thereof, or, if any such class shall be composed of more than one item, the dates between which the different items were attempted to be incurred, and the general nature of the indebtedness comprised in each such class, or the general purpose for which it was attempted to be incurred, and which resolution shall provide for the holding of an election for the purpose of submitting the question of validating the incurring of such indebtedness to the voters of such county for approval or disapproval, and shall provide for giving notice of such election by publishing notice thereof, and designate a newspaper of general circulation in such county in which such notice shall be published at least four times, the first publication to be made at least thirty days prior to the day fixed for the holding of such election; and an election for that purpose shall be held pursuant to such resolution, at the time therein fixed for the same. Each distinct class of indebtedness so specified shall be the subject of a distinct vote in favor of or against the ratification thereof, and such vote shall designate the class of indebtedness referred to by the description thereof used and the amount specified in the resolution.

Ratification of  
indebtedness.

SEC. 3. If at any election held as provided for in section two of this act three-fifths of the voters in such county voting at such election shall vote in favor of the ratification of any distinct class of such indebtedness, specified in the resolution providing for such election, then such indebtedness so ratified shall thereby become and is hereby declared to be validated and a binding obligation upon such county, when the only ground of the previous invalidity of such indebtedness so ratified is that at the time of the attempted incurring thereof the same, together with all other then existing indebtedness of such county, exceeded one and one-half per centum of the taxable property in such county, ascertained by the last previous assessment for county purposes, and that such indebtedness was so attempted to be incurred without the assent of three-fifths of the voters therein voting at an election held for that purpose: *Pro-*

*vided*, That it shall not be lawful so to ratify or validate the attempted incurring of any indebtedness, which, at the time of the attempted incurring thereof, was in excess of five per centum of the last assessed valuation for state and county purposes previous to the attempted incurring thereof.

SEC. 4. Inasmuch as there is no statute of this state en- Emergency.  
abling counties therein to validate indebtedness attempted to be incurred on the part of such counties by the board of county commissioners or other officers thereof, in excess of their legal authority, and inasmuch as such legal authority has been so exceeded in good faith in sundry counties in this state, an emergency exists for the immediate operation of this act: therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 9, 1893.

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## CHAPTER LXXX.

[H. B. No. 347.]

### LEGALIZING THE INCORPORATION OR RE-INCORPORATION OF CITIES AND TOWNS.

AN ACT to legalize and validate the incorporation or re-incorporation of towns and cities incorporated or re-incorporated under an act approved March 24, 1890, entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency," and to legalize and validate existing contracts and obligations of such towns and cities.

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

SECTION 1. The incorporation of all cities and towns in this state heretofore had or attempted under sections one, two and three of an act entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency," approved March 24, 1890, and the re-incorporation of all cities and towns in this state heretofore had or attempted

under sections one, four and five of said act, under which attempted incorporation or re-incorporation an organized government has been maintained since the date thereof, is hereby for all purposes declared legal and valid, and such cities and towns are hereby declared duly incorporated. And all contracts and obligations heretofore made, entered into or incurred by any such city or town so incorporated or re-incorporated are hereby declared legal and valid and of full force and effect.

Approved March 9, 1893.

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## CHAPTER LXXXI.

[ H. B. No. 337. ]

### REQUIRING SALARIED COUNTY OFFICERS TO PAY ALL FEES INTO THE COUNTY TREASURY.

AN ACT prescribing that all fees are paid salaried officers by virtue of their office shall be paid into the county treasury, and prescribing a penalty for a failure so to do, and declaring an emergency

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

Time for payment of fees into treasury.

SECTION 1. Every county officer, who, by the laws of this state is allowed a salary, shall, on the first Monday of each month, pay into the county treasury all moneys and sums which have come into his hands for fees and charges in his office, or by virtue of his office, during the preceding month. And no officer is permitted to retain to his own use or profit any sums paid him in his office or by virtue of his office, no matter from what source, but all of such moneys so paid him by virtue of the laws of this state, or of the United States, shall be the property of the county.

SEC. 2. Any county officer who is paid a salary, who shall fail to pay to the county treasury all sums that shall have come into his hands for fees and charges in his office, or by virtue of his office, whether under the laws of this state or of the United States, shall be deemed to be guilty of embezzlement in office, and upon conviction thereof

shall be punished by imprisonment in the penitentiary not less than one year nor more than three years: *Provided further*, Upon conviction, his office shall be declared to be <sup>Penalty.</sup> vacant by the court pronouncing the sentence.

SEC. 3. Whereas, the immediate passage of this act will be beneficial to certain counties of this state; therefore, an emergency is declared to exist, and this act shall be in force from and after its approval by the governor.

Approved March 9, 1893.

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## CHAPTER LXXXII.

[H. B. No. 156.]

### REQUIRING COUNTY COMMISSIONERS TO PROVIDE OFFICES FOR COUNTY OFFICERS.

AN ACT to authorize boards of county commissioners to provide suitable offices for the use of each county officer.

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

SECTION 1. The boards of county commissioners of the several counties of the state shall provide a suitable furnished office for each of the county officers in their respective court houses.

Approved March 9, 1893.

## CHAPTER LXXXIII.

[H. B. No. 293.]

PROVIDING FOR SALE OF GRANTED LANDS FOR THE  
PURPOSE OF ERECTING BUILDINGS AT THE STATE  
CAPITAL.

AN ACT to provide for the sale of lands granted to the State of Washington for the purpose of erecting public buildings at the state capital and for the preservation of said lands and the proceeds thereof.

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

SECTION 1. All funds arising from the sale of lands granted to the State of Washington for the purpose of erecting public buildings at the state capital shall be held intact for the purpose for which they were granted. Lands when selected and assigned to said grant shall not be transferred to any other grant, nor shall the moneys derived from said lands be applied to any other purpose than for the erection of buildings at the state capital.

State land  
commission to  
provide for  
sale of lands.

SEC. 2. It shall be the duty of the state land commission to provide for the sale and disposition of said lands and to make all such reasonable and necessary rules therefor as shall enable such sale and disposition to be made most advantageously for the purpose of said grant, subject to such regulations as may be provided by law.

Sale at auction.

SEC. 3. The state land commission may from time to time, as they may deem best, direct the sale of said lands at public auction at the court house at the county seat of the county in which the lands offered for sale lie. Not more than ten thousand acres shall be disposed of at any one sale, and each subdivision or lot consisting of one hundred and sixty acres, or approximating thereto, shall be separately offered for sale.

Amount  
offered at  
one time.

Published  
notice.

SEC. 4. Notice of every sale at public auction shall be given by publication thereof in the official newspaper of the county where the land lies once a week for five successive weeks, the first publication not to be made more than forty-five days before the date of such sale; said notice to describe the several tracts of land proposed to be sold and

to state the appraised value thereof. Any such sale may be further advertised by a similar notice similarly published in some newspaper in Spokane, Tacoma, Seattle or Olympia, not the official newspaper of the county where the lands so offered shall lie. Every sale at public auction shall be conducted by such officer of the county in which the land is situated as the state land commission shall appoint for that purpose, who shall make return thereof according to the rules prescribed by said commission.

SEC. 5. The terms of sale shall be as follows: The purchase price shall be divided into ten equal parts or payments. The first payment shall be made at the time of sale. The second payment shall be within three months of the first payment, and thereupon a certificate of purchase shall be issued by the state land commission. The remaining payments shall be due one, two, three, four, five, six, seven and eight years, respectively, from and after the date of the certificate, which certificate shall show the amount of the several payments and the date of the payments as made, and the date of the maturity of the payments to be made. All unpaid payments shall bear interest at the rate of six per cent. per annum payable annually from the date of the certificate until paid. Any or all payments may be made before maturity: *Provided*, All accrued interest on said payments to the time the same are made shall be paid. The contract or certificate of purchase herein provided for shall be in such form as the said land commission shall prescribe, and shall be executed in duplicate, one copy of which shall be returned to the purchaser, and one copy filed in the office of the commissioner of public lands.

SEC. 6. The sale of every tract or parcel of land shall be to the highest bidder therefor, and the state land commission may at any sale reject all bids for any tract of land, and every sale at public auction shall be subject to the approval to [of] said commission: *Provided*, That no lands shall be sold for less than the appraised value thereof.

SEC. 7. All payments on account of such sale shall be to the commissioner of public lands by draft payable to the state treasurer, and no certificate of purchase shall issue till two such payments have been made. And the commis-

Terms of sale.

Land commission to prescribe forms.

Payment for lands.

sioner of public lands shall keep a true record of the same and of all sales made under the provisions of this act.

Sale void,  
when.

SEC. 8. On failure to make any of said payments at the time required, the sale shall be void and the moneys heretofore paid to the state shall be forfeited to and belong to the state, and said lands shall again be subject to sale as hereinbefore provided: *Provided*, That for good cause shown the state land commission may extend to a certificate holder the time for making a payment on his certificate not to exceed one year.

Issue of patent.

SEC. 9. When full payment, including interest, shall have been made for any tract or parcel of land sold under the provisions of this act, the certificate therefor may be surrendered to the state land commissioner who shall thereupon certify said land for patent. Patents shall be signed by the governor, attested by the secretary of state, with the seal of the state attached, recorded in the office of the commissioner of public lands in a book kept for that purpose, and may be issued to the purchaser, to his heirs or the assignee of his certificate.

Penalty.

SEC. 10. If any person shall cut down, destroy or injure any tree standing or growing upon any of the lands granted to the State of Washington, for erecting public buildings at the capital of said state before patent shall have been issued by the state therefor as herein provided, or shall take or remove from any such lands any timber or wood, or shall dig, quarry, take or remove any mineral, earth or stone from such lands, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year; or by fine not less than fifty nor more than one thousand dollars, or both: *Provided*, That nothing in this act shall be so construed so as to prevent any purchaser who shall purchase said land for purposes of a home from cutting such timber as may be necessary for domestic use, or to clear land for actual cultivation.

Approved March 9, 1893.

## CHAPTER LXXXIV.

[H. B. No. 262.]

## CITIES OF FIRST CLASS TO EXERCISE RIGHT OF EMINENT DOMAIN.

AN ACT to enable cities of the first class to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited, and declaring an emergency.

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

SECTION 1. Every city of the first class within the State of Washington is hereby authorized and empowered to condemn land and property for streets, avenues, alleys, highways, bridges, approaches, culverts, drains, ditches, public squares and public markets, city and town halls, jails and other public buildings and for the opening, widening, extending, altering and straightening of any street, avenue, alley or highway, and to damage any land or other property for any such purpose, or for the purpose of making changes in the grade of any street, avenue, alley or highway, or for the construction of slopes or retaining walls for cuts and fills upon real property abutting on any street, avenue, alley or highway now ordered to be, or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, or for the purpose of draining swamps, marshes or ponds, or filling the same, within the limits of such city, and to condemn land or property, or to damage the same, either within or without the limits of such city for public parks, drives and boulevards, hospitals, pest houses, drains and sewers, and for aqueducts, reservoirs, pumping stations and other structures for conveying into and through such city a supply of fresh water; and to condemn land and other property and damage the same for any other public use within the authority of such city after just compensation having been first made or paid into court for the owner in the manner prescribed by this act.

Condemnation of private property.

Compensation to be made.

SEC. 2. When the corporate authorities of any such city shall desire to condemn land or other property, or damage

Condemnation to be provided for by ordinance.

the same, for any purpose authorized by this act, such city shall provide therefor by ordinance, and unless such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, compensation therefor shall be made from any general funds of such city applicable thereto. If such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, the proceedings for the making of such special assessment shall be as hereinafter prescribed in this act: *Provided*, That no special assessment shall be levied under authority of this act except when made for the purpose of streets, avenues, alleys, or highways or alterations thereof or changes of the grade therein or other improvements in or adjoining the same, or for bridges, approaches, culverts, sewers, drains, ditches, public squares, drives or boulevards or for the purpose of draining swamps, marshes or ponds, or for filling the same: *And it is further provided*, That when a street, avenue, highway or boulevard is established or widened to a width greater than 150 feet the excess over and above the 150 feet shall be paid out of the general fund of such city without any deduction for benefits for such excess.

Manner of procedure when improvements are to be paid for by assessments on adjoining property.

SEC. 3. Whenever any such ordinance shall be passed by the legislative authority of any such city for the making of any improvement authorized by this act or any other improvement that such city is authorized to make, the making of which will require that private property be taken or damaged for public use, such city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation, to be made for the private property to be taken or damaged for the improvement or purpose specified in such ordinance, "be ascertained by a jury or by the court in case a jury be waived."

Petition to court praying for compensation.

SEC. 4. Such petition shall contain a copy of said ordinance, certified by the clerk under the corporate seal, a reasonably accurate description of the lots, parcels of land and property, which will be taken or damaged, and the names of the owners and occupants thereof and of persons

What said petition shall contain.

having any interest therein, so far as known, to the officer filing the petition or appearing from the records in the office of the county auditor, and where any known owners or other persons so interested are non-residents of the state, stating the fact of such non-residence.

SEC. 5. Upon the filing of the petition aforesaid a summons, returnable as summons in other civil actions, shall be issued and served upon the persons made parties defendant, together with a copy of the petition, as in other civil actions. And in case any of them are unknown or reside out of the state, a summons for publication shall issue and publication be made and return and proof thereof be made in the same manner as is or shall be provided by the laws of the state for service upon absent defendants in other civil actions. Notices so given by publication shall be sufficient to authorize the court to hear and determine the suit as though all parties had been sued by their proper names and had been personally served. Summons to be served.

SEC. 6. In case the land, real estate, premises or other property sought to be appropriated or damaged in state, school or county land, the summons and copy of petition shall be served on the auditor of the county in which such land, real estate, premises or other property is situated. Service upon other parties defendant shall be made in the same manner as is or shall be provided by law for service of summons in other civil actions. Summons to be served on county auditor, when.

SEC. 7. Upon the return of said summons, or as soon thereafter as the business of court will permit, the said court shall proceed to the hearing of such petition and shall impanel a jury to ascertain the just compensation to be paid to all of such owners and occupants aforesaid; but if any defendant or party in interest shall demand, and the court shall deem it proper, separate juries may be impaneled as to the compensation or damages to be paid to any one or more of such defendants or parties in interest. Jury to ascertain compensation.

SEC. 8. Such jury shall also ascertain the just compensation to be paid to any person claiming an interest in any lot, parcel of land or property which may be taken or damaged by such improvement, whether or not such person's name or such lot, parcel of land or other property is Same.

mentioned or described in such petition: *Provided*, Such person shall first be admitted as a party defendant to said suit by such court and shall file the statement of his interest in and description of the lot, parcel of land or other property in respect to which he claims compensation.

Jury to view  
the premises.

SEC. 9. The court may, upon the motion of such city or of any person claiming such compensation, direct that said jury (under the charge of an officer of the court) shall view the premises which it is claimed by any party to said proceeding will be taken or damaged by said improvement, and in any case where there is no satisfactory evidence given to the jury as to the ownership of or as to the extent of the interest of any defendant in the property to be taken or damaged, the jury may return their verdict as to the compensation or damage to be paid for the property or part of property to be taken or damaged for the entire interests therein.

Manner of  
finding dam-  
ages of any  
building.

SEC. 10. If there be any building standing, in whole or in part, upon any land to be taken, the jury in their verdict shall add to their finding of damage to the land the damages also to the building or part of building necessary to be taken, if it be the property of the owner of the land; when owned by any other person the damages to the building shall be found separately. The value of such building to the owner to remove, or of the part thereof necessary to be taken, shall also be found by the jury. At any time before the entry of judgment on the verdict such owner may file with the clerk of the court in writing his election to take such building, or part of building, at the value so found in case of removal, and in such case the amount of such value shall be deducted from the damages found for the land and building, where they belong to the same owner, and from the damages found for the building where they belong to different owners, and the owner shall have such time for the removal of such building after the entry of judgment as the court shall allow. If the owner shall fail to give notice of his election as aforesaid within the time prescribed, then no deduction shall be made from the damages found as aforesaid, and such building shall become the property of the city in like manner as the land upon

which the same stands. If the lands and buildings belong to different persons, or if the land be subject to lease, the damages done to such persons, respectively, may be separately found by the jury on the request of any party.

SEC. 11. Upon the return of the verdict the proceedings <sup>Verdict.</sup> of the court regarding new trial and the entry of judgment thereon shall be the same as in other civil actions, and the judgment shall be such as the nature of the case shall require. The court shall continue or adjourn the case from time to time as to all occupants and owners named in such petition who shall not have been served with process or brought in by publication, and new summons may issue or new publication may be made at any time; and upon such occupants or owners being brought in, the court may impanel a jury to ascertain the compensation so to be made to such defendant or defendants for private property taken or damaged, and like proceedings shall be had for such purpose as hereinbefore provided.

SEC. 12. The court shall have power at any time, upon <sup>Change of ownership.</sup> proof that any such owner or owners named in such petition who has not been served with process has ceased to be such owner or owners since the filing of such petition, to impanel a jury and ascertain the just compensation to be made for the property (or the damage thereto) which has been owned by the person or persons so ceasing to own the same, and the court may upon any finding or findings of any jury or juries, or at any time during the course of such proceedings enter such order, rule, judgment or decree as the nature of the case may require.

SEC. 13. No delay in ascertaining the amount of compensation shall be occasioned by any doubt or contest <sup>No delay on account of doubt as to real owners.</sup> which may arise as to the ownership of the property, or any part thereof, or as to the interests of the respective owners or claimants, but in such case the court may impanel a jury to ascertain the entire compensation or damage that should be paid for the property or part of property, and the entire interests of all the parties therein, and may require adverse claimants to interplead, so as to fully determine their rights and interests in the compensation so

ascertained. And the court may make such order as may be necessary in regard to the deposit or payment of such compensation.

Guardian ad litem to be appointed for infants, insane, etc.

SEC. 14. When it shall appear from said petition or otherwise, at any time during the proceedings upon such petition, that any infant or insane or distracted person is interested in any property that is to be taken or damaged, the court shall appoint a guardian *ad litem* for such infant or insane or distracted person to appear and defend for him, her or them, and the court shall make such order or decree as it shall deem proper to protect and secure the interest of such infant or insane or distracted person in such property or the compensation which shall be awarded therefor.

Manner of determining compensation for land or property.

SEC. 15. When the ordinance providing for any such improvement provides that compensation therefor shall be paid, in whole or in part, by special assessment upon property benefited, the compensation found by the jury for any land or property taken shall be irrespective of any benefit from the improvement proposed. When such ordinance does not provide for any assessment, in whole or in part, upon property benefited, the compensation found for land or property taken, and in all cases the damages found in respect to land or property not taken, shall be ascertained over and above any local and special benefit arising from such proposed improvement, except as provided in section 2 of this act as to streets, avenues and boulevards established or widened to a width greater than 150 feet, in which class of cases no benefits shall be deducted as to such excess.

SEC. 16. Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all taxable costs, as hereinafter provided. It shall be final and conclusive as to the damages caused by such improvement unless such

Appeal.

judgment or judgments shall be appealed from; and no appeal from the same shall delay proceedings under said ordinance, if such city shall pay into court for the owners, as directed by the court, the amount of the judgment and costs, and such city, after making such payment into court, shall be liable to such owner or owners for the payment of any further compensation which may at any time be finally awarded to such parties so appealing in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor and abide any rule or order of the court in relation to the matter in controversy. In case of an appeal to the supreme court of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises or other property accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively an appeal to the supreme court and final judgment by default may be rendered in the superior court as in other cases.

SEC. 17. The court, upon proof that just compensation so found by the jury, or by the court in case the jury is waived, together with costs, has been paid to the person entitled thereto, or has been paid into court as directed by the court, shall enter an order that the city shall have the right at any time thereafter to take possession of or damage the property in respect to which such compensation shall have been so paid or paid into court as aforesaid.

City to have right of possession or damage on payment of compensation.

SEC. 18. When the ordinance under which said improvement is ordered to be made shall not provide that such improvement shall be made wholly by special assessment upon property benefited, the whole amount of such damages and costs, or such part thereof as shall not be assessed upon property benefited, shall be paid from the general fund of such city, and if sufficient funds therefor are not already provided, such city shall levy and collect a sufficient sum therefor as part of the general taxes of such city, or may contract indebtedness by the issuance of bonds or warrants therefor as in other cases of internal improvements.

When damages or costs may be paid from general fund.

Special taxation of contiguous property.

SEC. 19. When such ordinance under which said improvement shall be ordered shall provide that such improvement shall be paid for in whole or in part by special assessment or special taxation of contiguous property benefited thereby, the damage and costs awarded, or such part thereof as is to be paid from special taxation or special assessment, shall be levied, assessed and collected in the manners hereinafter provided.

Manner of levying, assessing and collecting special tax for damages, etc.

SEC. 20. Such city may file in the same proceeding a supplementary petition praying the court that an assessment be made for the purpose of raising an amount necessary to pay the compensation and damages which may or shall have been awarded for the property taken or damaged, with the costs of the proceedings, or for such part thereof as the ordinance shall provide. The said court shall have power at any time after such supplementary petition shall have been filed, to appoint three commissioners to make such assessment and also to ascertain and include therein, as near as may be, the costs incurred to the time of such appointment and the probable further costs of the proceedings, including therein the estimated costs of making and collecting such assessment, and shall direct such costs to be included by such commissioners in making said compensation.

Three commissioners to be appointed.

SEC. 21. Upon the filing of such petition the court shall appoint three competent persons as commissioners, who shall take and subscribe an oath substantially as follows, to wit:

“STATE OF WASHINGTON, COUNTY OF ....., ss.

Oath of commissioners.

“We, the undersigned commissioners appointed by the superior court of ..... county, State of Washington, to assess the cost of ..... (here state in general terms the improvement), do solemnly swear (or affirm, as the case may be) that we will a true and impartial assessment make of the cost of said improvement upon the city of ..... and the property benefited by such improvement, to the best of our ability and according to law.”

Duty of commissioners.

SEC. 22. It shall be the duty of such commissioners to examine the locality where the improvement is proposed to be made, and the lots, blocks, tracts and parcels of land

that will be specially benefited thereby, and to estimate what proportion of the total cost of such improvements will be of benefit to the public and what proportion thereof will be of benefit to the property to be benefited, and apportion the same between the city and such property, so that each shall bear its relative equitable proportion; and having found said amounts to apportion and assess the amount so found to be of benefit to the property upon the several lots, blocks, tracts and parcels of land in the proportion in which they will be severally benefited by such improvement: *Provided*, That no lot, block, tract or parcel of land shall be assessed a greater amount than it will be actually benefited, nor shall any lot, block, tract or parcel of land which shall have been found by the jury or court to be damaged be assessed for any benefits: *And provided further*, That it shall not be necessary for said commissioners to examine the locality excepting where the ordinance provides for the establishment, opening, widening or improvement of streets, avenues, alleys or highways. Such part of the compensation, damages and costs as is not finally assessed against property benefited shall be paid from any general funds of the city or town applicable thereto.

SEC. 23. Such commissioners shall also make, or cause to be made, an assessment roll, in which shall appear the names of the owners so far as known, description of each lot, block, tract or parcel of land and the amount assessed as special benefits thereto, and in which they shall set down as against the city the amount they shall have found as public benefit and certify such assessment roll to the court by which they were appointed within sixty days after their appointment, or within such extension of said period as shall be allowed by the court.

Commissioners to make out an assessment roll.

SEC. 24. After the return of such assessment roll the court shall make an order setting a time for the hearing thereof before the court, which day shall be at least twenty days after the return of such roll. It shall be the duty of such commissioners to give notice of such assessment and of the day fixed by the court for the hearing thereof in the following manner:

Notice of assessment and day fixed for hearing.

1. They shall send by mail to each owner of premises assessed, whose name and place of residence is known to them, a notice substantially in the following form:

“Mr. ...., your (here give a short description of the premises) is assessed \$..... for public improvement. Hearing on the assessment roll will be had before the superior court of ..... county, ..... (here give date).

.....,  
.....,  
.....,

*Commissioners.”*

Publication of notice.

2. They shall cause at least ten days' notice to be given by posting notice in at least three public places in such city, one of which shall be in the neighborhood of such proposed improvement, and when a daily newspaper is published in such city, by publishing the same at least five successive days in such daily newspaper, or if no daily newspaper is published in such city and a weekly newspaper is published therein, then at least twice, being once in each week for two successive weeks, in such weekly newspaper, or if no daily or weekly newspaper is published in such city, then in a newspaper published in the county in which such city is situated, which notice may be substantially as follows:

Special assessment notice.

“SPECIAL ASSESSMENT NOTICE. — Notice is hereby given to all persons interested that the city council (or other legislative authority) of ..... having ordered that (here insert the description and nature of improvements substantially as in the ordinance) have applied to the superior court of ..... county for assessment of the cost of said improvements according to benefits, and an assessment thereof having been made and returned to said court, the final hearing thereon will be had before said court on the ..... day of ..... , A. D. 18 .... All persons desiring may then and there appear and make their defense.

.....,  
.....,  
.....,

*Commissioners.”*

SEC. 25. On or before the final hearings, the affidavit of one or more of the commissioners shall be filed in said court, stating that they have sent, or caused to be sent, by mail, to the owners whose premises have been assessed and whose names and place of residence are known to them, the notice hereinbefore required to be sent by mail to owners of premises assessed. They shall also cause to be filed the affidavit of the person who shall have posted the notice required by this act to be posted, setting forth when and in what manner the same were posted. Such affidavit shall be received as *prima facie* evidence of a compliance with this act in regard to giving such notices. They shall also file a certificate of publication of such notice in like manner as is required in other cases of publication of notices of summonses.

Affidavit of  
commis-  
sioners.

SEC. 26. If ten days shall not have elapsed between the first publication or the putting up of such notices and the day set for hearing, the hearing shall be continued until such time as the court shall order. The court shall retain full jurisdiction of the matter until final judgment on the assessments, and if the notice given shall prove invalid or insufficient the court shall order new notice to be given.

Court retains  
jurisdiction.

SEC. 27. Any person interested in any real estate to be affected by such assessment may appear and file objections to such report, and the court may make such rule or order in regard to the time of filing such objections as the court shall deem proper. As to all lots, blocks, tracts and parcels of land, to the assessment of which objections are not filed within the time ordered by the court, default may be entered and the assessment confirmed by the court.

Objections  
may be filed.

SEC. 28. On the hearing, the report of such commissioners shall be competent evidence, and either party may introduce such other evidence as may tend to establish the right of the matter. The hearing shall be conducted as in other cases at law, and if it shall appear that the premises of the objector are assessed more or less than they will be benefited, or more or less than their proportionate share of the cost of the improvement, the jury shall so find, and also find the amount in which said premises ought to be assessed, and the judgment shall be entered accordingly.

Evidence.

Court may modify or confirm assessment made by the commissioners.

SEC. 29. The court before [which] any such proceedings may be pending shall have authority, at any time before final judgment, to modify, alter, change, annul or confirm any assessment returned as aforesaid, or cause any such assessment to be recast by the same commissioners, whenever it shall be necessary for the obtainment of justice, or may appoint other commissioners in the place of all or any of the commissioners first appointed for the purpose of making such assessment or modifying, altering, changing or recasting the same, and may take all such proceedings and make all such orders as may be necessary to make a true and just assessment of the cost of such improvement according to the principles of this act, and may from time to time, as may be necessary, continue the application for that purpose as to the whole or any part of the premises.

SEC. 30. The judgment of the court shall have the effect of a separate judgment as to each tract or parcel of land assessed, and any appeal from such judgment shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. Such judgment shall be a lien upon the property assessed from the date thereof until payment shall be made.

Clerk of court to certify to the city treasurer.

SEC. 31. The clerk of the court in which such judgment is rendered shall certify a copy of the assessment roll and judgment to the treasurer of the city, or if there has been an appeal taken from any part of such judgment then he shall certify such part of the roll and judgment as is not included in such appeal, and the remainder when final judgment is rendered. Such judgment and copy of assessment roll shall describe the lots, blocks, tracts or parcels of land assessed and the respective amounts assessed on each lot, block, tract or parcel of land, and shall be sufficient warrant to the city treasurer to collect the assessments therein specified.

Publication of notice.

SEC. 32. The treasurer receiving such certified copy of the assessment roll shall immediately give notice thereof by publishing such notice at least once in the official newspaper or newspapers of such city or town, if such newspaper or newspapers there be; and if there be no such

newspaper, then by posting four copies thereof in public places along the line of the proposed improvement; such notice may be, substantially, in the following form:

“SPECIAL ASSESSMENT NOTICE.—Public notice is hereby Special assess-  
ment notice. given that the superior court of ..... county, State of Washington, has rendered judgment for a special assessment upon property benefited by the following improvement (here insert the character and location of the improvement in general terms) as will more fully appear from the certified copy of the judgment on file in my office, and that the undersigned is authorized to collect such assessments. All persons interested are hereby notified to call and pay the amounts assessed at my office (here insert location of office) within thirty days from the date hereof.

“Dated this ..... day of ....., A. D. 18.....

.....  
“*City (or town) treasurer of .....*.”

SEC. 33. It shall be the duty of the city treasurer into City treasurer. whose hands such judgment for assessments shall come, to inform the persons whose names appear on the assessment roll of such assessment by written or printed notice deposited in the mail, postage prepaid, and addressed to such persons so far as the residences of such persons are known to him, requesting payment of the same. Any such treasurer omitting so to do shall be liable to a penalty of five Penalty. dollars for every such omission; but the validity of the special assessment shall not be affected by such omission. It shall be the duty of such treasurer to write the word “paid” opposite each tract or lot on which the assessment is paid, together with the name and postoffice address of the person making the payment and date of payment.

SEC. 34. Within fifteen days from the expiration of the Time for the  
return of  
assessment  
roll. time limited for the payment of any such assessments the treasurer must return the improvement assessment roll to the comptroller, if there be such officer of the city, otherwise to the city clerk, distinguishing thereon the assessments paid and those unpaid. The comptroller or clerk, as the case may be, shall, upon receipt of said roll, credit the treasurer with the amount of the assessments collected thereon, and thereupon issue and annex thereto a warrant directing

Sale of property to satisfy delinquent assessments.

the treasurer to sell all the lots or parcels of land described in said roll upon which assessments are levied, whether in the name of a designated owner or in the name of an unknown owner, to satisfy all delinquent and unpaid assessments upon said roll, with costs and charges. On the day of the commencement of the sale of said real property in pursuance of such warrant, a penalty of ten per cent. on the principal amount of every unpaid assessment on said improvement assessment roll shall accrue to such assessment, and must then and thereafter be collected therewith, together with the interest to accrue as herein provided.

Same.

SEC. 35. Such warrant issued for the purpose of making sale of said real property on which assessments are delinquent and unpaid, shall be deemed and taken as an execution against said real property for the amount of said assessments with penalty and costs, and the treasurer or his deputy shall, within sixty days from the receipt thereof by him, commence the sale of said real property and continue such sale from day to day thereafter, except on Sundays and legal holidays, until all the lots and parcels of land described in said assessment roll on which any such assessment is delinquent and unpaid are sold. Such sale shall take place at the front door of the building in which the city council, or other legislative body, holds its sessions. The treasurer shall give notice of such sales by publishing a notice thereof once in each week for three consecutive weeks in the official newspaper or newspapers of the city, or if there be no such newspaper, then by publishing the same for said period in some newspaper published in the same county in which the city is situated, or if no such newspaper be published in such county, then in some newspaper published in the state of general circulation in such county. Such notice shall contain a list of all lots and parcels of land upon which such assessments are delinquent, with the amount of the assessment, penalty and costs to date of sale, including cost of advertising due upon each of such lots or parcels of land, together with the names of the owners thereof, or the words "unknown owners" as the same may appear upon said improvement assessment roll, and shall specify the time and place of sale and that the

several lots and parcels of land therein described will be sold to satisfy the assessment, penalty and costs due upon each. All of such sales shall be made between the hours of ten o'clock A. M. and four o'clock P. M. Each lot or parcel of land shall be sold separately and in the order in which the same appears on the improvement assessment roll, commencing at the head thereof. If there be no bidder for any lot or parcel of land of a sum sufficient to pay the delinquent assessment thereon, with penalty and costs, the treasurer shall strike the same off to the city for the whole amount which he is required to collect by such sale.

Sale to the highest bidder, surplus to be returned to owner by warrant.

SEC. 36. All lots and parcels of land sold for delinquent improvement assessments shall be sold to the highest bidder, and whenever any such lot is sold for more than the sum sufficient to satisfy the delinquent assessment, with penalty and costs, the surplus shall be kept by the treasurer in a separate fund, and thereafter the owner, or his legal representative, shall on application to the city council, or other legislative body, be entitled to a warrant therefor.

After receiving the amount of the assessment, penalty, cost and charges, the treasurer shall make out a certificate, dated on the day of sale, stating (when known) the name of the owner as given on the assessment roll, a description of the land sold, the amount paid therefor, the name of the purchaser, that it was sold for the assessment, giving the name of the street or other brief designation of the improvement for which the assessment was made, and specifying that the purchaser will be entitled to a deed in two years from the day of sale unless redemption thereof be made. Such certificate shall be signed by the treasurer, and shall be delivered to the purchaser and shall be by such purchaser recorded in the office of the county auditor of the county in which the lands are situated within three months from the date thereof. If not recorded within said time, the lien thereof shall be postponed to claims of subsequent purchasers and encumbrancers for value and in good faith who become such while the same is unrecorded.

Certificate of sale.

Deed.

SEC. 37. If any bidder to whom any lot or parcel of land is stricken off does not pay the assessment, penalty and costs before ten o'clock A. M. of the day following the

Re-sale.

day of such sale, such lot or parcel of land must then be resold, or if the assessment sale is closed, be deemed to have been sold to the city or town, and the certificate of purchase shall be issued to the city therefor.

SEC. 38. The city comptroller, if there be such officer, and if not then the city or town clerk, shall be the custodian of all certificates of purchase for lots or parcels of land sold to the city, and shall at any time within two years from the date of such certificate, and before redemption of the lot or parcel of land therein described, sell and transfer any such certificate to any person who will pay to him the amount for which the lot or parcel of land therein described was stricken off to the city, with interest subsequently accrued thereon, and the treasurer may, if so authorized by the council, sell and transfer any such certificate in like manner after the expiration of such two years from the date of the certificate.

SEC. 39. Within ten days after the completion of the sale of all lots and parcels of land described in such improvement assessment roll, and authorized to be sold as aforesaid, the treasurer must make return to the comptroller, or other officer by whom the warrant was issued, of said assessment roll, with a statement of his doings thereon, showing all lots and parcels of land sold by him, to whom sold and the sum paid therefor.

Lien for  
amount paid.

SEC. 40. The purchaser at such sale acquires a lien on the lot or parcel of land sold for the amount paid by him at such sale as well as for all taxes and special assessments and all interest, penalties, costs and charges thereon, whether levied previously or subsequently to such sale, and whether for state, county, city or town purposes, subsequently paid by him on the lot or parcel of land, and shall be entitled to interest at the rate of twenty per cent. per annum on the original amount paid and such subsequent payments from the date of the respective payments.

Redemption.

SEC. 41. Every lot and parcel of land sold for an improvement assessment shall be subject to redemption by the former owner, or his grantee, mortgagee, heir or other representative within two years from the date of the sale upon payment to the treasurer for the purchaser of the

amount for which the same was sold, with interest at the rate of twenty per cent. per annum together with all taxes and special assessments and interest, penalties and charges thereon paid by the purchaser on such lot or parcel of land since such sale, with like interest thereon. Unless written notice of taxes and assessments subsequently paid, and the amount thereof shall be lodged with the treasurer, redemption may be made without including the same. On any such redemption being made the treasurer shall give to the redemptioner a certificate of redemption therefor, and pay over the amount received from such redemption to the purchaser or his assigns. Should no redemption be made within the period of two years the treasurer shall, on demand of the purchaser or his assigns, and the surrender of the certificate, execute to him a deed for the lot or parcel of land therein described: *Provided*, That no such deed shall be executed until the holder of such certificate shall have notified the owner of said lots or parcels of land that he holds said certificate and that he will demand a deed therefor; and if, notwithstanding said notice, no redemption be made within sixty days from the date of the service or first publication of said notice, said holder shall be entitled to said deed. Said notice may be given by personal service upon said persons or by publication in a weekly newspaper, published in said city, once in each week for three successive weeks, if no newspaper be published in said city then publication shall be made as provided in section 34 [ 24 ] of this act. Such notice and return thereto, with the affidavit of the person claiming said deed stating that said service was made, shall be filed with the treasurer. Such deed shall be executed only for the lot or parcel of land named in the certificate, and after payment of all subsequent taxes and special assessments thereon. The deed shall be executed in the name of the city by which the improvement is made; shall recite in substance the matters contained in the certificate, the notice to the owner, and that no redemption has been made of the property within the time allowed by law. Such deed shall be signed and acknowledged by the city treasurer as such. The deed shall be *prima facie* evidence that the property was as-

sessed as required by law; that the assessment was not paid; that the property was sold as required by law; that it was not redeemed; that notice had been given, and that the person executing the deed was the proper officer; and the deed shall be conclusive evidence of the regularity of all other proceedings from the assessment, inclusive, up to the execution of the deed.

Separate fund. SEC. 42. All moneys received or collected by the treasurer upon assessments for any purpose authorized by this act shall be kept as a separate fund, and in no wise used for any other purpose whatever, except for the redemption of warrants drawn against such fund.

Payment before sale. SEC. 43. Whenever before sale of any lot or parcel of land the amount of any assessment thereon, with penalty and costs accrued thereon, shall be paid to the treasurer, he shall thereupon mark the same paid, with the date of payment thereof on the assessment roll, and whenever after sale of any lot or parcel of land for any assessments, the same shall be redeemed, he shall thereupon enter the same redeemed with the date of such redemption on such record. Such entry shall be made on the margin of the record opposite the description of such lot or parcel of land.

Penalty. SEC. 44. If the treasurer shall receive any moneys for assessments, giving a receipt therefor, for any lot or parcel of land and afterwards return the same as unpaid, or shall receive the same after making such return, and the same be sold for assessment which has been so paid and receipted for by himself or his clerk or assistant, he and his bond shall be liable to the holder of the certificate given to the purchaser at the sale for the amount of the face of the certificate, and a penalty of twenty per centum additional thereto besides legal interest, to be demanded within two years from the date of the sale and recovered in any court having jurisdiction of [the] amount, and the city shall in no case be liable to the holder of such certificate.

New assessment. SEC. 45. If any assessment be annulled or set aside by any court, or be invalid for any cause, a new assessment may be made and return and like notice given and proceedings had as herein required in relation to the first; and all parties in interest shall have the like rights, and the city

council or other legislative body, and the superior court, shall perform the like duties and have like power in relation to any subsequent assessment as are hereby given in relation to the first assessment.

SEC. 46. All the assessments levied by any city under this act shall, from the date of the assessment, be a lien upon the real estate upon which the same may be imposed, and such lien shall continue until such assessments are paid. If any proceedings taken for the enforcement thereof shall be held void or invalid, such city shall provide by ordinance for new proceedings and a new sale for the enforcement thereof in like manner as hereinbefore provided; and, in addition to the remedy hereinbefore provided, any city may enforce such lien by civil action in any court of competent jurisdiction in like manner and with like effect as actions for the foreclosure of mortgage.

Assessment  
to be a lien.

SEC. 47. If any street, avenue or alley, or the right to use and control the same for purposes of public travel, shall belong to any city, and such city shall establish a grade therefor, which grade requires any cut or fill, damaging abutting property, the damages to arise from the making of such grade may be ascertained in the manner provided in this act, but such city may provide that the compensation to be made for such damage, together with the accruing costs, shall be added to the cost of the labor and material necessary for the grading thereof, and shall be paid by assessment upon the property within the local assessment district defined by law or the charter or ordinances of such city in the same manner and to the same extent as other expenses of such improvement are assessed and collected. In such case it shall not be necessary to procure the appointment of commissioners or take the other proceedings herein provided for making such assessments, but all the proceedings for the assessment and collection of such damages and costs, shall, if so ordained by such city, be governed by the charter provisions, law or ordinances in force in such city for the assessment and collection of the cost of such improvements upon property locally benefited thereby: *Provided, however,* That this section shall apply only to the original grading of such street, avenue or alley.

Damages for  
grading  
streets.

SEC. 48. At any time within two months from the date of rendition of the last judgment awarding compensation for any such improvement in the superior court, or if any appeal be taken, then within two months after the final determination of the appeal in the supreme court, any such city may discontinue the proceedings by ordinance passed for that purpose before making payment or proceeding with the improvement by paying or depositing in court all taxable costs incurred by any parties to the proceedings up to the time of such discontinuance. If any such improvement be discontinued, no new proceedings shall be undertaken therefor until the expiration of one year from the date of such discontinuance.

Funds for improvements may be advanced by city or town.

SEC. 49. If any city or town shall desire to take possession of any property or do any damage or proceed with any improvement, the compensation for which is to be paid for in whole or in part by the proceeds of special assessment under this act, it may advance from its general funds, or any moneys available for the purpose, the amount of the assessments aforesaid, and pay the same to the owner or into court, as herein provided, reimbursing itself for moneys so advanced from the special assessments aforesaid. If there be no funds available for the purpose, such city may contract indebtedness for the purpose of raising funds therefor, which indebtedness shall be contracted and such proceedings taken therefor as is provided by law for indebtedness contracted for other internal improvements.

Jury may be waived.

SEC. 50. In any proceedings under this act wherein a trial by jury is provided for, the jury may be waived as in other civil cases in courts of record in the manner prescribed by law, and the matter may be heard and determined without the intervention of a jury. Whenever an attempt is made to take private property for a use alleged to be public under authority of this act, the question whether the contemplated use be really public shall be a judicial question and shall be determined as such by the court before inquiry is had into the question of compensation to be made. When a jury is required for the determination of any matter under this act, such jury may be the same jury summoned for the trial of ordinary civil ac-

Question as to use being really public determined before question of compensation.

tions before the court, or the court may, in its discretion, issue a venire to the sheriff to summon as jurors such number of qualified persons as the court shall deem sufficient. Except as herein otherwise provided, the practice and procedure under this act in the superior court, and in relation to the taking of appeals and prosecution thereof shall be the same as in other civil actions, but all appeals must be taken within thirty days from the date of rendition of the judgment appealed from. Proceedings under this act shall have precedence of all cases in court except criminal cases.

Practice and procedure same as in other civil actions.

Precedence.

SEC. 51. Whenever the word "person" is used in this act the same shall be construed to include any company, corporation or association the state or [ any ] county therein.

Definition of "person."

SEC. 52. If any city has heretofore taken or shall hereafter take possession of any land or other property, or has damaged or shall hereafter damage the same for any of the public purposes mentioned in this act, or for any other purpose within the authority of such city, without having made just compensation therefor, such city may cause such compensation to be ascertained and paid to the persons entitled thereto by proceedings taken in accordance with the provisions of this act, and the payment of such compensation and costs as shall be adjudged in favor of the persons entitled thereto in such proceedings shall be a defense to any other action for the taking or damaging of such property.

Compensation may be made for prior or subsequent damage.

SEC. 53. Whereas, there is now no statute in force giving to cities the right of eminent domain, and by reason thereof public improvements are greatly retarded and much inconvenience results to the public, an emergency is hereby declared to exist for the immediate effect of this law, and therefore this act shall take effect on its passage and approval by the governor.

Emergency.

Approved March 9, 1893.

## CHAPTER LXXXV.

[H. B. No. 93.]

## RAILROAD FREIGHT RATES.

AN ACT regulating and fixing maximum railroad freight rates in the State of Washington, and providing a penalty for violation thereof.

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

Rates on  
wheat, barley  
and other  
products.

SECTION 1. No individual, company or corporation owning, operating, managing or leasing any railroad or part of a railroad in this state, shall charge for or receive a greater or higher rate for carrying wheat, barley, flour, flaxseed, rye or other mill stuffs, oats, potatoes or hay, than eighty-five per centum of the rates existing for carrying said articles or commodities on the third day of January, 1893: *Provided*, That no greater rate than four and 75-100 dollars per ton shall be charged for carrying the articles or commodities hereinbefore enumerated in carload lots for a haul of five hundred miles or less.

Proviso.

SEC. 2. The maximum rates of freight on all railroads in this state other than on those articles or commodities enumerated in section one of this act shall be the rates that were in existence on the third day of January, 1893: *Provided*, That this section shall not apply in respect to rates that were in existence at the date last named, made in competition with transportation wholly or partly by water.

SEC. 3. Any individual, company or corporation owning, operating, managing or leasing any railroad in this state feeling that the rates established by sections one and two of this act are unreasonably low, shall have recourse to courts of competent jurisdiction, which shall grant such relief as may appear just and reasonable.

Maximum  
rates.

SEC. 4. The maximum rates of freights on all railroads constructed in this state after the third day of January, 1893, or whose rates of freight may be established after the third day of January, A. D. 1893, shall be fixed as near in conformity with sections one and two of this act as may be or as is practicable.

SEC. 5. In no instance shall any individual, company or corporation, lessee or other person, charge or receive any greater rate of compensation for carrying freight on any railroad or railroads in this state than hereinbefore provided, and any individual, company or corporation violating or in any way evading the provisions of this act, shall forfeit all <sup>Penalty.</sup> right to recover or receive any compensation whatever for the services rendered wherein such violation is attempted, and every agent of such corporation, lessee or other individual operating any railroad within this state who shall refuse to receive for transportation over the railroad for which he is agent, in the usual way, any of the articles hereinbefore mentioned on account of the compensation hereintofore prescribed being too low, or receiving any such articles of freight, shall charge or attempt to charge for the transportation of the same any greater sum than herein allowed, or shall in any manner violate or evade the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall pay a fine of not exceeding five hundred dollars for each and every offense, and the injured party shall have the right of action against the railroad company or other person operating the railroad, or both, in which he shall be entitled to recover the amount taken or received from him in excess of the rates prescribed by this act, together with attorney's fees and cost of suit, and in all prosecutions for violation of this act by any person, company or corporation, such person, company or corporation making the complaint is authorized to sue in any court of competent jurisdiction in this state.

Approved March 9, 1893.

## CHAPTER LXXXVI.

[H. B. No. 184.]

## REGULATING THE MANUFACTURE AND SALE OF JUTE AND OTHER FABRICS AND BRICK AT STATE PENITENTIARY.

AN ACT appropriating money for the purchase of materials and regulating the manufacture and sale of jute and other fabrics and brick at the state penitentiary.

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

SECTION 1. The sum of fifty thousand dollars (\$50,000) is hereby appropriated out of any money in the state treasury not otherwise appropriated to provide a permanent revolving fund for the purchase and delivery at the state penitentiary of jute, clay and other materials for the manufacture of jute and other fabrics and brick.

Revolving fund.

SEC. 2. Payments from the revolving fund shall be made by the state treasurer upon warrants drawn by the state auditor upon the certified accounts of the directors of the state penitentiary audited by him.

Use of revolving fund.

SEC. 3. All money taken from the revolving fund shall be used exclusively in the purchase of and the payment of freights on jute, clay and other material and fuel delivered at the state penitentiary to be used in the manufacture of jute and other fabrics and brick thereat.

Manner of estimating cost of articles manufactured.

SEC. 4. In ascertaining the cost of the jute and other fabrics and brick manufactured at the state penitentiary, the directors shall include the cost of materials and fuel at the state penitentiary, the cost of the skilled labor employed, and such other expenses as are incident to their manufacture; and none of the jute and other fabrics and brick manufactured at the state penitentiary shall be sold for less than actual cost of production, based upon the items enumerated in this section, without special authority from the legislature.

Fabrics to be sold to residents of the state.

SEC. 5. The jute and other fabrics, and brick, manufactured at the state penitentiary shall be sold to actual consumers who are residents of the State of Washington for cash on delivery, in the order, as near as may be, of the making of written application therefor, on blanks to be

provided by the directors; and it shall be a misdemeanor, punishable by a fine and removal from office, for the officers of the state penitentiary to knowingly permit the disposal of jute fabrics to other than actual consumers. All payments for jute and other fabrics and brick shall be made to the warden of the state penitentiary who alone is authorized to receipt therefor, and who shall keep a correct account of all sales, with the applications, showing to whom sold, when sold, the quantity of each article sold and the amount paid; and the warden shall submit a transcript of said account of sales to the legislature, through the directors, at each session thereof.

SEC. 6. On or before the fifth day of each month the warden of the state penitentiary shall pay into the state treasury, to be placed in the revolving fund, the moneys received by him during the preceding month from the sales of jute and other fabrics and brick, and he shall at the same time report to the state auditor the amounts and their sources so paid in. Date for covering in money to revolving fund.

SEC. 7. None of the money received from the sale of jute and other fabrics and brick, and turned into the revolving fund, shall be used for any other purpose than the purchase of materials and fuel, and the payments of freights thereon, until after said revolving fund shall contain \$50,000. Use of revolving fund.

SEC. 8. This act shall be in force and take effect from the date of its passage and approval by the governor.

Approved March 9, 1893.

## CHAPTER LXXXVII.

[S. B. No. 275.]

## RELATING TO THE PUBLIC PRINTING.

AN ACT to amend sections 1 and 5 of "An act to provide for the state printing and binding, etc.," approved February 19, 1890, the same being sections 2929 and 2933 of volume 2 of Hill's Annotated Statutes and Code of Washington.

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

SECTION 1. That section 1 of "An act to provide for the state printing and binding, etc.," approved February 19, 1890 (2929 Hill's Code), be amended to read as follows: All printing, bookmaking and binding required by any officer, institution, board or commission of the State of Washington, except printing in newspapers and legislative printing, shall be done under the supervision of the board to be known as the state printing board, consisting of the governor, secretary of state and state treasurer, of which the governor shall be *ex officio* chairman. It shall be the duty of said board to determine what stationery and printing shall be furnished every state officer, institution, board or commission, and no requisition for stationery, printing or binding shall be filled by the state printer unless the same shall be approved by said board, or a majority thereof, indorsed thereon in writing. It shall be the duty of said board to examine all matter for biennial reports of state officers, institutions, boards or commissions, and reject therefrom all unnecessary verbiage or statistics, and the officer, institution, board or commission so reporting, shall be bound by the action of a majority of said board, in the rejection of such unnecessary matter. Said board shall have full power to adopt such rules and regulations for the transaction of its business as by it may be deemed necessary. Requisitions shall be made only by the head of the department, institution, board or commission, for which stationery, printing, bookmaking or binding may be required, or by a first assistant of any of the state officers constituting the executive department. All printing and binding when completed, except such as shall be done in a

State printing  
board.

Duties of  
board.

newspaper, and such books as are required by law to be delivered to some other public officer, shall be delivered to the secretary of state. Said secretary shall carefully examine all work delivered to him, and every bill presented for such work, and shall see that the work charged for has been done according to law and the directions of said board.

No bill or claim shall at any time be audited or allowed for or on account of any uncompleted job or work, nor until the entire job or work charged for shall be finished and delivered in all respects as required by law. When any book, pamphlet, blank, report or job of any kind shall be completed and delivered, the state printer shall make out and deliver to the secretary of state, in duplicate, a bill therefor, stating what the book, work or job is, when the copy therefor was received by him, and when the same was finished and delivered, and specifying particularly by items everything charged for in such bill grouping the items by classes, as hereinafter designated, and giving the prices and amount charged, for each item, and the aggregate amount charged for such job or work, and the number of copies or quires thereof printed and delivered. One copy of such bill shall be attached to a copy of the book, job or work therein mentioned, and the same shall remain on file and of record in the office of the secretary of state.

No bill shall cover more than one book, report, blank or job of any kind. All bills shall be numbered, and the secretary of state shall record all bills in numerical order in a book prepared and ruled for such purpose, and so ruled that he can enter in red ink, opposite the amount charged by the state printer for any item, the amount allowed by the secretary of state, as auditor, for such item; and the amount so audited and allowed, if less than the amount claimed in said bill, shall in all cases be so entered by such secretary. Immediately after the record of any bill the secretary of state shall enter in such book the date of the filing of the bill, and the amount by him audited and allowed thereon, and he shall designate on the duplicate of said bill such item or items as he shall disallow, in whole or in part, and shall certify thereon, to the auditor of state, the amount by him allowed on such bill, and re-

No claim for unfinished work to be audited.

Manner of delivery of work to secretary of state.

Secretary of state to record; manner of making record, etc.

Certificate to state auditor.

deliver said duplicate to the state printer. On presentation of such certified duplicate to the auditor of state such officer shall issue a warrant therefor on the state treasury, payable out of any funds appropriated for that purpose. The auditor of state, if requested so to do, may include in one warrant the aggregate of any number of bills as audited and certified by the secretary of state, when such bills are payable out of the same funds. Separate bills for all printing or advertising mentioned in section twenty-nine hundred and thirty-one of this volume of General Statutes shall be made out in duplicate, designating the printing or advertising charged for, the rate and number of insertions, and date or dates thereof; and a copy of such publication or advertisement, cut from such newspaper, shall be attached to each copy of the bill therefor. Such duplicate bills shall be verified by the affidavit of the publisher or foreman of the publisher of the newspaper in which printing was done or advertisement was published, and one copy of such duplicate bill shall be filed and recorded and audited by the secretary of state in the manner hereinbefore provided for other bills for public printing and binding: *Provided*, That in recording such bills the copy of the advertisement or publication cut from such newspaper and attached to the bill shall not be transcribed or recorded. The secretary of state shall make similar indorsements and certificates on the duplicates of such bills as hereinbefore required for other duplicate bills, and the auditor of state shall issue warrants for the amount due thereon as in other cases.

Warrant may include any number of bills.

Printing and advertising.

Bills verified by affidavit of publishers.

Estimates of paper and binding materials.

Advertisement for bids.

SEC. 2. That section 5 of the act approved February 19, 1890 (2933, Hill's Code), be amended to read as follows: The state printer shall on the first day of April of each year, make estimates for paper and binding materials to be used in the public printing, and shall advertise in one of the most widely circulated newspapers in the cities of St. Louis, Mo., Chicago, Ill., Portland, Ore., and San Francisco, Cal., and in two of the most widely circulated papers in this state, for sealed bids for furnishing such paper and binding material at the state printing house; and at the time and place named in such advertisement such sealed

bids shall be opened by the secretary of state in the presence of the state printer, and said board, and the contract to furnish such paper and binding material shall be awarded by said board to the lowest responsible bidder or bidders, at such biddings: *Provided*, That if it shall appear to the satisfaction of said board that said bids are collusive, it shall direct the state printer to readvertise for sealed bids as hereinabove provided: *And provided further*, That, before such state printer shall receive such paper and binding materials, he shall be satisfied that such paper and binding materials are in all respects up to the standard required by law, and such paper and binding materials shall be paid for out of the state treasury upon vouchers sworn to by the person furnishing such material, or by persons in their behalf having a knowledge of the facts, and certified by the state printer to be correct, each voucher being filed, as in other cases, with the auditor of state, and warrants drawn by that officer on the state treasurer. Upon receipt of such paper and binding materials by the state printer, as herein contemplated, he shall certify the fact to the secretary of state, with an invoice of the items in detail, corresponding with the contract to furnish such paper and binding material, and the secretary of state shall thereupon charge the state printer with such material and their contract value. When the state printer presents bills for payment to the secretary of state, under section twenty-nine hundred and thirty-one of this volume of General Statutes, he is hereby authorized to add to such bills, five per centum of the paper and binding materials used in the work for which pay is demanded in said bills to cover waste and losses, and the secretary of state shall allow the same if found by him to be correct, and the secretary of state shall thereupon credit the state printer with the quantity of paper and binding material found in said bills: *Provided*, That said state printer shall add said five per centum only upon material actually consumed in his office.

Awarding contract.

In case of collusion, to re-advertise.

Payment for materials.

Five per centum added for waste and losses.

Approved March 9, 1893.

## CHAPTER LXXXVIII.

[S. B. No. 145.]

## PROVIDING FOR PAYMENT FOR STATE LANDS OF THEIR SHARE OF EXPENSE OF DRAINAGE, ETC.

AN ACT to provide for payment for state lands of their share of the expense of constructing drainage ditches, and declaring an emergency.

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

SECTION 1. When under chapter 21 of the Session Laws of this state for 1889-90 any state land, whether school or granted or other land, is benefited by the improvement made as spoken of in said act, then the commissioners making the order directed to be made by section 9 of said act, shall direct the surveyor or engineer in making and returning the schedule required by said section to include in said return in addition to the matters required by said section, a list of all state land that may be benefited by said improvement, and an apportionment of the number of linear feet and cubic yards to each lot or tract of said land according to the benefit which will result to each from the improvement. They shall also direct that in making such apportionment the surveyor or engineer shall apportion the benefit of said improvement to such land in tracts of not more than forty acres, following any subdivisions of said land which may already have been made, and if no subdivisions have already been made then the surveyor or engineer shall make subdivisions such as seem to him best for increasing the value of the land, and shall designate the subdivisions in his report.

SEC. 2. The part of the report required by section 1 of this act shall in all respects be treated as the parts of the report required by said chapter 21. The county commissioners shall review the apportionment made to said lands in said report, and if such apportionment be just, and such as the benefit from said improvement to said state land warrants, they shall approve and confirm said apportionment, but if such apportionment to any of said tracts be too high or too low in proportion to the apportionment to

Surveyor to include in his list, all state land benefited by improvement.

Benefit to be apportioned to lands in tracts not less than forty acres.

County commissioner to review the apportionment.

other lands, then the commissioners shall raise or lower the apportionment as the circumstances of the case may require.

SEC. 3. When an assessment is made against lands for said improvements, such assessment shall also be made against said state land according to said subdivisions thereof, and said state land shall be put on the duplicate as other lands.

SEC. 4. Should said state land not be sold by the state before said assessment of tax becomes delinquent, then the county commissioners shall direct the payment of said tax out of the general revenue fund of the county, and on the tax duplicate shall be entered opposite said tax the words "charged to county revenue fund."

SEC. 5. The valuation of said state land benefited by said improvement shall not be raised by or on account of said improvement, but when any of such land is offered for sale there shall be added to the appraised value for such lands as provided by law the amount of such payments made by the county out of the county revenue fund, which amount so added shall be paid by the purchaser in cash at the time of the sale of said land in addition to the amount due the state for said land; and said additional sum shall be received by the county treasurer and be placed to the credit of the county revenue fund.

Valuation of state land not to be raised on account of improvement.

SEC. 6. This act shall apply to all proceedings already begun and now pending before the county commissioners as well as to proceedings hereafter commenced under said chapter 21.

SEC. 7. Whereas, there are at present no adequate laws on this subject in this state, and the enactment of a law regulating the subject is seriously needed, an emergency therefor exists, and this act shall be in force and take effect from and after its passage and approval by the governor.

Emergency.

Approved March 9, 1893.

## CHAPTER LXXXIX.

[H. B. No. 261.]

## PROTECTION OF SALMON AND OTHER FOOD FISHES.

AN ACT to protect salmon and other food fishes in the waters of Puget Sound and in all streams flowing into Puget Sound, and declaring an emergency.

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

Close season.

SECTION 1. It shall not be lawful to take or fish for salmon by any means whatever in the month of April nor from the first day of October to the fifteenth day of November in any year hereafter, in any of the streams flowing into Puget Sound. [Any person] violating any of the

Penalty.

provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty dollars nor more than ninety-five dollars for each and every offense.

Young salmon of ten inches or less to be returned to water alive when caught.

SEC. 2. Every person who by seine or any means whatever, except by hook and line, shall catch young salmon of ten inches in length or less, in the waters of Puget Sound or in any of the streams flowing into Puget Sound, and who shall not return the same immediately alive to the water, or who shall sell or offer for sale any such fish, or shall willfully destroy any small fish not merchantable, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than twenty-five dollars nor more than seventy-five dollars for each and every offense.

Emergency.

SEC. 3. Whereas, there is now no law in this state in relation to the subject-matter of this act, an emergency is declared to exist, and this act shall be in force from and after its passage and approval by the governor.

Approved March 9, 1893.

## CHAPTER XC.

[H. B. No. 212.]

## TO PREVENT ATTEMPTS TO COMMIT BURGLARIES.

AN ACT to prevent attempts to commit burglaries and declaring the possession of burglar's tools, with intent to use the same for unlawful purposes, to be a misdemeanor, and declaring a rule of evidence in such cases.

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

SECTION 1. If any person shall be found at night around [armed] with any dangerous instrument or offensive weapon whatsoever, with intent to break or enter into any dwelling house, building, room in a building, cabin, stateroom, railway car or other covered enclosure where personal property shall be, and to commit any larceny, felony or misdemeanor therein, or with the intent to commit any larceny, felony or misdemeanor, or if any person shall at any time be found having in his possession any picklock, crow, key, bit, jack, jimmy, nippers, outsiders, pick, drill punch, betty or other implement or implements of burglary, with the intent aforesaid, and under such circumstances as shall not amount to an attempt to commit felony, every such offender shall be deemed guilty of a misdemeanor.

SEC. 2. The possession of any of the above mentioned burglar's implements, tools, weapons or instruments by any person other than a mechanic, artificer or person in trade at and in his known or established shop or place of business, which is open to the public as such, shall be *prima facie* proof of the intent of such person to use the same for the felonious or unlawful purposes mentioned in section one of this act, and shall impose upon such person the burden of proving a contrary intent.

Possession of  
burglars' tools  
*prima facie*  
proof of intent.

Approved March 9, 1893.

## CHAPTER XCI.

[H. B. No. 266.]

## RELATING TO BALLOTS FOR STATE AND OTHER ELECTIONS.

AN ACT relating to ballots furnished for state and other elections and amending section 18 of an act entitled "An act providing for printing and distributing ballots at public expense, and to regulate voting at state and other elections," approved March 19, 1890, the same being section 380 of volume 1 of Hill's Annotated Statutes and Codes of Washington.

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

SECTION 1. That section 18 of an act entitled "An act providing for printing and distributing ballots at public expense and to regulate voting at state and other elections," approved March 19th, 1890, be amended to read as follows: Section 18. The clerk of the board of county commissioners of each county shall provide for each election precinct in the county one hundred ballots for every fifty or fraction of fifty electors registered in the precinct, and two tallying books that shall be printed in relation with the tickets. If there is no registry in the precinct the clerk of the board of county commissioners shall provide ballots to the number of one hundred for every fifty or fraction of fifty electors, who voted at the last preceding election in the precinct: *Provided, however,* That in municipal elections it shall be the duty of the municipal clerk to provide tickets as specified in this section.

SEC. 2. It is hereby made the duty of the judges of election for each election precinct immediately upon the closing of the polls, and before the ballots are counted, to destroy all unused ballots furnished for use at such precinct.

Approved March 9th, 1893.

Clerk of board of county commissioners to provide ballots.

Municipal clerk.

Unused ballots to be destroyed before counting.

## CHAPTER XCII.

[H. B. No. 49.]

## IN RELATION TO SELECTION OF GRANTED LANDS.

AN ACT to amend section 7 of an act entitled "An act to provide for the selection of lands granted to the State of Washington under an act of congress approved February 22, 1889, for the purpose of the erection of public buildings and a penitentiary; the use and support of agricultural and scientific normal schools and charitable, penal and reformatory institutions; also providing for the selection of lands granted to the State of Washington under sections 1947, 2275 and 2276 of the Revised Statutes of the United States," approved March 10, 1891, and declaring an emergency to exist.

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

SECTION 1. That section 7 of "An act to provide for the selection of lands granted to the State of Washington under an act of congress approved February 22, 1889, for the purpose of the erection of public buildings and a penitentiary; the use and support of agricultural and scientific normal schools, and charitable, penal and reformatory institutions; also providing for the selection of lands granted to the State of Washington under sections 1947, 2275 and 2276 of the revised statutes of the United States," approved March 10th, 1891, be amended to read as follows: Sec. 7. The commissioner of public lands shall certify quarterly to the state auditor the amount of land which has been selected by each agent and allowed and approved by the various local or district United States land offices in this state, and the character of the same, whether timbered or prairie land, and fifty per cent. of the amount due each agent, and the state auditor shall thereupon draw his warrant upon the state treasurer for said amount. And upon the final certifying, allowing an [and] approval of such selection by the secretary of the interior of the United States, the commissioner of public lands shall certify to the state auditor the remainder or balance due each agent on such selections; and the state auditor shall thereupon draw his warrant upon the state treasurer for said amount, and the state treasurer shall pay all the warrants authorized by this act to be drawn on him out of the fund set apart for

Commission-  
ers' certificate  
to state  
auditor.

Amount paid  
not to exceed  
statutory fees.

that purpose: *Provided*, That upon final settlement the amount paid said agents shall not exceed the statutory fees now allowed on selections approved by the secretary of the interior.

SEC. 2. For selections already made the agents may be settled with in the same manner and under the same restrictions and provisions as authorized in section seven of said act, as above amended, except that the certificates authorized to be issued by the commissioner of public lands to the state auditor shall, for services already rendered by such agents, be issued upon the passage and approval of this act.

Emergency.

SEC. 3. The work of selection of lands being much impaired by the long delays awaiting action by the secretary of the interior, an emergency exists for the immediate taking effect of the same, and the same is declared to be in force from and after its approval.

Approved March 9, 1893.

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## CHAPTER XCIII.

[H. B. No. 110.]

### TO PREVENT FRAUDULENT DISPOSITION OF MORTGAGED PERSONAL PROPERTY.

AN ACT to prevent the fraudulent disposition of mortgaged personal property and to provide punishment for violations thereof.

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

SECTION 1. That any mortgagor of personal property, or the successor in interest of such mortgagor, who, with intent to hinder, delay or defraud the mortgagee thereof, or his or her assigns or legal representatives, shall injure or destroy such property or any part thereof, or shall conceal such property or any part thereof, or shall remove the same or any part thereof from the county where it was situated at the date of the mortgage before it is duly

released, without the consent in writing of the mortgagee, or shall sell or dispose of the same, or any interest therein, where he parts with the possession thereof, without the consent in writing of the mortgagee, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period <sup>Penalty.</sup> not to exceed six months or by a fine of not more than twice the value of such property, or by both such fine and imprisonment.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1893.

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## CHAPTER XCIV.

[H. B. No. 232.]

### PROHIBITING MARRIAGE OF DIVORCED PERSONS WITHIN PERIOD IN WHICH APPEAL MAY BE TAKEN.

AN ACT prohibiting divorced persons from contracting marriages within the period in which an appeal may be taken, and providing punishment for the violation thereof.

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

SECTION 1. Whenever a judgment or decree of divorce from the bonds of matrimony is granted by the courts in this state, neither party thereto shall be capable of contracting marriage with a third person until the period in which an appeal may be taken has expired; and in case an appeal is taken then neither party shall intermarry with a third person until the cause has been fully determined; and it shall be unlawful for any divorced person to intermarry with any third person within six months from the date of the entry of the judgment or decree granting the divorce, or in case an appeal is taken it shall be unlawful to contract such marriage until judgment be rendered on said appeal in the supreme court. All marriages contracted in

violation of the provisions of this section, whether contracted within or without this state, shall be void.

SEC. 2. Whenever judgment or decree of divorce from the bonds of matrimony is granted by any court in this state, such judgment or decree shall expressly prohibit the plaintiff and defendant named therein from contracting any marriage with third parties within the period of six months from the date of the entry of such judgment or decree, and in case either party to said decree shall re-marry within said period, he or she shall be deemed guilty of contempt of the court granting such judgment or decree, and shall be proceeded against and punished in like manner as in other cases of contempt of court.

SEC. 3. It shall be the duty of the prosecuting attorney of each county to prosecute for contempt any person violating the provisions of any decree mentioned in the last section rendered by any superior court of his county.

Approved March 9, 1893.

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## CHAPTER XCV.

[H. B. No. 322.]

### PROVIDING FOR RE-ASSESSMENT OF COSTS OF LOCAL IMPROVEMENTS IN CITIES AND TOWNS.

AN ACT relating to and authorizing the collection of assessments for local improvements by a new assessment or re-assessment of the cost and expense of making same in cities and towns, and declaring an emergency.

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

SECTION 1. That whenever an assessment for laying out, establishing, closing, straightening, altering, widening, grading, re-grading, paving, re-paving, planking, re-planking, sidewalking and bridging, macadamizing, re-macadamizing, graveling, re-graveling, piling, re-piling, capping, re-capping, any street, avenue or alley, or for any local improve-

ment, which has heretofore been made or which may hereafter be made by any city or town, has been or may be hereafter declared void and its enforcement under the charter or laws governing such city or town refused by the courts of this state, or for any cause whatever has been heretofore or may be hereafter set aside, annulled or declared void by any court, either directly or by virtue of any decision of such court, the council of such city or town shall, by ordinance, order and make a new assessment or re-assessment upon the lots, blocks or parcels of land which have been or will be benefited by such local improvement, to the extent of their proportionate part of the expense thereof, and in case the cost shall exceed the actual value of such local improvement the new assessment or re-assessment shall be for and based upon the actual value of the same at the time of its completion; and to this end the board of public works or other proper authority of such city or town shall make a new assessment roll in equitable manner with reference to the benefits received, as near as may be in accordance with the law in force at the time such re-assessment is made, and when the same shall have been confirmed and approved by the council it shall be enforced and collected in the same manner that other assessments for local improvements are enforced and collected under the charter or laws governing such city or town; but all proceedings relative to making the expense of local improvements chargeable upon property benefited thereby, required and provided by the charter or laws of such city or town prior to the making of original assessment roll, shall not be included nor required within the purpose of this act.

Board of public works may make a new assessment.

SEC. 2. The city council of such city or town shall by ordinance order and make a new assessment or re-assessment, as provided in preceding section, upon the lots, blocks, or parcels of land, which have been or will be benefited by such improvement, to the extent of their proportionate part of the cost, expense and value thereof.

City council to make new assessment.

SEC. 3. Upon the passage of an ordinance, as hereinbefore provided, the board of public works, or other proper authority of such city or town, shall make out an assessment

roll according to the provisions of the said ordinance, and shall certify the same to the council of such city or town.

Notice.

SEC. 4. Upon receiving the said assessment roll the clerk of such city or town shall give notice by three (3) successive publications in the official newspaper of such city or town, that such assessment roll is on file in his office, the date of filing of same, and said notice shall state a time at which the council will hear and consider objections to said assessment roll by the parties aggrieved by such assessment. The owner or owners of any property which is assessed in such assessment roll, whether named or not in such roll, may within ten (10) days from the last publication provided herein, file with the clerk his objections in writing to said assessment.

Council to hear and determine all objections.

SEC. 5. At the time appointed for hearing objections to such assessment the council shall hear and determine all objections which have been filed by any party interested, to the regularity of the proceedings in making such re-assessment and to the correctness of the amount of such re-assessment, or of the amount levied on any particular lot or parcel of land; and the council shall have the power to adjourn such hearing from time to time, and shall have power, in their discretion, to revise, correct, confirm, or set aside, and to order that such assessment be made *de novo*, and such council shall pass an order approving and confirming said proceedings and said re-assessment as corrected by them, and their decision and order shall be a final determination of the regularity, validity and correctness of said re-assessment, to the amount thereof, levied on each lot or parcel of land. If the council of any such city consists of two houses the hearing shall be had before a joint session, but the ordinance approving and confirming the re-assessment shall be passed in the same manner as other ordinances.

SEC. 6. The fact that the contract has been let or that such improvement shall have been made and completed in whole or in part shall not prevent such assessment from being made, nor shall the omission, failure or neglect of any officer or officers to comply with the provisions of the charter or laws governing such city or town, as to petition,

notice, resolution to improve, estimate, survey, diagram, manner of letting contract or execution of work, or any other matter whatsoever connected with the improvement and the first assessment thereof, operate to invalidate or in any way effect [affect] the making of the new assessment or re-assessment as provided for by this act, charging the property benefited with the expense thereof: *Provided*, That such new assessment shall be for an amount which Proviso. shall not exceed the actual cost and value of the improvement, together with any interest that shall have lawfully accrued thereon, and that such amount be equitably apportioned upon the property benefited thereby, according to the provisions of the charter or laws of such city or town. It being the true intent and meaning of this act to make the cost and expense of all local improvements payable by the real estate benefited by such improvement by making a re-assessment therefor, notwithstanding that the proceedings of the common council or board of public works or any of its officers may be found irregular or defective, whether jurisdictional or otherwise; when such re-assessment is completed all sums paid on the former attempted assessment shall be credited to the property on account of which the same was paid.

SEC. 7. In all cases where the treasurer, city or town authorities, shall be unable to enforce the collection of any special assessment, by reason of irregularity or omission in any proceedings subsequent to the confirmation of such assessment, the council is authorized and empowered to cause a new warrant or order to issue to the treasurer or other proper officers for the collection of any assessment which, by reason of such irregularity or omission, remains unpaid and not collected. The treasurer or other proper officers shall proceed under such new warrant or order to enforce and collect the assessments therein specified in the same manner, as near as may be, as is prescribed by the provisions of this act, for the enforcement and collection of special assessments, after the same shall have been confirmed as in this act provided; and as often as any failure shall occur by reason of such irregularities or omissions, a new warrant or order may issue, and new proceedings be

New proceedings may be had for enforcing assessment void through irregularity or omission.

had in like manner, until such special assessment shall be fully collected as to each and every lot or parcel of land charged therewith.

Objector's  
right of appeal.

SEC. 8. Any person who has filed objections to such new assessment or re-assessment, as hereinbefore provided, shall have the right to appeal to the superior court of this state and county in which such city or town may be situated.

Manner of  
taking appeal.

SEC. 9. Such appeal shall be made by filing a written notice of appeal with the clerk of such city or town within ten (10) days after such new assessment or re-assessment roll shall have been approved and confirmed by the council, and said notice shall describe the property and the objections of such appellant to such assessment, and such appellant shall also file with the clerk of the superior court aforesaid, within twenty (20) days from the approval and confirmation of such roll by the council, a copy of said notice, appeal, re-assessment roll and proceedings thereon, certified by the clerk of such city or town, together with a bond to such city or town, conditioned to pay all costs that may be awarded against the appellant in such sum not less than two hundred (\$200) dollars and with such security as shall be approved by a judge of said court, and the case shall be docketed by the clerk of such court in the name of the person taking such appeal against said city or town, as "an appeal from assessments." Said cause shall then be at issue and shall have preference over all civil cases pending in said court, except proceedings under the act relating to eminent domain by cities and towns, actions of forcible entry and detainer. Such appeal shall be tried in said court as in the case of equitable causes, except that no pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment in so far as the same affects the property of the appellant, from which judgment an appeal shall lie to the supreme court, as in other causes. In case the assessment is confirmed, the fees of clerk of the city or town for copies of the record shall be taxed against appellant with other costs.

SEC. 10. This act shall not be construed as repealing the provisions now existing in any city charter for the mak-

ing of new assessments or re-assessments, but shall be considered as providing a concurrent remedy in such cases. This act a concurrent remedy; not a repeal of existing provisions. And any city whose charter provides for any such new assessment or re-assessment may provide [proceed] either under such charter provisions or under this act.

SEC. 11. That the city council of any city which is composed of two or more cities which have been or may hereafter be consolidated, as provided by law, shall have power to make and pass all necessary ordinances, orders and resolutions for such new assessment or re-assessment, where the improvement for which an alleged assessment has been made by any such former cities prior to the consolidation thereof into one city, and to fully carry out and enforce the provisions of this act.

SEC. 12. Whereas, the assessments for local improvements in the cities of this state have in several instances been set aside and declared void for irregularities, and no adequate law now exists for re-assessments: therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the governor. Emergency.

Approved March 9, 1893.

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## CHAPTER XCVI.

[H. B. No. 88.]

### BONDS TO BE ISSUED FOR INTERNAL IMPROVEMENTS IN CITIES AND TOWNS.

AN ACT relating to internal improvements in cities, authorizing the issuance and collection of bonds upon the property benefited by local improvements, and declaring an emergency.

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

SECTION 1. That whenever the mayor and council of any city shall, under authority vested in them by any law of this state and the charter of such city, cause any street, avenue or alley in such city to be graded, curbed, guttered, paved, repaired or macadamized, or re-macadamized,

Provision for  
payment of  
expenses in  
installments.

Bonds may be  
issued to con-  
tractor or sold.

Amount of  
bonds issued.

Assessments  
levied and  
collected, how.

planked or re-planked, or any sewer to be constructed or make any other local improvements, the expense of which is chargeable to the abutting, adjoining, contiguous or approximate property, they may, in their discretion, provide for the payment of the cost and expenses thereof by installments, instead of levying the entire tax or special assessment for such costs at one time, and for such installments they may issue, in the name of such city, improvement bonds of the district, which shall include the adjoining, contiguous and approximate property liable to assessment for such local improvement according to the city charter, payable in installments of equal amounts each year, none of which bonds nor any of the installments thereof shall run longer than ten years, nor bear interest exceeding nine per centum per annum. Such bonds may be issued to the contractor constructing the improvement in payment thereof, or the mayor and council, or by charter and ordinance of said city, other authorized officer or officers of said city, may sell the same at not less than their par value, net, and pay the proceeds thereof to the contractor. Such bonds shall not be issued in amount in excess of the contract price of the work or improvement, except that the installment coupons shall include the interest on such installments to the maturity thereof. The bonds shall be of such denominations as the mayor and council shall deem proper. Where district bonds are issued under this act for improvements, the cost of which is by law charged by special assessment against specific property, the mayor and council or other authorized officer, board or body shall levy special assessments each year sufficient to redeem the installments of such bonds next thereafter maturing, but in computing the amount of special assessment to be levied against each piece of property liable therefor, interest thereon at a rate not exceeding nine per centum per annum from the date of the issuance of said bonds until the maturity of the installment of bonds next thereafter maturing. Such assessments shall be made upon the property chargeable for the cost of such improvements, respectively, and shall be levied and collected in the same manner as may be provided by law and the charter and ordinance of such

city for the levy and collection of special assessments for such improvements where no bonds are issued, except as otherwise provided by this act. But the basis of such assessment, whether upon assessed valuation, frontage or otherwise liable for such costs, shall be retained for the assessment of succeeding installments of said bonds. The owner of any piece of property liable to any such special assessment may redeem his property from such liability by paying the entire assessment chargeable against his property (upon the city clerk mailing him a written or printed notice) thirty days before the issuance of the bonds, or after the issuance of the bonds by paying all the installments of the assessments which have been levied and also the amount of unlevied installments with interest on the latter at the rate of eight per centum per annum from the date of the issuance of the bonds to the time of maturity of the last installment. In all cases where installments of assessments not yet levied and paid as above provided, whether before or after the issuance of the bonds, the same shall be paid to the city treasurer, who shall receipt therefor, and all sums so paid shall be applied solely to the payment of such improvements or the redemption of the bonds issued therefor. Where any piece of property has been redeemed from liability for the cost of any improvement as herein provided, such property shall not thereafter be liable for further special assessment for the cost of such improvement except as hereinafter provided. No suit to set aside the said special assessment or to enjoin the making of the same shall be brought, nor any defense to the validity thereof be allowed after the expiration of thirty days from the time the amount due on each lot or piece of ground liable for such assessment is ascertained and confirmed by the council. The funds raised by such assessments shall be applied solely towards the redemption of said bonds.

Basis of assessment.

How property may be redeemed from assessment charge.

Suit to enjoin or set aside may not be brought after thirty days.

SEC. 2. Such bonds, when issued to the contractor constructing the improvement in payment therefor, or when sold as above provided, shall transfer to the contractor or other owner or holder all the right and interest of such city in and with respect to every such assessment, and the lien thereby created against the property of such owners

Bonds issued to contractor, transfer city's lien on the property.

Foreclosure  
of lien.

assessed as shall not have availed themselves of the provisions of this act in regard to the redemption of their property as aforesaid, shall authorize said contractor and his assigns and the owners and holders of said bonds to receive, sue for and collect or have collected every such assessment embraced in any such bond by or through any of the methods provided by law for the collection of assessments for local improvements. And if the city shall fail, neglect or refuse to pay said bonds, or to promptly collect any of such assessments when due, the owner of any such bonds may proceed in his own name to collect such assessment and foreclose the lien thereof in any court of competent jurisdiction, and shall recover in addition to the amount of such bonds and interest thereon, five per centum, together with the costs of such suit. Any number of holders of such bonds for any single improvement may join as plaintiffs, and any number of owners of the property on which the same are a lien may be joined as defendants in such suit. And such bonds shall be equal liens upon the property for the assessments represented by such bonds without priority of one over another to the extent of the several assessments against the several lots and parcels of land.

Council may  
re-assess.

SEC. 3. That in all cases of special assessment for local improvements of any kind against any property, persons or corporations whatsoever wherein said assessments have failed to be valid in whole or in part for want of form or insufficiency, informality or irregularity or non-conformance with the charter provisions or laws governing such assessments, the city council or other authorized board or body shall be and they are hereby authorized to re-assess such special taxes or assessments and to enforce their collection in accordance with the provisions of law existing at the time the re-assessment is made: *And it is further provided,* That whenever, for any cause, mistake or inadvertence the amount assessed shall not be sufficient to pay the cost of the improvement made and enjoyed by owners of property in the local assessment district where the same is made, that it shall be lawful and the city council or other authorized board or body is hereby directed and author-

ized to make re-assessments on all the property in said local assessment district sufficient to pay for such improvement, such re-assessment to be made and collected in accordance with the provisions of the law or ordinance existing at the time of its levy.

SEC. 4. That nothing herein shall be construed as repealing or modifying any existing manner and method for cities of the first class to make improvements as herein provided for, but shall be construed as an additional and concurrent power and authority. Any city whose charter provides for the issuance of bonds for local improvements, payable only from the proceeds of special assessments, is hereby authorized to issue such bonds in the manner and with the effect provided in such charter, and the holder of any such bond shall look only to the fund provided by such assessment for the principal or interest of such bond.

SEC. 5. The holder of any bond issued under the authority of this act shall have no claim therefor against the city by which the same is issued, in any event, except from the collections of the special assessment made for the improvement for which such bond was issued, but his remedy, in case of no payment, shall be confined to the enforcement of such assessments. A copy of this section shall be plainly written, printed or engraved on the face of each bond so issued.

Remedy for non-payment of bonds, confined to enforcement of assessments.

SEC. 6. Whereas, there is no law providing for the establishment of local improvement districts in the cities of this state; and, whereas, the establishment of such districts is essential to the interests of such cities: therefore, an emergency is hereby declared to exist, and this law shall take effect and be in force from and after its passage and approval.

Approved March 9, 1893.

## CHAPTER XCVII.

[H. B. No. 69.]

## CRIMES AGAINST PROPERTY.

AN ACT to amend section 59, chapter 2 of Crimes against Property, of the laws of the State of Washington as compiled and arranged by William Lair Hill, under an act of the legislature of the State of Washington, approved February 18, 1890, entitled "An act to appoint a commissioner to compile, re-arrange and annotate the laws of Washington, and to provide for publication and distribution thereof and the payment therefor."

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

SECTION 1. Section 59, chapter 2 of Crimes against Property, of the laws of the State of Washington as compiled and re-arranged by William Lair Hill, approved February 18, 1890, entitled "An act to appoint a commissioner to compile, re-arrange and annotate the laws of Washington, and to provide for publication and distribution thereof and payment therefore [therefor]" be amended so as to read as follows: Sec. 59. If any person maliciously kill, maim or disfigure any horse, cattle, dog, or other domestic animal of another, or maliciously administer poison to any such animal or animals, or expose any poisonous substance with intent that the same should be taken by it or them, he shall be punished by imprisonment in the county jail not exceeding one year or by fine not exceeding \$300.

Approved March 9, 1893.

## CHAPTER XCVIII.

[H. B. No. 108.]

## PROVIDING FOR VIEWING, LAYING OUT AND SURVEYING COUNTY ROADS.

AN ACT providing for viewing, laying out and surveying public roads, and providing for the award of damages in the location of said roads, and declaring an emergency.

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

SECTION 1. When ten or more freeholders of any county desire to have a county road viewed, laid out, surveyed and established, they shall file in the superior court of the county a petition setting forth: The beginning and terminal points of the proposed road, and the general route thereof, as near as may be; the width of the proposed road, which shall not be less than thirty feet, nor more than sixty feet; that the proposed road is a practicable one, and that the petitioners are residents in the vicinity of said road and interested in the opening thereof; and that said road will be of general use and public benefit.

SEC. 2. At the time of filing such petition one or more of the signers of any such petition shall enter into bond in the sum of two hundred dollars, payable to the state for the use of the county, with two or more sureties to be approved by the county clerk, conditioned that the persons making application for the proposed road will pay into the county treasury the amount of all costs and expenses incurred in the view and survey of said proposed road, in case the petitioner [petition] therefor is not granted.

Petitioner to file bond.

SEC. 3. When the petition and bond have been filed and the bond approved, the court shall fix a day for hearing the petition for the appointment of viewers which shall not be less than ten nor more than twenty days from the date of the approval of the bond. Notice of such hearing shall be issued by the clerk and shall be posted by the principal petitioner at least ten days before the day for such hearing at the following places: One copy at the place where the court for said county is held; one copy at the beginning point on the proposed road; two copies at two of the most

Time for hearing petition.

Notice of hearing.

public places in the vicinity of the contemplated route of the proposed road. On the hearing of the petition, if notice of such hearing has been regularly issued and posted, the court shall appoint three disinterested persons, residents of the county, one of whom may be the county surveyor, to view and lay out the proposed road, and to assess the damages to the premises of any person through whose land the proposed road will run; and the court shall appoint a time for the viewers to meet and view and lay out the proposed road: *Provided*, That if a remonstrance is filed, and on the hearing of the petition and remonstrance it appears to the court that the proposed road will be impracticable or that it is not of public necessity and will not be of general use, the petition shall be dismissed.

Proviso.

SEC. 4. At the time and place named in the order of the court the county surveyor and the viewers shall meet and shall select two chainmen and not more than three other persons to act as axmen and flagmen, and after the viewers and chainmen have been sworn to faithfully and impartially discharge their respective duties, they shall proceed to view, lay out and survey the proposed road.

Report of viewers and surveyor.

SEC. 5. Within ten days after making the view and survey of the proposed road, the viewers must file a report of their doings in the matter, which shall show—

1. The course, termini and length of the proposed road.
2. A description of the land appropriated and the names of the owners thereof, when known, and if the names of any of the land owners are unknown, the report must state that fact.
3. The estimate of damage to the owner of any land over which the proposed road will run.
4. The names of land owners who consent to give the right-of-way, and their written consent thereto.

The report of the viewers shall be accompanied by the plat or map of the county surveyor, which shall show the route of the proposed road as surveyed, and the quantity or area of land necessary to be taken for the proposed road belonging to any person through whose lands the said road has been surveyed: *Provided*, That said road shall, so far as practicable, be upon section or quarter section lines.

SEC. 6. When the report of the viewers and the map of the surveyor has been filed in the office of the clerk of the court, the clerk shall give notice, as herein provided, that on a day to be fixed by the court, the court will hear the said petition and consider the report of the viewers and the award of damages made by the viewers. Said notice shall be published for three consecutive weeks in a newspaper of general circulation in the county, or if there be no newspaper published in the county, then to be published in the nearest paper in the adjoining county, proof of which publication shall be made by the affidavit of the foreman or publisher of such newspaper nearest the road: *Provided*, That in no case shall the cost of said notice exceed 50c. per square for first insertion, and 25c. for each additional insertion.

Time for hearing petition and report, etc.

Notice.

SEC. 7. At the time fixed for the hearing of said petition, and the report of the viewers thereon, the court shall proceed to hear the same and consider the award of damages. If on the hearing it appears to the court that the said road is practicable and that the same will be of general use and public benefit, the court shall order that the road be established as surveyed, and that the same be opened as may be provided by law for the opening of public roads; the court shall also order that the map of the surveyor and the order of the court be filed in the office of the county auditor. The court shall also direct the county auditor to draw his warrant on the county treasurer for the amount awarded to each person for damages by reason of the said road being laid out and surveyed across the premises of such person or persons: *Provided*, That if any person or persons through whose premises said road has been surveyed appear and contest the award, the court may empanel a jury and hear testimony on the subject.

Warrant for payment of damages.

SEC. 8. When the jury has performed the duty required to be performed by it the court shall order the county auditor to draw his warrant on the county treasurer for the payment of the damages so awarded, as provided in the preceding section.

Same.

SEC. 9. If it appears on the hearing of said petition that the proposed road is impracticable, or that the same will

Costs taxed to petitioners, when.

not be of general use and public benefit, the petition therefor shall be denied, and the costs of the hearing and of the view and survey shall be taxed to the principal and sureties on the bond, and may be collected by execution as costs in other cases.

Compensation for viewers, etc.

SEC. 10. The viewers, chainmen and other assistants herein provided for shall each receive two dollars and fifty cents per day while engaged in the view and survey of the road.

SEC. 11. In any county where no superior judge resides a court commissioner may be appointed who shall have power to hear and determine all matters under the provisions of this act which may properly be heard by the judge in chambers.

Transcript of proceedings to be furnished to auditor.

SEC. 12. After the establishment of any county road as hereinbefore provided, it shall be the duty of the county clerk forthwith, or as soon as may be, to furnish a complete transcript of the proceedings had in the establishment of such road to the county auditor of such county, such transcript of record to be copied by the auditor in the county road records of his office.

Emergency.

SEC. 13. There being no law on the subject herein contained providing for the procedure herein provided for, an emergency is declared to exist, and this act shall be in force from and after its passage and approval by the governor.

Approved March 9, 1893.

## CHAPTER XCIX.

[ H. B. No. 349. ]

## EXCAVATION OF WATERWAYS BY PRIVATE CONTRACT.

AN ACT prescribing the ways in which waterways for the uses of navigation may be excavated by private contract, providing for liens upon tide and shore lands belonging to the state, granting rights-of-way across lands belonging to the state.

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

SECTION 1. The commissioner of public lands of the State of Washington may, when in his judgment the interests of commerce would be subserved thereby, enter into contract with any person or persons, or incorporated companies doing business in the State of Washington, for the excavation of any waterway or waterways through any lands belonging to the State of Washington, or to any citizen or corporation of said state, and for the filling in and raising above high tide of any tide or shore lands belonging to the State of Washington, and upon the completion of such contract such person or persons or incorporated company shall become entitled to and shall have a lien, as in this act provided, upon all tide and shore lands belonging to the State of Washington, adjacent to such waterway, and remaining unsold at the date of the approval of this act, that they may fill in and raise above high tide, and all purchasers of said tide and shore lands from the State of Washington shall take the same subject to said lien: *Provided, however,* That Proviso. such contract shall not become binding or operative until approved by the governor, nor until such person or persons or incorporated company shall have filed with the commissioner of public lands, a bond in the penal sum of not less than twenty-five hundred, nor more than twenty-five thousand dollars, as in the judgment of said commissioner of public lands shall be considered necessary in a particular case, with sureties to be approved by said commissioner of public lands, said bond to be conditioned for the faithful performance of said contract: *Provided further,* That no lands shall be affected thereby except lands

within or in front of incorporated cities or towns, or within one mile thereof on either side, or lands between any inner and outer harbor lines established by proper authority.

What contract to specify.

SEC. 2. Said contract with the commissioner of public lands shall specify the waterway or waterways proposed to be excavated, and the lands to be affected thereby, and shall be accompanied by a map of the locality or localities showing said waterway or waterways, and their relation to the harbor lines and reservations in front of the cities or towns where the same are located, and shall show the tide and shore lands to be filled in and raised above high tide, properly designated and subdivided as nearly in accordance with the existing subdivisions of abutting uplands as the proper location of said waterway or waterways will permit, and shall specify and exhibit the waterway or waterways proposed to be excavated as to their depth and width and extent: *Provided*, That when harbor lines and waterways have been established by the harbor line commission of the state, no other waterways shall be excavated except the waterways exhibited on the final maps of said harbor line commission, except with the consent and approval of such harbor line commission; and where no harbor lines and waterways have been so established then the plan mentioned in said contract must, before being adopted by said commissioner, be submitted to and approved by the harbor line commission: *And provided further*, That if no harbor line commission be in existence, then the commissioner of public lands shall establish waterways which may be excavated as herein provided.

No waterways excavated except those shown on map of harbor line commission.

Commissioner may establish waterways, when.

Contract to specify.

SEC. 3. Said contract shall specify the time of beginning work on said waterway or waterways, and the time when such work shall be completed: *Provided*, That the time set for the beginning of said work shall be within six months of the signing of said contract, and the time set for the completion of said work shall be a reasonable time, to be determined in each case by the commissioner of public lands, according to the difficulties to be encountered: *And provided further*, That said commissioner of public lands, upon showing of due diligence on the part of the

Commissioner may extend time.

contracting parties may grant an extension of the time for the beginning or completion of said work.

SEC. 4. Upon the completion of the work, provided for by said contract, or any part thereof, capable of separate use for the purposes of navigation, according to the terms and conditions of said contract, and within the time provided therein, or such further extension of time as may have been granted by virtue of the preceding section, the commissioner of public lands shall issue his certificate to the contracting parties, or their assigns, showing the actual cost of the filling in and raising above high tide of all tide and shore lands so filled in and raised above high tide by such completion of said work, or such separate portion thereof, and specifying and describing, with reasonable certainty, the lands so filled in and raised above high tide.

Commissioner's certificate.

Upon the filing in the office of the county auditor of the county or counties in which such lands are situated, of such certificate of the commissioner of public lands, said contracting parties shall acquire a lien, and the same shall

Lien.

thereupon attach, for the amount specified in such certificate, with fifteen per cent. additional thereon, and with interest on such amount and additional percentage from the date of such certificate at the rate of eight per cent. per annum until payment: *Provided, however,* That such lien

Proviso.

shall not be operative for an amount exceeding the cost of the work as stated in the contract, or, as the case may be, such portion of said stated cost as shall be proportionate to the part of the work with reference to which the certificate has issued, upon the bonds specified in such certificate. Such lien shall not be *in solido*, and upon the sale by the state to any person, or by any owner claiming under the state to any other person, of any of the tide and shore lands specified in such certificate, the lien herein granted may be discharged, as hereinbelow provided, as to any such part of said lands separately granted or owned, upon the payment of such part of the amount for which the lien upon the lands was given in the first instance as shall bear the same proportion to said whole amount which the area of such separate part of such lands bears to the area of the whole thereof. The amount due on such lien, or any pro-

Manner of  
foreclosure  
of lien.

portionate part thereof separately payable as above provided, shall be payable by any owner of said lands, or any part thereof separately owned, as the case may be, other than the state, in ten equal annual installments, the first installment at the end of the first year after the sale of such lands, or of such separate portion thereof, by the state; and the remaining installments, one at the end of each year thereafter, with accompanying interest on each of such installments, as hereinbefore provided, to the time of the payment thereof, and such lien may be foreclosed in the manner provided by law for the foreclosure of other liens on real estate for non-payment of the whole amount due, or of any separate installment or installments thereof which shall have become due. If such lands specified in any such certificate shall not be sold by the state, within one year after the date of such certificate, the parties in whose favor such certificate was issued, or their assigns, shall have the option during the next succeeding six months to purchase such lands, or any part thereof, from the state in the manner provided by then existing laws for the sale of tide lands of the state. This act shall not be so construed as to create any obligation on the part of the state to pay or discharge any lien which may attach to such lands by virtue of the provisions thereof.

Time for pre-  
paring maps,  
specifications,  
contracts, etc.

SEC. 5. Any person or persons, or any corporation, doing business in this state may give notice in writing to the commissioner of public lands of his or their intentions to comply with the provisions of this act at any given locality or localities, describing the same in general terms, and thereafter they shall have ninety days after the completion of the publication hereinafter mentioned within which to prepare the maps, specifications and contracts herein provided for. And the giving of said notice shall place the lands described therein subject to the operation of this act until the making and signing of the contracts herein provided for, and the making and signing of said contract shall make the lands described therein subject to the operating of this act pending its execution, and all persons or corporations purchasing said lands from the state in the meantime shall take the same subject to the ultimate lien

upon the same, provided for herein: *Provided, however,* That this section shall not be so construed as to require the commissioner of public lands to enter into any contract whatever, or the governor to approve any contract whatever; and said commissioner of public lands shall have the right to refuse to make any contract, and the governor shall have the right to refuse to approve any such contract which in their judgment or in the judgment of either of them would be detrimental to the interests of the state: *And provided further,* That the commissioner of public lands shall publish for thirty days, at the expense of the applicant, in some newspaper of general circulation, in the county where said lands are situated, notice of the pendency of such application; and request all interested parties to appear before him at the time and place mentioned in said notice and state their objections; and no contract shall be entered into by the commissioner of public lands for the improvement of any such waterway or waterways until after the date fixed in said notice at which interested parties may appear and be heard.

Right to refuse to approve.

Publication of notice of pendency of application.

SEC. 6. A right-of-way is hereby granted for any waterway or waterways herein provided for through any lands belonging to the State of Washington of sufficient width to accommodate said waterway or waterways; the width and definite location of such right-of-way, however, shall be plainly and completely specified in the contract herein provided for.

Right-of-way granted through the public lands

SEC. 7. All contracts provided for herein shall specify the character of all bulkheads and other restraining works and be accompanied by drawings and specifications of the same, and the commissioner of public lands shall be the judge of the sufficiency thereof, and of the minimum depth to which any waterway shall be excavated, in order to make the same useful for the purposes of commerce and navigation.

SEC. 8. In ascertaining the cost of filling in and raising above high tide of any tide or shore lands, the cost of all bulkheads, and other restraining works, and the cost of filling in and raising above high tide of all streets, alleys and public squares or places, shall be apportioned to the

Apportionment of cost.

lands benefited thereby, in addition to the cost of filling in such lands.

All waterways excavated under the provisions of this act, open to public alike.

SEC. 9. All waterways excavated through any tide or shore lands belonging to the state of Washington by virtue of the provisions of this act, so far as they run through said tide or shore lands, are hereby declared to be public waterways, free to all citizens upon equal terms, and subject to the jurisdiction of the proper authorities, as provided by law: *Provided*, That where tide gates or locks are considered, by the contracting parties excavating any waterways, to be necessary to the efficiency of the same, the commissioner of public lands may, in his discretion, authorize such tide gates or locks to be constructed and may authorize the parties constructing the same to operate them and collect a reasonable toll from vessels passing through said tide gates or locks: *Provided further*, That the State of Washington or the United States of America can, at any time, appropriate said tide gates or locks upon payment to the parties erecting them, of the reasonable value of the same at the date of such appropriation, said reasonable value to be ascertained and determined as in other cases of condemnation of private property for public use.

Appraisalment of tide lands proposed to fill.

SEC. 10. If the commissioner of public lands shall determine to let any contract for the excavation of a waterway, as hereinbefore provided, the tide land appraisers appointed in the county in which said tide lands lie, shall forthwith appraise the tide lands which it is proposed to fill in by the excavation of such waterway, at their actual value at the time of letting such contract, and the said lands so appraised shall never be disposed of by the state for less than such appraised value.

Approved March 9, 1893.

## CHAPTER C.

[S. B. No. 60.]

## ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

AN ACT to amend section 2741 of title 53, chapter one, volume one of the General Statutes and Codes of the State of Washington as arranged and annotated by William Lair Hill, relating to securing creditors.

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

SECTION 1. That section 2741 of title 53, of chapter 1, of volume 1 of the said General Statutes and Codes of the State of Washington, is hereby amended to read as follows: Sec. 2741. No general assignment of property by an insolvent, or in contemplation of insolvency, for the benefit of creditors, shall be valid unless it be made for the benefit of all his creditors in proportion to the amount of their respective claims; and after the payment of the costs and disbursements thereof, including the attorney fees allowed by law in case of judgment, out of the estate of the insolvent, such claim or claims shall be deemed as presented, and shall share *pro rata* with other claims as hereinafter provided.

Approved March 10, 1893.

## CHAPTER CI.

[S. B. No. 146.]

## REMOVAL FROM OFFICE OF OFFICERS NOT LIABLE TO IMPEACHMENT.

AN ACT providing for the removal from office of officers not liable to impeachment.

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

SECTION 1. The governor of the State of Washington is hereby authorized and empowered to remove from office all state officers appointed by him not liable to impeachment for incompetency, misconduct or malfeasance in office.

Governor to file with secretary of state a statement of reasons for removal.

SEC. 2. Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he shall file with the secretary of state a statement showing his reasons with his order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known postoffice address of the officer removed.

SEC. 3. At the time of making the removal from office herein provided for, the governor shall appoint some proper person to fill such office who shall forthwith demand and receive from the officer removed the papers, records and property of the state pertaining to the office and shall perform the duties of such office and receive the compensation thereof until his successor is appointed.

Approved March 10, 1893.

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## CHAPTER CII.

[S. B. No. 204.]

### LEGALIZING TAX LEVIES FOR 1892.

AN ACT legalizing tax levies for the year 1892, and declaring an emergency.

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

SECTION 1. When it shall appear that the board of county commissioners of any county has levied or attempted to levy any tax for county, school, road and bridge purposes for the year 1892 by using a certain rate per centum on the assessed valuation of the real and personal property of said county as returned by the county assessor and equalized by the state board of equalization for said year, said levy is declared to be the legal tax levy of such county for said year.

SEC. 2. No tax hereto [heretofore] levied shall be deemed invalid by reason of the assessor neglecting to attach to his return the affidavit provided for by section 55 of an act en-

titled "An act to provide for the assessment and collection of taxes in the State of Washington, and declaring an emergency," approved March 9, 1891: *Provided*, Such affidavit shall be or has been made by the assessor on or before March 1, 1893.

SEC. 3. No tax heretofore levied upon any real property shall be invalid by reason of several tracts, lots or parcels having been assessed in one body.

SEC. 4. No omission, error or irregularity in any assessment or levy of taxes shall invalidate any tax heretofore. No error, omission, etc., to invalidate taxes heretofore. But any person feeling himself aggrieved by any such omission, error or irregularity, may present his claim for injury to the board of county commissioners, who may allow the same if just, and such person shall have the right Right of appeal. of appeal from the decision of such board as in other cases.

SEC. 5. Whereas, the collection of taxes is being delayed in certain counties by reason of certain irregularities in the assessments and levies: therefore, an emergency is declared Emergency. to exist and this act shall be in force immediately upon its approval by the governor.

Approved March 10, 1893.

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## CHAPTER CIII.

[S. B. No. 264.]

### STATE AUDITOR.

AN ACT amending section 10, page 638, Session Laws 1889 and 1890, relating to the duties of the state auditor.

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

SECTION 1. Section 10, page 638, Session Laws 1889 and 1890, is hereby amended so as to read as follows: Sec. 10. All persons required by law to pay money into the treasury of the state shall, unless otherwise provided, exhibit their accounts and vouchers for state moneys received and paid out during the past fiscal year immediately succeeding the 30th day of June in each year, to be audited,

Beginning  
and end of  
fiscal year.

adjusted and settled, and the auditor shall proceed without any unnecessary delay to audit, adjust and settle the same and report to the treasurer the balance found due. For the purposes of this act and for the purpose of settling all accounts between the state and the several counties of the state, the fiscal year shall be deemed to begin with the first day of July in each year, and to end with the 30th day of June of the succeeding year.

SEC. 2. All acts or parts of acts in conflict with this act shall be and the same are hereby repealed.

Approved March 10, 1893.

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## CHAPTER CIV.

[S. B. No. 266.]

### RELATING TO DUTIES OF COUNTY TREASURER.

AN ACT to amend sections 2740, 2747 and 2748 of the Code of 1881, and section 21, page 52, Session Laws of 1885-6, relating to the duties of county treasurers, and declaring an emergency.

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

SECTION 1. Section 2740, Code of 1881, relating to the duties of county treasurers is hereby amended so as to read as follows: Sec. 2740. He shall receive all moneys due and accruing to the county and disburse the same on the proper orders issued and attested by the county auditor. Upon receipt of all moneys other than taxes he shall issue his receipt therefore [therefor] in duplicate, one of which receipts he shall deliver immediately to the person or persons making such payment, and the duplicate of such receipt must be immediately filed by such treasurer in the office of the county auditor.

County  
warrants  
shall be  
redeemed  
in order  
of issue.

SEC. 2. Section 2747, Code of 1881, is hereby amended so as to read as follows: Sec. 2747. All warrants drawn on the funds of the county shall be redeemed by the treasurer in the order of their issuance.

SEC. 3. Section 2748, Code of 1881, is hereby amended so as to read as follows: Sec. 2748. The treasurer of each county must, at the regular July session of the board of county commissioners, make a verified statement to said board, showing the whole amount of his collections during the preceding year (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury, the funds among which the same was distributed, together with the amount to each fund, the total amount of warrants certified to him by the county auditor, and the total amount of warrants paid by him during the same time, and the total amount of warrants remaining unpaid on the 30th day of June immediately preceding, and the funds on which the same are drawn, and generally make a full and specific showing of the financial condition of the county.

Treasurer to make a verified statement to county commissioners at July session.

SEC. 4. Section 21, page 52, session laws 1885 and 1886, is hereby amended so as to read as follows: Section 21. Each county treasurer shall attend with his books and vouchers before the board of county commissioners at the regular quarterly sessions of said board in January, April, July and October of each year and settle his accounts before said board:

County treasurer to attend quarterly sessions of commissioners.

1. For all moneys received by him, filing a certified statement, showing under separate headings amounts received from each and every source.

What the treasurer's statement must show.

2. For all moneys disbursed by him since the date of the last preceding settlement, and in such settlement the board must allow the treasurer the following credits: (1) The amount of principal and interest paid on account of redemption of warrants issued upon the several funds of the county. (2) The amount paid the state treasurer since the last preceding or quarterly settlement, as per vouchers. (3) The amount paid on account of redemption of orders issued by the several school districts of the county. (4) All claims for credits or disbursements not above specified. He shall at such settlement also present, together with such vouchers and claims for credits, a certified list of such vouchers and claims arranged numerically under the separate headings of the funds from which such vouchers have

been paid or on which such claims have accrued, or are made, which list must be checked, compared and made to correspond with the treasurer's books and vouchers by the board of county commissioners and the auditor at the time of such settlement. On completion of such comparison, such list, when found to be correct, shall be certified to by the chairman of said board and attested by the auditor, and shall, together with the vouchers and claims presented, be filed in the office of said auditor, and such county treasurer be given credit therefor on the record of proceedings of said board, said record to show the amount credited on account of each fund, and whether for principal or interest. The auditor shall thereupon deliver to the county treasurer a transcript of such order and shall forthwith proceed to credit such officer with the sums therein specified.

SEC. 5. All acts or parts of acts in conflict with this act shall be and the same are hereby repealed.

SEC. 6. An emergency is hereby declared to exist and this act shall be in force from and after its passage and approval.

Approved March 10, 1893.

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## CHAPTER CV.

[S. B. No. 267.]

### RELATING TO DUTIES OF COUNTY COMMISSIONERS.

AN ACT amending sections 2667 and 2678, Code of Washington, 1881, relating to the duties of county commissioners, and declaring an emergency.

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

SECTION 1. Section 2667, Code of 1881, is hereby amended so as to read as follows: Sec. 2667. The board of county commissioners in the several counties in this state shall hold regular sessions at the seat of justice of their respective counties, commencing on the first Mondays of January, April, July and October, at each of which they

may transact any business which may be required or permitted by law, and may adjourn from time to time as they may deem expedient or desirable in order to properly transact the business of such county.

SEC. 2. Section 2678, Code of 1881, is hereby amended so as to read as follows: Sec. 2678. At the July session, the board of county commissioners shall examine and compare the accounts and statements of the county auditor and county treasurer, aside from the regular settlement with such treasurer, and shall enter upon their record a summarized statement of the receipts and expenditures of the preceding year. At the January, April, July and October sessions, the board of county commissioners, together with the auditor, shall count the funds in the county treasury, and ascertain whether it contains the proper amount of funds. To count funds quarterly.

SEC. 3. All acts or parts of acts in conflict with this act shall be and the same are hereby repealed.

SEC. 4. An emergency is hereby declared to exist and this act shall be in force from and after its passage.

Approved March 10, 1893.

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## CHAPTER CVI.

[H. B. No. 53.]

### CONDITIONAL SALES AND LEASES OF PERSONAL PROPERTY.

AN ACT in relation to conditional sales and leases of personal property.

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

SECTION 1. That all conditional sales of personal property or leases thereof containing a conditional right to purchase where the property is placed in the possession of the vendee shall be absolute as to all creditors, or purchasers in good faith, unless within ten days of the taking of possession by the vendee a memorandum of such sale,

stating its terms and conditions and signed by the vendor and vendee, shall be filed in the auditor's office of the county wherein, at the date of the vendee's taking possession of the property, the vendee resides.

County auditor to index all conditional sales.

SEC. 2. It shall be the duty of the county auditor of the county wherein any such memorandum is presented to him for that purpose, to mark thereon the time of its reception, and he shall index the same in the general index of instruments in his office by stating the name of the vendor and vendee, and the words "conditional sale" and the volume and page in which it is recorded. And he shall cause the same to be recorded in a book to be kept by him for that purpose and styled "Conditional sales," "Volume .....,," and the auditor shall charge the same rates for the recording of such instruments as are allowed for the recording of deeds of real property, and shall allow a cancellation or satisfaction thereof in the same manner as mortgages of real property are cancelled or satisfied.

Approved March 10, 1893.

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CHAPTER CVII.

[S. B. No. 83.]

MANAGEMENT AND CONTROL OF STATE NORMAL SCHOOLS.

AN ACT to provide for the management and control of state normal schools in the State of Washington.

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

SECTION 1. That the state normal school at Cheney, the state normal school at Ellensburg, and such other state normal schools as may hereafter be established, unless otherwise expressly provided by law, shall each be under the management and control of a board of three trustees to be known as the "local board of trustees for the state normal school at ....." At least two members of each local board of normal school trustees shall be residents of

Local board of trustees.

the county in which the school of which they are trustees is situated, said trustees to be appointed by the governor, How appointed. by and with the advice and consent of the senate.

SEC. 2. All trustees of the state normal school at Cheney that may be serving as such at the time this act shall go into effect and all trustees for the state normal school at Ellensburg that may be so serving, except *ex officio* members, shall continue to hold their respective offices as such trustees for the full term for which they were appointed; and thereafter all trustees shall be appointed for six years, Terms of office. except in cases of appointments to fill vacancies, in which case the appointment shall be made for the unexpired term of the trustees whose office has become vacant. In case of the establishment of any additional state normal schools, unless otherwise expressly provided by law, the governor shall appoint one trustee for two years, one for four years, and one for six years.

SEC. 3. Each local board of normal school trustees shall elect one of its members chairman, and it shall elect a clerk, who may or may not be a member of the board. Each local board shall have power to adopt by-laws for its government and for the government of the school, which by-laws shall not be inconsistent with the provisions of this act, and to prescribe the duties of its officers, committees and employes. A majority of the board shall constitute a quorum for the transaction of all business. Organization of local board.

SEC. 4. Each local board of trustees shall have power, Powers of local board. and it shall be its duty—*First:* To elect a principal for such period as it may determine, not to exceed two years, and to elect such other teachers and assistants as the necessities of the school may require. *Second:* To provide a librarian for the school, who shall have charge of all books, maps, charts and apparatus thereof, under such regulations as may be provided by law or by the by-laws of the board of trustees; also to choose a janitor and such other employes as may become necessary, and for good and lawful reasons to discharge any or all such teachers and employes. *Third:* To adopt and provide the necessary text books and provide books of reference for the use of students and teachers, and to provide for the proper care of the same. *Fourth:* To

have charge of the erection of all buildings pertaining to the school, unless otherwise expressly provided, and to have the care and management of all buildings and other property belonging to the school. *Fifth:* To audit all accounts against the school, and to certify all bills which may be allowed, to the state auditor, who shall draw warrants on the state treasurer for such amounts as he shall find to have been properly or legally allowed. *Sixth:* To purchase all supplies for the use of the school, to provide a library suited to its wants, to provide for lectures on subjects pertaining to education and the art of [or] science of teaching, and to do such other things, not forbidden by law, as may become necessary for the good of the school.

Boarding  
house.

SEC. 5. Each local board of normal school trustees shall have power to establish and maintain a boarding house or houses for the accommodation of students, to employ a matron and such other assistance as may become necessary to conduct the same, to make such rules for its government and management as they may deem necessary, and to charge such rates for board and entertainment as will make such boarding house or houses self-sustaining.

Meetings of  
local board.

SEC. 6. Each local board of normal school trustees shall hold two regular or stated meetings each year, at such times as may be provided in its by-laws, and such special meetings may be held as shall be deemed necessary, such special meetings to be called by the chairman or by a majority of the local board; all meetings of the local boards shall be held in the city or town wherein their respective schools are.

Duties of  
principals.

SEC. 7. The principal of each state normal school shall have general supervision of the school, shall see that all laws and all rules of the general and local boards of trustees are observed and obeyed by teachers and students, that the course or courses of study prescribed are faithfully pursued, shall assign students to their proper classes or grades, and unless otherwise specially provided he shall designate the work to be performed by each teacher. He shall at the close of each school year make a detailed annual report to the board of trustees, containing a classified catalogue of all students that have been enrolled during the year, and such other information as he may deem advisable

or as the board may require, and it shall be his duty to superintend the printing of the same. It shall also be his duty when required by the local board of trustees to attend county institutes and other educational gatherings, and to lecture upon educational topics that are calculated to enhance the interests of popular education or of his school. The local board of trustees shall audit and allow all his necessary expenses incurred in traveling. Traveling expenses.

SEC. 8. Two members of each of the local boards of normal school trustees, to be selected by said board herein provided for, shall constitute a general board of normal school trustees, of which the superintendent of public instruction shall be secretary. Within thirty days after this act shall take effect the superintendent of public instruction shall call a meeting of said general board of trustees, designating the time and place of holding the same, of which meeting at least ten days' notice shall be given to each member in writing. At the first meeting held by said general board of trustees it shall proceed to organize by electing one of its members president, but no president shall be elected for a longer term than two years. Said general board shall have power, and it shall be its duty, to adopt such by-laws, rules and regulations for its government, and for the general government of the schools under its control, as it may deem proper, which shall not be inconsistent with the provisions of this act, and it shall provide for the appointment of such officers and committees as will best subserve its interests and the interests of the several schools under its control. A majority of said board shall constitute a quorum for the transaction of all business, and each trustee shall be entitled to one vote. General board of normal school trustees.

SEC. 9. The annual meeting of the general board of normal school trustees shall commence on the fourth Wednesday of June each year, at such place as the board may determine. Such special meetings may be held as shall be deemed necessary, special meetings to be called by the president or by a majority of the board, the time and place of any special meeting to be stated in the call. Organization.

SEC. 10. The general board of normal school trustees Annual meetings.

Powers of general board.

shall have power and it shall be its duty — *First*, to prescribe the course or courses of study that shall be pursued in all state normal schools under its control: *Provided*, That the course or courses of study shall be the same for all such schools, and shall not be inconsistent with any of the provisions of this act; *second*, it may provide for a uniform system of examinations for admission to and graduation from said schools, and may prepare or cause to be prepared uniform sets of examination questions for said examinations; *third*, it shall be the duty of said board to grant diplomas to the graduates of all normal schools contemplated by this act, and for good and sufficient reasons to revoke the same; and it may grant diplomas in accordance with the provisions of this act to such students as shall have graduated from either the state normal school at Cheney or the state normal school at Ellensburg prior to the time at which this act shall take effect, in lieu of the diplomas already granted to such graduates by the trustees of said schools: *Provided*, That all teachers holding county certificates may be admitted to any of said schools from the state at large.

General board to prescribe two courses of study.

SEC. 11. The general board of normal school trustees may, in its discretion, prescribe two courses of study for the schools under its control, one of which shall be known as the elementary course and the other as the advanced course; but no elementary course shall cover a shorter period of time than two years, and no advanced course shall cover a longer period than four years; or, it may establish for said schools a single course of study, which shall not cover a shorter period of time than three years nor a longer period than four years. The course or courses of study which may be prescribed for said schools shall embrace all branches in which applicants for state certificates and life diplomas are required to be examined, and such other branches as the board of trustees may determine.

Model school for training.

SEC. 12. A model school or training department shall be provided for each state normal school contemplated by this act, in which all senior grade students shall have actual practice in teaching for not less than twenty weeks under

the supervision and observation of a model school training teacher; and the general board of normal school trustees may provide a manual training department for each school under its control, and may employ a suitable instructor for each. The course of training in such department shall be such as to enable students to acquire skill in the handling of tools and in the manufacturing of apparatus and appliances for use in school work in the public schools of the state.

SEC. 13. Diplomas granted to students who have completed the elementary course provided for in this act, shall qualify the holders to teach in the common schools of this state for a period of two years, at the expiration of which time they may be renewed by the general board of trustees for a period of three years, upon the filing of satisfactory evidence that the holders have taught successfully at least twelve months subsequent to the time of graduation. Diplomas granted to the graduates of the advanced course, or of a course embracing not less than three years, shall qualify the holders to teach in any of the public schools of this state for a period of five years, and at the expiration of that time, upon the filing of satisfactory evidence that the holder of such a diploma has taught successfully at least thirty-six months, the board shall grant to him or her a diploma which shall qualify him or her to teach in the public schools of this state during his or her natural life. Every diploma shall be signed by the president and secretary of the general board of trustees, by order of the board, and by the principal of the normal school at which the holder graduated, and all diplomas shall be stamped with the seal of the board. No student shall be entitled to a diploma from any state normal school contemplated by this act who has not been in regular attendance thereat at least forty weeks, and who does not show proficiency in all branches included in the course of study from which he proposes to graduate. Every diploma shall specifically state what course of study the holder has taken, and for what length of time said diploma is valid as a certificate.

SEC. 14. No charge shall be made against any student, for tuition, in any of the normal schools contemplated by

Manual  
training  
department.

Diplomas.

Terms of  
admission  
of students.

this act: *Provided*, That said student is a *bona fide* resident of this state; but such student shall be required, upon entrance into any of said schools, to certify upon honor that it is his intention to pursue the vocation of teaching. Students from other states or territories may be granted scholarships which shall entitle them to complete any course of study prescribed by the general board of trustees, in any state normal school contemplated by this act, upon the payment of one hundred dollars each, which sum shall be placed to the credit of the normal school which such student shall attend, and shall be expended in the purchase of books or apparatus for the benefit of such school. All students shall be required to furnish satisfactory evidence of good moral character, and any student may be suspended or expelled from any state normal school contemplated by this act, who is found to be immoral or who refuses to comply with the rules and regulations for its government.

**Library.**

SEC. 15. No student shall be required to pay for the use of any book or books belonging to the library of any school contemplated by this act, but the local board of trustees may require the deposit of a sum not exceeding ten dollars, by each student, as indemnity for the loss of any book or books, or for damage done to any book or books by such student, and such sum as may be required to be deposited, or such part thereof as shall not be due the school, for loss of, or damage to, any book or books shall be returned to such student upon his retirement from the school. All sums retained for loss of or damage to books belonging to the library shall be expended in the purchase of other books for the use of the school.

**County superintendent to hold competitive examinations.**

SEC. 16. It shall be the duty of each county superintendent in this state to hold a competitive examination, commencing on the second Thursday of May, each year, of all persons desiring to attend any state normal school contemplated by this act, except legally qualified teachers, notice of said examination to be given in the same manner as notice is required to be given of examinations of teachers. Such persons shall be examined in reading, orthography, writing, geography, arithmetic, English grammar,

history of the United States and physiology and hygiene. The examination shall be conducted, as far as practicable, according to the rules prescribed by the state board of education for the examination of teachers, and no questions shall be used except such as shall be provided by the superintendent of public instruction. Each person taking said examination shall designate the state normal school which he desires to attend, and the county superintendent shall make a list of such persons and shall mark the grade or standing of each thereon in each branch, according to his best judgment, as such standing is shown by the results of the examination. He shall recommend such persons as are examined in accordance with their standing: *Provided*, That he may discriminate in favor of those whose age and experience specially fit them to become students in such schools. Proviso. The county superintendent shall hold the manuscripts of each person taking the competitive examination for a period of six months, subject to the order of the local board of trustees of the normal school which such person desires to attend. At the expiration of the year a new list shall be prepared, and those not recommended and those who have failed to enter the normal school after being recommended must be re-examined or forfeit all rights acquired by virtue of the former examination. On or before the first day of June next succeeding any competitive examination the county superintendent shall forward to the clerk of each local board of normal school trustees the names and addresses of all persons whom he desires to recommend as students for such school not exceeding the number to which his county is entitled in said school according to the last apportionment made by the general board of trustees, and he shall also give the standing of each student recommended, in each of the several branches in which he has been examined.

SEC. 17. It shall be the duty of the superintendent of public instruction to prepare and forward to each county superintendent, on or before the first day of May each year, suitable lists of questions to be used in the competitive examinations provided for in the preceding section, which questions shall be uniform throughout the state, and

Superintendent of public instruction to prepare lists for competitive examinations.

which shall be upon all branches enumerated in the preceding section. He shall also furnish all blank forms for the use of county superintendents in conducting said competitive examinations and in making their reports of the same.

Age required  
for admission.

SEC. 18. No person shall be admitted to any state normal school as a student who has not attained the age of sixteen years, if a male, or of fifteen years if a female, nor until by an entrance examination or otherwise he or she shall have established the fact that he or she is qualified to enter some one of the grades or courses provided for in the course of study.

Meetings of  
principals.

SEC. 19. It shall be the duty of the principals of the several state normal schools contemplated by this act to meet at the time and place of the annual meeting of the general board of normal school trustees to consult with each other relative to matters concerning their school work, to discuss methods of teaching and plans of management, and to make such recommendations to the general board of trustees as they may deem proper; and each shall at such meeting report to the board the names of all students that are entitled to diplomas.

General board  
to make biennial  
report.

SEC. 20. The general board of normal school trustees shall, biennially, on or before the first day of October next preceding each regular session of the legislature of this state, make, through its secretary, a report to the governor of the state, which report shall be included with and constitute a part of the biennial report of the superintendent of public instruction. Said normal school report shall embrace a statement of the receipts and expenditures of the several schools contemplated by this act, and the purpose for which all moneys have been expended; a classified catalogue of all students enrolled in each of said schools, a directory of all graduates of each school properly classified; the course or courses of study pursued in the several schools, and such other information as may be deemed advisable. And it shall be the duty of each local board of trustees, through its clerk and chairman, on or before the first day of September, to make a report to the secretary of the general board, embracing such facts as are required to be

embraced in the biennial report of the general board, and such other facts as the general board may require.

SEC. 21. Each normal school trustee shall receive three dollars per day for the time actually and necessarily spent in attending the meetings of the general and local boards, and he shall be allowed five cents per mile for each mile actually traveled, such amounts to be audited by the local boards and certified to the state auditor as other accounts are required to be certified: *Provided*, That no trustee shall receive more than one hundred dollars as per diem in any one year.

Per diem of trustees.

Proviso.

SEC. 22. No normal school trustee shall be awarded any contract for the erection, repair or furnishing of any building belonging to any state normal school contemplated by this act, nor for the furnishing of supplies or materials for the same, and no such trustee shall act as agent for any publishing house proposing to furnish books for such school; and any trustee who shall violate any of the above named provisions shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and his office as such trustee shall be declared vacant.

No trustee to be interested in any contract.

SEC. 23. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1893.

## CHAPTER CVIII.

[H. B. No. 99.]

## RELATING TO SERVICE OF SUMMONS, ETC., ISSUED BY JUSTICES OF THE PEACE.

AN ACT to amend sections 1456 and 1457 of the Code of Procedure of the State of Washington, relating to the issuance, service and return of process and the complaint and notice issued by justices of the peace, and to provide for the service and return of summons and of complaint and notice issued by justices of the peace by persons other than sheriffs and constables.

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

SECTION 1. Section 1716 of the Code of Washington of 1881, the same being section 1456 of the Code of Procedure of the State of Washington, is amended to read as follows: All process issued by justices of the peace shall run in the name of the State of Washington, be dated the day issued, signed by the justice granting the same, and except as otherwise provided for, be directed to the sheriff or any constable of the proper county, and the same, as also the complaint and notice, shall be served by one of said officers, unless otherwise directed by the justice; except that summons, whether to a defendant or to a garnishee, and complaint and notice, may be served by a citizen of the State of Washington over twenty-one years of age who is competent to be a witness in the action, other than the plaintiff, which person shall certify all copies by him delivered in making such services in the same manner as such copies are required to be certified by a sheriff or constable in making such service.

SEC. 2. Section 1717 of the Code of Washington of 1881, the same being section 1457 of the Code of Procedure of the State of Washington, is amended to read as follows: Every constable, sheriff or other person serving any process or complaint and notice, shall return thereon in writing the time and manner of service, and indorse thereon the legal fees therefor, and if he is a constable or sheriff shall sign his name to such return, and if he is not such officer, shall verify such return by affidavit.

Approved March 10, 1893.

## CHAPTER CIX.

[H. B. No. 142.]

## RELATING TO THE COMMON SCHOOL SYSTEM OF THE STATE OF WASHINGTON.

AN ACT relating to the common school system of the State of Washington, amending sections 22, 25, 34, 54 and 71 of "An act to establish a general uniform system of common schools in the State of Washington, and declaring an emergency," approved March 27, 1890, and interpolating in said act sections 31½ and 70½.

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

SECTION 1. That section twenty-two (22) of an act entitled "An act to establish a general uniform system of [common] schools in the State of Washington, and declaring an emergency," approved March 27, 1890, be amended to read as follows: Sec. 22. When a new district is formed by the division of one or more old ones, it shall be entitled to a just share of the school moneys to the credit of the old districts after payment of all outstanding debts at the time when the petition was granted establishing such new district, and the county superintendent shall divide such remaining moneys, and such as may afterward be apportioned to the old districts, according to the number of school children residing in each district, for which purpose he shall order a census to be taken: *Provided*, That the new district shall be entitled to such proportion of any special tax levied and collected for the year in which the new district is created, as the amount of such tax paid by that portion of any old district which is embraced in the new bears to such old district.

Apportionment of money in divided district.

Proviso.

SEC. 2. That section 25 of said act be amended to read as follows: Sec. 25. Directors of school districts shall be elected at the annual school election. At the first annual election in all new districts three directors shall be elected, for one, two and three years, respectively. The ballots shall specify the term for which each is to be elected. In all districts in which elections have been previously held, one director shall be elected for a term of three years, and if any vacancies are to be filled, a sufficient number to fill them for the unexpired term or terms; and the ballots shall

Time of election of directors and term of office.

specify the respective term for which each director is to be elected. Directors-elect shall take office on the first Monday in July next succeeding their election, and shall hold office until their successors are elected and qualified. Any director who fails to qualify on or before the day appointed for him to take office shall forfeit all rights to his office, and the county superintendent shall fill such vacancy by appointment, to hold office until the next annual election.

SEC. 3. That the following section, to be numbered 31½, shall be interpolated in said act, to wit: Sec. 31½. It shall be unlawful for any board of directors to contract indebtedness against their district in any one year, payable out of the general fund of said district, in any sum or sums exceeding in the aggregate the amount apportioned to said district at the last quarterly apportionment next following the date on which taxes become delinquent, unless said indebtedness be first authorized by a vote of the electors of said district.

Time of election and term of office of clerk.

SEC. 4. That section thirty-three (33) of said act be amended to read as follows: Sec. 33. A district clerk shall be elected in each district at each annual election, to hold office for one year, beginning on the first Monday in August next succeeding his election, and until his successor is elected and qualified. In case of the death, removal or resignation of the district clerk, the county superintendent shall fill the vacancy by appointment. Any district clerk failing to qualify as provided for in this act, on or before the day appointed for him to take office, shall forfeit all rights to his office, and the county superintendent shall fill the office by appointment, to hold till the next annual election.

Duties of district clerk.

SEC. 5. The duties of the district clerk shall be as follows: *First:* To attend all meetings of the board of directors, but if he shall not be present the board of directors shall select one of their number to act as clerk, who shall certify the proceedings of the meeting to the clerk of the district, to be recorded by him. He shall keep his records in a book, to be furnished by the board of directors, and he shall preserve copies of all reports made to the county superintendent, and safely preserve and keep all books

Records.

and documents belonging to his office, and shall turn the same over to his successor. *Second:* To keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the district clerk must present his record book for public inspection, and shall make a statement of the financial condition of the district and of the action of the directors, and such record must always be open for public inspection. *Third:* To take annually, in June of each year, an exact census of all children and youth between the ages of five and twenty-one years who were *bona fide* residents of that district on the first day of June of that year; and he shall designate the number of weeks each child between the ages of six and twenty-one years has attended school during the school year; the names and sex of all children subject to enumeration, together with the names of their parents or guardians: *Provided,* That Indian children not living under the guardianship of white persons, or who have not severed their tribal relations, or Mongolian children not native born, shall not be included in such census. He shall note all defective youth between the ages of five and twenty-one years; and he shall, on or before the fifteenth day of July, make to the county superintendent a full and complete report of all children enumerated, together with a complete statistical report of the affairs of his district, which report shall be verified by affidavit. Said report shall be made upon blanks to be furnished by the superintendent of public instruction and shall contain such items of information as said superintendent shall require, including the following: The names of all persons, male and female, between the ages of five and twenty-one years residing in the district on the first day of June last past, together with the number of weeks each has attended school during the last school year; the names and residences of the parents or guardians of all such children; the number of schools or departments taught during the year, and the branches taught; the number of children, male and female, enrolled in school and the average daily attendance; the number of teachers employed and their compensation per month; the number of days school was taught during the past

Receipts and expenditures.

Taking of census.

Proviso for Indian and Mongolian children.

Report to contain what.

school year, and by whom; the text books used, and the number of volumes, if any, in the school district library; the aggregate amount paid teachers during the year; the number of school houses in the district and the value of them; the aggregate value of all school furniture and apparatus belonging to the district; the amount raised by special tax during the year for the support of schools and for buildings, sites and furniture; the amount raised by subscription or by other means than taxation; the amount of bonded indebtedness of the district and the rate of interest paid; the amount of all other indebtedness and such other items as the superintendent of public instruction may deem of importance, and as may be provided for in the blanks furnished for said report, and the clerk shall keep on file a duplicate copy of said report.

Time of holding election.

SEC. 6. That section fifty-four (54) of said act be amended to read as follows: Sec. 54. The election of district directors and clerks shall be held on the second Monday in June of each year, at the district schoolhouse, if there be one, or if there be none or if there be more than one, then at a place to be designated by the board of directors. Special school elections shall be called and conducted in the manner provided for calling and conducting annual elections.

SEC. 7. That the following section, to be numbered 70½, be interpolated in said act, to wit: Sec. 70½. Every school district director or clerk shall, on assuming the duties of his office, place his signature, certified to by some school district officer, on file in the office of the county treasurer; and it shall be unlawful for any county treasurer to pay or register any school district warrant if the signatures thereon are not on file in his office or do not correspond to the certified signatures therein filed.

County treasurer to be ex officio treasurer of the several districts.

SEC. 8. The county treasurers of the several counties of this state shall be *ex officio* treasurers of the several school districts of their respective counties, and it shall be the duty of each county treasurer—*First*, to receive and hold all moneys belonging to such school districts, and to pay them out upon warrants or orders of the boards of directors or boards of education of the districts to which they

Duties of county treasurer.

belong; *second*, to certify to the county superintendent of common schools of his county, within twenty days after the day on which taxes become delinquent each year, and quarterly thereafter, the amount of all school moneys in his possession subject to apportionment, which certificate shall specify the source or sources from which said moneys were derived; *third*, to make annually, on or before the fifteenth day of July of each year, a report to the county superintendent of his county, which report shall show the amount of school funds on hand at the beginning of the school year last past, belonging to each school district; the amount of funds placed to the credit of each school district during the school year ending June 30, last past, and the sources from which said funds were derived; the amount of funds disbursed upon orders or warrants of each school district during the year, and for what purpose they were paid out; the amount of funds remaining in his possession at the close of the school year subject to be paid out upon warrants of school district officers, and the fund to which said moneys belong; also the amount of all unpaid warrants or bonds appearing upon his register at the close of the school year: *Provided*, That if, at the time of making such annual report, the treasurer shall find that the money accruing to the credit of any school district by reason of the quarterly apportionments of the county superintendent shall exceed the amount apportioned to such district at the last quarterly apportionment next following the date on which taxes become delinquent, then the treasurer shall restore such excess to the general school fund of the county to be re-apportioned, and shall designate in his report the amount so restored.

Approved March 10, 1893.

## CHAPTER CX.

[H. B. No. 183.]

## PROTECTION OF FOOD FISHES.

AN ACT to protect the food fishes of the State of Washington, and amending section eight (8) of the law approved February 11, 1890, entitled "An act to protect salmon and other food fishes in the waters of Washington, and upon all waters of which this state has joint jurisdiction and concurrent jurisdiction."

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

SECTION 1. Section 8 of the act approved February 11, 1890, and entitled "An act to protect salmon and other food fishes of the State of Washington, and upon all waters upon which the state has jurisdiction and concurrent jurisdiction," is hereby amended to read as follows: Sec. 8. Any person or persons now owning or maintaining, or who shall hereafter construct or maintain, any dam or other obstruction across any stream in the state in which any food fish are wont to ascend without providing a fish way or ladder determined and approved by the fish commissioner of this state and suitable to enable the fish to pass over, through or by said obstruction, upon construction thereof shall be guilty of a misdemeanor and punished by a fine of not less than one hundred (100) dollars nor more than two hundred and fifty (250) dollars, and said dam may, in the discretion of the court, be abated as a nuisance. Any person who at any time shall catch or take any food fish of the State of Washington within one hundred (100) yards of any fish way or fish ladder, whether such fish way or ladder is lawful or not, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty (50) nor more than two hundred and fifty (250) dollars.

Persons  
owning or  
maintaining  
dams across  
streams must  
provide  
fish way.

Penalty.

Approved March 10, 1893.

## CHAPTER CXI.

[H. B. No. 193.]

## DEPOSITS IN INSOLVENT BANKS.

AN ACT punishing bank officers for receiving deposits knowing the bank to be insolvent.

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

SECTION 1. Any president, director, manager, cashier or other officer of any banking institution who shall receive or assent to the reception of deposits after he shall have knowledge of the fact that such banking institution is insolvent or in failing circumstances, shall be guilty of felony and punished as hereinafter provided.

SEC. 2. Any person violating the provisions of section 1 <sup>Penalty.</sup> of this act, upon conviction thereof shall be punished by imprisonment in the penitentiary for a period of not less than two nor more than twenty years.

Approved March 10, 1893.

## CHAPTER CXII.

[H. B. No. 227.]

## BOARD TO CANVASS ELECTION RETURNS.

AN ACT providing for county canvassing boards of election returns.

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

SECTION 1. The county auditor, chairman of the board of county commissioners and prosecuting attorney shall be the county canvassing board of election returns for all special and general county and state elections in each county. County board for canvassing election returns.

SEC. 2. If for any reason there is a vacancy or vacancies in the canvassing board provided for in the act, the remaining member or members of the board shall have the power and it is hereby made his or their duty to choose the county officer or officers to fill such vacancy or vacancies.

SEC. 3. All laws and part of laws in conflict with the provisions of this act are hereby repealed.

Approved March 10, 1893.

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CHAPTER CXIII.

[H. B. No. 260.]

RELATING TO THE PRACTICE OF PHARMACY.

AN ACT to amend section 8, chapter 153 of the session laws of 1891 of Washington, regulating the practice of pharmacy, approved March 9, 1891, and declaring an emergency.

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

Defining  
"assistant  
pharmacists."

Examination.

Fee.

SECTION 1. That section 8 of chapter 153, session laws of 1891, be and the same is hereby amended to read as follows: Sec. 8. Assistant pharmacists are persons who have had three years' experience in pharmacies prior to the passage of this act; persons not less than eighteen years of age, who have served three years under a registered pharmacist, the time of attendance at any reputable school of pharmacy, if any, to be accredited to such time, and persons who shall pass a satisfactory examination before the state board of pharmacy, that shall show competency or qualification equal to said service and who have been granted a certificate of registration as assistant pharmacists. Persons who have passed an examination before any other state board of pharmacy, upon furnishing satisfactory proof thereof, may receive a certificate of registration as assistant pharmacists without further examination at the discretion of the state board. Each applicant for registration by examination as assistant pharmacist shall pay the sum of five dollars and be subject to the provisions of section 9 of this act for applicants for registration by examination. Applicants other than by examination shall pay the board a fee of two dollars. Certificates issued to assistant pharmacists may be renewed

subject to the conditions and requirements of section 10 of this act for registered pharmacists upon payment of one dollar. Any assistant pharmacist shall have the right to act as clerk or salesman in a drug store or pharmacy during the temporary absence of the owner or manager thereof not to exceed thirty days. Certificates subject to renewal.

SEC. 2. An emergency exists for the immediate operation of this act, therefore this act shall be in force from and after its approval by the governor.

Approved March 10, 1893.

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## CHAPTER CXIV.

[H. B. No. 385.]

### RELATING TO ELECTIONS.

AN ACT to amend section 3085 of the Code of Washington of 1881, the same being section 407 of volume one of Hill's Annotated Statutes and Codes of Washington, relating to elections.

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

SECTION 1. That section 3085 of the Code of Washington of 1881, the same being section 407 of volume 1 of Hill's Annotated Statutes and Codes of Washington, be and the same hereby is amended so as to read as follows: 3085 (407). If any person shall take the oath as tendered to him by the inspector or judges, and no evidence is offered to traverse the same by the officer or party challenging, and shall otherwise comply with the requirements of law regulating the balloting, he shall be admitted to vote; but if he refuse to take the oath or affirmation so tendered him his vote shall be rejected; but before the ballot of the voter shall be deposited he shall be required to sign the registration book in the column headed "remarks," and in case such voter is incapable of writing his name he shall at the left hand side of the column make a cross or other mark

usually employed by such voter for indicating his signature, and some person who is personally known to the inspector and who personally knows the voter shall sign the registration book in his behalf as identifying witness.

Approved March 10, 1893.

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## CHAPTER CXV.

[H. B. No. 386.]

### RELATING TO ELECTIONS.

AN ACT relating to elections and providing a penalty for violating the provisions thereof.

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

SECTION 1. Any printer, business manager or publisher employed by any officer authorized by the laws of this state to procure the printing of any official ballot or any person engaged in printing the same who shall appropriate to himself or give or deliver or knowingly permit to be taken any of said ballots by any other person than such officer authorized by law to receive the same, or shall willfully print or cause to be printed any official ballot in any other form than that prescribed by law or as directed by the officer so authorized to procure the said printing, or with any other names thereon or with the names spelled otherwise than as directed by such officer, or the names or printing thereon arranged in any other way than that authorized and directed by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars nor less than five hundred dollars, or imprisonment in the county jail for a term not exceeding one year nor less than six months, or both at the discretion of the court.

Penalty for furnishing ballots to unauthorized persons, or for printing official ballot in improper form.

SEC. 2. Any person other than the officer charged by law with the care of ballots, or a person entrusted by any

such officer with the care of the same for the purposes required by law, who shall have in his possession outside of the voting room any official ballot, or any person who shall make or have in his possession any counterfeit of any official ballot, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not exceeding one thousand dollars nor less than five hundred dollars, or to undergo imprisonment in the county jail for a term not less than six months or more than one year, or both at the discretion of the court.

Penalty for unlawful possession of ballots or counterfeit ballots.

Approved March 10, 1893.

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## CHAPTER CXVI.

[H. B. No. 348.]

### RELATING TO THE NATIONAL GUARD.

AN ACT to amend an act entitled "An act to provide for the organization, maintenance and discipline of the militia of the State of Washington," approved March 27, 1890.

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

SECTION 1. That section 16 of an act entitled "An act to provide for the organization, maintenance and discipline of the militia of the State of Washington," approved March 27, 1890, be amended as follows: Section 16. In time of peace the National Guard of Washington shall consist of not more than thirty (30) companies of infantry and four (4) companies of cavalry. The said companies may be arranged into companies [regiments] or battalions. Infantry and cavalry companies under the provisions hereof shall consist of not less than twenty-four nor more than sixty non-commissioned officers, musicians and privates. Any company presenting less than the minimum number of twenty-four non-commissioned officers and privates at any stated muster of the company, regiment or brigade, shall be disbanded by order of the commander-in-chief. The commissioned

officers of said regiment and company shall be the same as those of similar organization in the army of the United States.

SEC. 2. That section 18 of an act entitled "An act to provide for the organization, maintenance and discipline of the militia of the State of Washington," approved March 27, 1890, be amended as follows: Section 18. The organized companies which at the date of the admission of this state into the union, constituted under the laws of the Territory of Washington, the National Guard of Washington, and all companies which by virtue of the continuance in force of the laws of Washington territory, as a part of the laws of this state, now comprise the active militia of this state, shall hold their position in their respective regiments, and are hereby declared a part of the National Guard of Washington, as defined by this title: *Provided, however,* That the number of such infantry companies shall not exceed thirty (30) and of cavalry shall not exceed four (4). And the officers of such companies and regiments shall hold their respective offices [offices] therein as officers of the active militia of this state for and during the several terms for which they are elected, and until their successors are elected and qualified.

Approved March 10, 1893.

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## CHAPTER CXVII.

[H. B. No. 454.]

### DEFICIENCY APPROPRIATIONS.

AN ACT making appropriations for sundry deficiencies of the various state institutions, for the fiscal term beginning April 1st, 1891, and ending March 31st, 1893, and for other purposes.

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

SECTION 1. That the following sums, or so much thereof as shall be found necessary, are hereby appropriated out of any moneys in the several funds of the state treasury, not

otherwise appropriated, for the purposes hereinafter expressed, for the fiscal year beginning April 1st, 1891, and ending March 31st, 1893, and the state auditor is hereby directed to draw his warrant on the state treasurer for the payment of the several amounts found to be due on presentation to him of properly certified vouchers, to wit:

For deficiency in appropriation for maintenance of the state penitentiary for the term ending March 31, 1893, sixty-one thousand nineteen dollars and twenty-six cents (\$61,019.26). State penitentiary.

For deficiency in appropriation for the maintenance of the Western Washington hospital for the insane for the fiscal term ending March 31, 1893, nineteen thousand four hundred and seven dollars and fifty-five cents (\$19,407.55). Western Washington hospital for the insane.

For deficiency in appropriation for maintenance of the Eastern Washington hospital for insane for fiscal term ending March 31, 1893, thirty thousand dollars (\$30,000). Eastern Washington hospital for the insane.

For deficiency in appropriation for maintenance of the soldiers' home for the fiscal term ending March 31, 1893, five thousand five hundred dollars (\$5,500). Soldiers' home.

For deficiency in appropriation for transportation of juvenile offenders to reform school for the fiscal term ending March 31, 1893, seventeen hundred dollars (\$1,700). Transportation to reform school.

For deficiency in appropriation for the maintenance of the Cheney normal school for the fiscal term ending March 31, 1893, fifteen thousand six hundred and eighty-two dollars and ninety-four cents (\$15,682.94). Cheney normal school.

For deficiency in appropriation for expense in appraising and selling school lands for the fiscal term ending March 31, 1893, twelve thousand five hundred dollars (\$12,500). Appraisement and sale of school lands.

For deficiency in appropriation for extradition expenses for the fiscal term ending March 31, 1893, two thousand dollars (\$2,000). Extradition expenses.

For deficiency in expenses of mining bureau for geological survey for fiscal term ending March 31, 1893, eight thousand dollars (\$8,000). Mining bureau.

For deficiency in appropriation for legislative expenses for the year 1893, ten thousand dollars (\$10,000). Legislative expenses.

For relief of T. M. Reed and E. P. Ferry for money advanced to pay fees in the U. S. land offices for filing selections of state granted lands, four thousand five hundred dollars (\$4,500). Filing selections of granted lands.

For the relief of W. T. Cavanaugh as compensation for services ren-

Confirmation of state lands.	dered during the years 1891 and 1892, in securing the confirmation of state selections to lands granted by the enabling act, one thousand dollars (\$1,000). For relief of
Relief of Pierce county.	Pierce county for money expended in defending the title to school lands, twelve thousand dollars (\$12,000). For relief of members of the electoral college, in meeting at
Electoral college.	Olympia to cast the vote of the State of Washington for president and vice president as follows: I. A. Navarre, one hundred and thirty-six dollars and sixty cents (\$136.60); G. V. Calhoun, forty dollars (\$40.00); J. S. McMillin, forty-five dollars (\$45.00); C. F. White, twenty dollars and eighty cents (\$20.80). For the relief of the Olympia
Olympia Water Works Co.	water works for water supplied to the legislature for the years 1889-90, 1891, 1893 and 1894, one hundred and fifty dollars (\$150.00). For deficiency in appropriation
State geologist.	for rent of office for state geologist for fiscal term ending March 31, 1893, to be paid to B. and C. S. Barlow, two hundred and twenty-five dollars (\$225.00). For relief of
Coal mine examiners.	coal mine examiners (per diem and expenses) three hundred and fifteen dollars and ninety cents (\$315.90). For
T. M. Alvord.	relief of Thomas M. Alvord, on account of failure of title to university land, seventy-five dollars (\$75.00). For deficiency in appropriation for support of local boards of
Local boards of tide land appraisers.	tide land appraisers and for surveying and appraising tide lands of the several classes (to be paid out of the tide land fund), under the act approved March 26, 1890, for work already performed and not included in senate bill No. 12, approved February 4, 1893, seven thousand five hundred dollars (\$7,500). For deficiency in appropriation for sup-
National guard.	port of the national guard for the fiscal term ending March 31, 1893, to be paid out of the military fund, fourteen thousand three hundred and ten dollars and thirty-four cents (\$14,310.34). For deficiency in appropriation for
Pilot commissioners.	per diem and expenses of pilot commissioners for Columbia river, fifteen dollars and eighty cents (\$15.80). For
State library.	appropriation for lighting state library for the fiscal term ending March 31, 1893, fifty-five dollars (\$55.00). For
State librarian.	deficiency in appropriation for salary of state librarian and assistant for the fiscal term ending March 31, 1893, thirty-

four dollars (\$34.00). For relief of coal mine inspectors, <sup>Coal mine inspectors.</sup> first and second districts expenses, three hundred dollars (\$300.00).

Approved March 10, 1893.

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## CHAPTER CXVIII.

[H. B. No. 136.]

### AUTHORIZING CERTAIN PRIVATE CORPORATIONS TO ISSUE BONDS.

AN ACT authorizing private corporations, other than religious, incorporated by the legislative assembly of the Territory of Washington prior to January 1, 1862, to issue notes, bonds, mortgages or other evidences of indebtedness and to secure the same by mortgage, trust deed or by otherwise encumbering or hypothecating any real or personal property owned by such corporations.

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

SECTION 1. That all private corporations incorporated by the legislative assembly of the Territory of Washington prior to the first day of January, 1862, other than corporations created for religious purposes, be and they hereby are authorized [and] empowered to issue notes, bonds, mortgages or other evidences of indebtedness and to secure the payment of the same by mortgage, trust deed or otherwise encumbering any real or personal property owned by said corporations. Said corporations shall have power to buy, sell or otherwise deal in notes, bonds and stock of other corporations and shall have power through their duly authorized officers to execute any and all instruments necessary to carry out the powers conferred upon said corporations by the provisions of this act.

Approved March 10, 1893.

## CHAPTER CXIX.

[S. B. No. 265.]

## RELATING TO THE DUTIES OF COUNTY AUDITORS.

AN ACT amending sections 2710, 2712, 2571, 2713, 2714, 2717, 2718, 2720, 2726, 2727 and 2728 of the Code of 1881, and repealing section 2721, Code of 1881, as amended by subdivision 9 of section 1, page 45, session laws of 1883, laws of the Territory (now State) of Washington, relating to the duties of county auditors, and declaring an emergency.

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

SECTION 1. Section 2710, Code of 1881, relating to the duties of county auditors, is hereby amended so as to read as follows: Section 2710. He shall audit all claims, demands and accounts against the county which by law are chargeable to said county, except such cost or fee bills as are by law to be examined or approved by some other judicial tribunal or officer. Such claims as it is his duty to audit shall be presented to the board of county commissioners for their examination and allowance. For claims allowed by the county commissioners, as also for cost bills and other lawful claims duly approved by the competent tribunal designated by law for their allowance, he shall draw a warrant on the county treasurer, made payable to the claimant or his order, bearing date from the time of and regularly numbered in the order of their issue, and he shall carefully keep proper warrant books, and when a warrant is issued the stub shall be carefully retained, upon which shall be recorded the number, date, name of payee, amount, nature of claims or services briefly stated and by whom allowed. He shall also retain all original bills and indorse thereupon claimant's name, nature of claim, the action had and if warrant be issued, dating and numbering said voucher or claim the same as the warrant. Nothing herein contained shall prevent claimants, at the time of issuing said warrants, from having the same broken, or issued in smaller warrants by the said auditor, using two or more warrants in lieu of one. In all such cases, however, when broken warrants are issued, the auditor issuing the same is required to preserve as many stub entries as

To audit  
claims.

Warrant book.

Original bills  
to be retained.

he issues broken warrants, noting upon such stub the claim for which issued, the same as in other cases, together with a note of the number of broken warrants which aggregate the amount of the entire claim allowed: *Provided*, No single warrant shall be issued for a greater amount than five hundred dollars: *Provided further*, That the above restrictions shall not apply to warrants issued when there is cash on hand in the county treasury to pay the same on presentation. All claims of the county auditor against the county for services shall be audited and allowed by the board of county commissioners as other claims are audited and allowed. Said warrants shall in all respects be audited, approved, issued, numbered, registered and paid the same as any other county warrant. The words "county warrant," as herein designated, shall be synonymous with "county order" or "county scrip." In this as well as in all other laws of this state, such terms are convertible, and shall be considered to mean one and the same thing.

SEC. 2. Section 2712, Code of 1881, is hereby amended as follows: Sec. 2712. He shall keep an accurate account current with the treasurer of the county and shall charge him with all moneys received as shown by his receipts issued, and shall credit him with all disbursements on account of moneys paid out according to the record of the settlements of said treasurer with the board of county commissioners.

SEC. 3. Section 2571, Code of 1881, is hereby amended so as to read as follows: Sec. 2571. Immediately after the completion of the annual settlement of the treasurer with the board of county commissioners of each county, the county auditor shall make out and transmit to the state auditor a full and complete verified statement of the state fund account with the county for the past fiscal year. Said statement shall show—(1) The total amount of tax levy for the current year as returned on the original assessment roll. (2) The amount of the supplemental taxes levied by the treasurer. (3) The amount collected from delinquent tax rolls of previous years, since last report. (4) The amount of errors, double assessments and rebates allowed on settlement of treasurer with the board of county

Proviso.

Account current to be kept with county treasurer.

County auditor to render verified statement to the state auditor; what to contain.

commissioners. (5) The amount paid to state treasurer since the last annual settlement, and all such other credits as the county may be entitled to receive in abatement of state taxes. (6) The balance of delinquent tax account for the current year. Said statement shall be verified by the certificate and official seal of the county auditor. The state auditor, upon receipt of such verified statement, shall proceed from the data furnished to balance up the county's account with the state for the current year, and credit the delinquent tax accounts of previous years, respectively, as shown to have been collected.

SEC. 4. Section 2713, Code of 1881, is hereby amended so as to read as follows: Sec. 2713. He shall, immediately after the July settlement between the county treasurer and the county commissioners, make out a full and complete exhibit of the finances of the county. Such exhibit shall be made out immediately after the July term of said board of county commissioners, and the county auditor shall cause the same to be published in some newspaper, if any is printed within the county; if not, he shall post the same in a conspicuous place in his office.

Exhibit of  
county  
finances to  
be published.

SEC. 5. [Section] 2714, Code of 1881, is hereby amended so as to read as follows: Sec. 2714. Such exhibit shall show—(1) The amount of taxes assessed in the county the preceding year for state, county, road, bridge, school and other purposes. (2) The amount of taxes collected on such assessment. (3) The amount of money received from other sources. (4) The amount received into the treasury. (5) The amount still due and not collected. (6) The number of orders issued, the several purposes for which they were issued, the amount for each purpose and the total amount. (7) The total amounts of orders redeemed. (8) The amount of outstanding orders. (9) The present condition of the treasury. (10) Remarks.

What the  
exhibit is  
to show.

SEC. 6. Section 2717, Code of 1881, is hereby amended so as to read as follows: Sec. 2717. Auditors and their deputies are authorized to administer oaths necessary in the performance of their duties and in all other cases where oaths are required by law to be administered and to take acknowledgments of deeds and other instruments in writ-

Authorized  
to admin-  
ister oaths in  
performance  
of duties.

ing: *Provided*, That any deputy of any county auditor, in administering such oath or taking such acknowledgment, shall certify to the same in his own name as deputy, and not in the name of his principal, and shall attach thereto the seal of the office in which he is deputy: *Provided*, That all oaths administered or acknowledgments taken by any deputy of any county auditor certifying to the same in the name of his principal by himself as such deputy, prior to the taking effect of this act, be and the same are hereby legalized and made valid and binding. Proviso.

SEC. 7. Section 2718, Code of 1881, is hereby amended so as to read as follows: Sec. 2718. It shall be the duty of the county auditor, not earlier than ten days after the adjournment of the board of county commissioners, at any regular, adjourned or special term of said board, and not earlier than ten days after the receipt of any superior court cost bill, to make out a register of all warrants legally authorized and directed to be issued by such board of county commissioners or such cost bill and to make out under his hand and seal of office a certified copy of such register of warrants, and to forthwith deliver the same to the treasurer of the county, who shall record the same in a book to be kept by him for that purpose, and file and carefully preserve the original in his office for future reference. The register of warrants hereby authorized to be made by the county auditor shall be part of the records of such county and shall have all the force and effect of the same. To make a register of warrants.

SEC. 8. Section 2720, Code of 1881, is hereby amended so as to read as follows: Sec. 2720. The board of county commissioners and county auditor must, at the January, April, July and October settlements with the county treasurer, count the money in the county treasury, and make and verify in duplicate statements, showing—(1) The amount of money that ought to be in the treasury; (2) the amount and kind of money actually therein. County commissioners and auditor to count money in the treasury quarterly.

SEC. 9. Section 2721, Code of 1881, as amended by subdivision 9 of section 1, page 45, session laws of 1883, is hereby repealed.

SEC. 10. Section 2729 [2726], Code of 1881, is hereby amended so as to read as follows: Section 2729 [2726].

For the purpose of recording deeds and other instruments of writing, required or permitted by law to be recorded, the county auditor shall procure such books for records as the business of the office requires. He has the custody of and must keep at all times in his office all books, records, maps and papers deposited with him as such officer.

Recording.

SEC. 11. Section 2727, Code of 1881, is hereby amended so as to read as follows: Sec. 2727. He must, upon the payment of his fees for the same, record separately in large and well bound books in a plain hand—(1) Deeds, grants and transfers of real property, mortgages and releases of mortgages of real estate, powers of attorney to convey real estate, and leases which have been acknowledged or proved. (2) Marriage contracts. (3) Official bonds. (4) Instruments describing or relating to the separate property or community interest of married women. (5) Patents to lands and receiver's receipts, whether for mineral, timber, homestead or preëmption claims or cash entries. (6) Certificates of sales for county or municipal taxes. (7) All such other papers or writings as are required by law to be recorded and such as are required by law to be filed if requested so to do by the party filing the same: *Provided*,

Proviso.

That any person or persons, corporation or corporations shall, before presenting to the county auditor for record, any deed, conveyance or voluntary encumbrance of any real property, or any plat or townsite or instrument affecting the same, first apply to the county treasurer for a certificate that all taxes theretofore levied and which have become a charge on said property according to the books and records of his office, have been fully paid and discharged. Upon such application the county treasurer shall ascertain from such books and records if all such taxes are paid, and if so, he shall certify over his official signature to said payment, or, if the land described has been sold to an actual purchaser for taxes, he shall add "by sale of land described within." Such certificate shall be entered upon the instrument desired to be recorded, and unless such statement is made upon such deed or other instrument, the auditor shall refuse to receive or record the same: *Provided*, That sheriff's or referee's certificates of sale on

execution, or decrees or foreclosures of mortgages may be recorded by the auditor without any such certificate from the county treasurer: *Provided further*, That when the owner or owners of any real property desire to convey any portion of the same less than the whole, said county treasurer shall ascertain, as nearly as may be, the proportion of the tax due (if any) upon such portion desired to be conveyed, as compared with the whole, and shall, upon the payment of such portion, certify to the same in the manner above described.

SEC. 12. Section 2728, Code of 1881, is hereby amended Index, what to show. so as to read as follows: Sec. 2728. Every auditor must keep a general index, direct and inverted. The direct index shall be divided into seven columns, and with heads to the respective columns, as follows: Time of reception, grantor, grantee, nature of instrument, volume and page where recorded, remarks, description of property. He shall correctly enter in such index every instrument concerning or affecting real estate which by law is required to be recorded, the names of grantors being in alphabetical order. The inverted index shall also be divided into seven columns, precisely similar, except that "grantee" shall occupy the second column and "grantor" the third, the names of grantees being [in] alphabetical order. For the purposes of this act, the term "grantor" shall be construed to mean any person conveying or encumbering the title to any property, or any person against whom any lis pendens, judgment, notice of lien, order of sale, execution, writ of attachment, or claims of separate or community property shall be placed on record. He shall also keep a well bound book in which shall be platted all maps of towns, villages, or additions to the same within the county, together with the description, legend, acknowledgment or other writing thereon. He shall keep an index to such book of plats, which shall contain the name of the town, village or addition. He shall also enter in the general index above referred to, the name of the party or parties platting such town, village or addition in the column prescribed for "grantors," describing the grantee in such case as "the public": *Provided*, That the auditor shall not

Proviso.

receive or record any such plat or map until the same shall have been approved by the mayor and common council of the municipality in which the property so platted be situated, or if such property be not situated within any municipal corporation, then such plat must be first approved by the board of county commissioners of such county: *Provided further*, That the auditor shall not receive for record any plat, map or subdivision of land bearing a name the same or similar to the name of any map or plat already on record in his office.

SEC. 13. All acts or parts of acts in conflict with this act shall be and the same are hereby repealed.

Emergency.

SEC. 14. An emergency is hereby declared to exist, and this act shall be in force on and after its passage and approval.

Approved March 11, 1893.

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## CHAPTER CXX.

[H. B. No. 340.]

### CONCERNING INSANE PERSONS AND PERSONS NON COMPOS MENTIS RESIDING OUT OF THE STATE.

AN ACT concerning insane persons and persons *non compos mentis* residing out of the State of Washington; prescribing a mode of procedure for the control and management of the estates and property of such persons and the payment of their debts, and declaring an emergency.

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

SECTION 1. Whenever any insane person or person *non compos mentis* who resides without this state, and who shall have no guardian within this state, or, if he or she has a foreign guardian, the said guardian may file an authenticated copy of his letters of guardianship in the office of the clerk of the superior court of any county in this state in which there may be property of his ward, and upon the filing of such authenticated copy of his letters of

Guardian to  
file letters of  
guardianship.

guardianship as aforesaid, the court shall order him to enter into a good and sufficient bond, in such sum as the court may require, conditioned and subject to all the provisions of law concerning the bonds of guardians of minors in this state, with sufficient freehold surety resident in said county. After said bond is duly approved by the court said guardian shall be considered for all purposes as a domestic guardian.

SEC. 2. Should the said foreign guardian fail to file a duly authenticated copy of his said letters of guardianship and the bond required by section 1 of this act within ninety days after his appointment as such foreign guardian, or within ninety days after such insane person or person *non compos mentis* shall become the owner of any real estate or personal property within this state, or, should said insane person or person *non compos mentis* have no guardian without this state, any creditor or other person interested in the property or estate of such insane person or person *non compos mentis* may apply by petition, to the superior court of any county in this state where any of the real estate or personal property of such insane person or person *non compos mentis* may be situated, for letters of guardianship for the estate and property of such insane person or person *non compos mentis*.

SEC. 3. Upon the hearing of such petition, on a day to be fixed by the court, and upon proof of the insanity of such person, or that such person is *non compos mentis*, the court may appoint the petitioner or some other suitable person possessing all of the qualifications necessary or requisite for the guardianship of a minor of this state as such guardian, who, upon the filing and approval of a bond as is provided herein for foreign guardians, shall be the duly constituted guardian of the estate of such ward in this state: *Provided*, Nothing herein shall annul the appointment of any ancillary guardians heretofore appointed by any court of this state, which appointments are hereby ratified, and all such ancillary guardians shall hereafter be subject to all the provisions of this act.

SEC. 4. It shall be the duty of the guardian who has been appointed as hereinbefore provided, to cause to be

Bond.

On failure of foreign guardian to file letters of guardianship, any person may petition for letters of guardianship.

Guardian to  
publish notice  
to creditors  
requiring  
presentation  
of claims.

published in a newspaper published in the county in which he was appointed, if any there be, and if there be no newspaper published in said county, then in a newspaper to be designated by the court, a notice to the creditors of the said ward requiring them to present their claims, with the necessary vouchers, within a time to be fixed by the court, at a place of residence or business of such guardian, to be specified in the notice; such notice shall be published as often as the court shall deem necessary, not less than once a week for four successive weeks.

Duty of  
guardian.

SEC. 5. It shall be the duty of every such guardian —

1. To make and file within thirty days after his appointment a full inventory, verified by his oath, of all the real or personal property of such ward, with the value of the same, and on failure so to do it shall be the duty of the court to remove him and appoint a successor.

2. To manage the personal and real estate of his said ward to the best interest of said ward.

3. To render under oath to the said court an account of his receipts and expenditures as such guardian, verified by vouchers or proofs, at least once in every two years, or whenever cited by the court to do so. On failure to so account he shall be in contempt of court and subject to such penalties as the court may fix.

4. To pay all just debts due from said ward and collect all debts due said ward by action or otherwise and in case of doubtful debts, under the order of the court, to compound the same, and to appear for and defend or cause to be defended all suits against said ward.

Disposition of  
community  
real estate  
for paying  
existing debts.

SEC. 6. In all cases where guardians have been or may hereafter be appointed for insane persons or persons *non compos mentis*, under the provisions of this act, and who own or may hereafter own community real estate, the husband or wife of such insane person or person *non compos mentis*, under the order of the court, may join with the guardian in the execution of deeds or mortgages for the disposition or encumbrance of such estate, and the guardian shall, upon application to the court for that purpose, be authorized to sell or mortgage the estate or interest of the said insane person or person *non compos mentis* for the

purpose of paying the debt or providing for the support or maintenance of such ward or the wife of such ward or for the better investment of the proceeds of such estate.

SEC. 7. In all cases where community debts exist and the husband or wife of any insane person or person *non compos mentis*, under guardianship, shall fail or refuse for sixty days after an order of the court, to join the said guardian in a sale or conveyance or mortgage of the said community property of the said insane person or person *non compos mentis*, found necessary by the court for the payment of such community debts, any creditor may commence his action by attachment against any such insane person or person *non compos mentis*, and the husband or wife of the said insane person or person *non compos mentis* and the guardian provided for in this act: *Provided*, That any suit or suits which may have heretofore or may hereafter be brought for the purpose of subjecting the property of such insane person or person *non compos mentis* to the payment of the debts of such insane person or person *non compos mentis*, shall be consolidated, and in case the writs of attachment levied in such actions shall not have been levied upon all community property of such insane person or person *non compos mentis*, alias writs of attachment may issue and successive levies may be made of them to cover and bring into court all of the property of such insane person or person *non compos mentis* and the husband or wife of either. Such action may be brought only in the court granting the letters of guardianship, and writs of attachment may issue to any county in this state where the said insane person or person *non compos mentis* may have any property. All known creditors, whether secured by mortgage or otherwise, shall be made parties to such action, and all suits or actions brought for the purpose of enforcing any mortgage or lien shall be consolidated with said action. All creditors shall be made parties to such action and the same shall be prosecuted for the benefit of all creditors, whether they may be made parties or not, and the person so bringing the action herein provided for shall share *pro rata* with all other creditors, and upon the trial of such ac-

Failure to provide for debts.

Proviso.

Parties to action.

Sale of community property.

Proceeds of sale.

Confirmation of sale.

tion the court may, upon proofs, render such judgment as may be necessary for the protection of all parties, and shall settle and decree the priorities between creditors. The guardian may employ counsel in any such action, and the compensation of such counsel shall be fixed by the court and taxed as a part of the cost in such action. After judgment the court shall order the community property of such insane person or person *non compos mentis* sold, and under the order of sale in such action the separate property of such insane person or person *non compos mentis* shall also be sold if the same shall be found by the court to be necessary to pay the debts of such insane person or person *non compos mentis*, and the proceeds of such sale shall be paid into court for distribution according to the priorities as decreed by the court, and any residue or overplus remaining in the court after paying all the debts found due shall be paid over to the guardian. This act shall not suspend or abrogate the existing liens of any attachment, mortgage or other lien, and all such liens shall merge into the judgment of the court rendered in such action according to the priority of each. The court may order all or such part of the community and separate property of the said insane person or person of unsound mind, as it may deem necessary for the payment of the judgment rendered, to be sold, and successive sales may be made under such judgment until an amount sufficient to pay such judgment is realized. All such sales shall be confirmed by the court as in cases of mortgage or other sales, and the court may, if it deem the amount bid at any sale inadequate, order a resale of any property sold under said order.

SEC. 8. When it shall appear to the court that all the real and personal property of such ward has been sold and the debts herein authorized to be paid have been satisfied, and that there are moneys and property in the hands of such guardian, upon the foreign guardian of such ward filing with the clerk of said court a duly certified copy of his appointment as such guardian, by a court of competent jurisdiction in any state or territory where said ward resides, with a copy of his bond, the sufficiency of which

shall be certified by the said court, the court shall order all money and property in the hands of the said guardian in this state to be paid and turned over to the said foreign guardian upon his receipting therefor, and upon the filing of the said receipt by the said guardian with the clerk of the court, said guardian and his sureties shall be released from all liabilities for all money and property so paid and turned over, and should said guardian fail or refuse to pay or turn over such money or property as provided in said order, the said foreign guardian is hereby empowered as such guardian to sue for and receive the same.

SEC. 9. The sureties on the bond of any such guardian appointed in this state may be discharged from all liability thereunder under the same rules and regulations as are prescribed for the discharge of the sureties upon the bonds of executors and administrators in this state. Release of sureties on bond of guardian.

SEC. 10. Sections 3071, 3072, 3073, 3074, 3075, 3076, 3077 and 3078 of Vol. I, Hill's Annotated Statutes and Code of Washington are hereby repealed, and inasmuch as there is no statute providing for the appointment of guardians for non-resident insane and persons *non compos mentis*, an emergency is hereby declared to exist for the immediate taking effect of this act, therefore this act shall take effect and be in force from and after its passage. Emergency.

Approved March 11, 1893.

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## CHAPTER CXXI.

[H. B. No. 162.]

### RELATING TO APPEALS FROM ORDERS OR DECISIONS OF COUNTY COMMISSIONERS.

AN ACT to amend section 2695 of the Code of Washington of 1881, the same being; section 298 of volume one of Hill's Annotated Statutes and Codes of Washington, relating to appeals to the superior court from any decision or order of the board of county commissioners.

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

SECTION 1. That section 2695 of the Code of Washington of 1881, the same being section 298 of volume one of

Hill's Annotated Statutes and Codes of Washington, be and the same hereby is amended so as to read as follows: Sec. 2695. Any person may appeal from any decision or order of the board of county commissioners to the superior court of the proper county. Such appeal shall be taken within twenty days after such decision or order, and the party appealing shall within said time serve notice on the county commissioners that the appeal is taken, which notice shall be in writing and shall be delivered to at least one of the county commissioners personally, or left with the clerk of the board; the party appealing shall within ten days after the service of the notice of appeal give a bond to the county with one or more sureties, to be approved by the clerk of the board, conditioned for the payment of all costs which shall be adjudged against him on such appeal in the superior court. The practice regulating appeals from and writs of *certiorari* to justice's courts shall, so far as the same may be applicable, govern in matters of appeal from the decision or order of the board of county commissioners. Nothing herein contained shall be so construed as to prevent a party having a claim against any county in this state from enforcing the collection thereof by civil action in any court of competent jurisdiction, after the same may have been presented and disallowed in whole or in part by the board of county commissioners of the proper county: *Provided*, That such action be brought within three months after such claim has been acted upon by such board.

Time in which  
appeal may be  
taken from  
action of  
county com-  
missioners.

Approved March 11, 1893.

## CHAPTER CXXII.

[H. B. No. 470.]

## RELATING TO THE UNIVERSITY OF WASHINGTON.

AN ACT providing for the location, construction and maintenance of the University of Washington, and making an appropriation therefor, and declaring an emergency.

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

SECTION 1. The governor of Washington is hereby authorized and directed to buy fractional section 16, in township 25 north, range 4 east Willamette Meridian. That upon making said purchase the governor shall enter into a contract with the proper officers of the state for the payment of the entire purchase price, with interest at the rate fixed by existing law, and in the manner required of other purchasers of school lands: *Provided*, The purchase price may be paid at any time but it shall not be necessary to pay any part of the purchase price in advance or at any given date: *And provided further*, That said contract shall contain a provision requiring the board of regents of the University of Washington to pay the interest upon the purchase price annually from the university fund; upon the execution of the said contract the fee of the land purchased shall vest in the State of Washington for the use of the University of Washington.

Time for making payment.

Interest on the purchase price to be paid annually.

SEC. 2. The board of regents is hereby authorized and empowered to select from their number an executive committee of three members to act for and report to the entire board at the regular quarterly meetings and to erect on the land, bought by the governor in pursuance of this act, a university building of such dimensions as they may deem suitable for the needs of said university, said building to be so constructed as to admit of its proper enlargement; and said board shall also have constructed on said grounds such other buildings as may be necessary for the use of the officers, professors, students and employes of said university; and said board of regents, in order to procure the submission of adequate and worthy plans and designs, shall offer and award to architects submitting plans three

Executive committee to erect buildings.

Plans, designs, etc.

Prizes, etc.

Regents may advertise for submission of plans if none accepted.

Bids for material and construction.

Bond of bidder.

prizes. To the architect submitting the plans and designs which shall be accepted as the plans and designs of said building, the first prize shall be awarded, which shall consist of his selection as architect of said buildings and the acceptance of his plans and designs. The second prize shall consist of the sum of one thousand dollars (\$1,000.00), and shall be awarded to the architect submitting the plans and designs deemed second in merit. The third prize shall be five hundred dollars (\$500.00), and shall be awarded to the architect submitting the plans and designs deemed third in merit. No design that the board of regents shall not deem adequate and worthy shall receive a prize. In case no plans or designs are accepted as herein provided, the board of regents shall advertise for the submission of further plans and designs, making no award of prizes till plans for said buildings shall be selected. The board of regents shall invite the submission of plans and designs by a published notice setting forth the offer of prizes and stating the time on, or before which plans and designs must be submitted to the board. Said notice shall be published in one paper each in Seattle, Tacoma and Spokane, at least twice a week for two successive weeks, giving at least ninety days' notice after the day of the last publication of the time of said submission. The board of regents in selecting plans and designs for said buildings shall require the highest degree of architectural and constructive excellence.

SEC. 3. No construction or material exceeding five hundred dollars (\$500.00) shall be furnished except pursuant to bids advertised for as herein provided. All lettings of construction or material exceeding in amount the sum of five hundred dollars (\$500.00) shall be advertised in two daily newspapers of general circulation for not less than ten days. The bid of the lowest responsible bidder shall be accepted, saving that the board shall have the right to reject all bids. The performance of every contract shall be secured by a bond to the State of Washington in a sum not less than one-quarter of the contract price secured by two sureties, each qualifying in double the amount of the bond, each of whom shall be a *bona fide* resident of this

state, said bond to be conditioned for the faithful performance of said contract. Each bid shall be accompanied by a similar bond conditioned for the execution and faithful performance of a contract in accordance with said bid, if the same shall be accepted by the board. All contracts shall reserve the right of the board for good cause shown to annul the contract without allowance for damages, and allowing only expenses incurred and labor performed, not exceeding the contract price, or the proportion that the work done or material furnished thereunder bears to the total amount contracted for. Such a per centum, not less than ten per centum, as the board shall deem proper shall be reserved from payments on monthly estimates of work done until such work shall have been completed, inspected and accepted. All material contracted for shall be of the Material. best quality and to the satisfaction of the board, and the directions, plans and specifications of the work executed and carried out by skilled and reputable architects, contractors, artists, mechanics and laborers, likewise to the satisfaction of the board.

SEC. 4. The architect chosen by the board shall receive Compensation of architect. such compensation for his plans and designs as the board shall deem reasonable. He shall be supervising architect of said buildings and shall prepare all plans, specifications, drawings and details for said buildings and for all contracts for construction or material thereof. He shall see that all material furnished and work done shall be of the best quality, and that all contracts with said board are faithfully performed by the parties so contracting with said board. He shall perform all other duties devolving upon him as such architect and the supervising architect of said building and may be removed at the pleasure of said board. Neither said architect nor any of his subordi- Architect not to be interested in any contract. nates or assistants shall be in any way connected with any work done or material furnished for said buildings or any contract therefor, or shall have any interest therein directly or indirectly. He shall furnish a bond to the State of Bond. Washington in the sum of twenty-five thousand dollars (\$25,000.00) with two sureties, each a resident of the state, and qualifying in twice the amount of said bond, condi-

tioned for the faithful performance by said architect, his assistants and subordinates, of his and their duties as herein prescribed.

Superintendent of construction.

Duties of, etc.

SEC. 5. The board shall appoint a specially qualified person to act as superintendent of the construction of said buildings. It shall be his duty to see that all contracts made with the board are faithfully performed, that all material furnished and work done shall be as required by law or the contract therefor, that all duties imposed upon the architect are faithfully performed by him and his subordinates, and that no provisions of this act are violated. To report to the board any violation of this act or of any contract or of duty by any architect, contractor or employé of said board, and to do such other duties as may be required of him by the board. Said superintendent shall receive as his compensation such sum as the board shall deem reasonable, not exceeding six dollars per day for each and every day he is actually engaged in the performance of his duties. He shall be removable at the pleasure of the board: *Provided*, All such architects, contractors and superintendents employed or furnishing competitive plans shall be citizens of the State of Washington. The main university building shall be built of brick or stone, or brick and stone, and as near fire proof as possible, as may be provided for in the plans adopted, and shall be a durable and permanent structure, and shall be provided with water, and the latest and most approved [improved] apparatus for heating and lighting the same.

Proviso.

Aim and purpose of the university.

Tuition.

Non-residents.

SEC. 6. The aim and purpose of the University of Washington shall be to provide for students of both sexes, on equal terms, a liberal instruction in the different branches of literature, science, art, law, medicine, mechanics, industrial training, military science, and such other departments of instruction as may be established therein from time to time by the board of regents; tuition in the university, except as may be provided by the regents with reference to the arts or to special courses of study, shall be free to all *bona fide* residents of this state. Non-residents of this state shall be admitted on such terms as may from time to time be prescribed by the board of regents. The univer-

sity shall, so far as practicable, begin its course of study in its literary and scientific departments at the points where the same are completed in the public high schools of the state. No student shall be admitted except upon examination satisfactory to the faculty of the university or of the college which he seeks to enter in such course of elementary studies as may from time to time be prescribed by the said faculty: *Provided, however,* That students shall be admitted without examination upon presentation of certificates from those public high schools and other educational institutions in this state whose courses of study shall have been approved by such faculty, such certificates to show the completion of a course of study on the part of applicants, which such faculty shall deem equivalent to the course of study necessary for admission under examination.

Course of study.

Examination, etc.

Proviso.

SEC. 7. After the purchase of the lands by the governor has been made the board of regents may, by decision of six-eighths of their number, duly ascertained by aye and nay vote, which shall be recorded in their minutes, proceed to sell the ten acres in the city of Seattle known as the "university grounds," which have been deeded to the state by A. A. Denny and others, which deeds are hereby accepted and made part of this act. Such sale shall be made at public auction only, and the said board of regents may sell the whole of said tract of ten acres or it may cause the same to be subdivided into lots and blocks, with streets and alleys conforming to the plan of the said city adjoining. No part of the said ten acre tract shall be sold until "the value thereof, less the improvement, shall be appraised" by three appraisers, one to be appointed by the governor, one by the mayor of Seattle, and one by the board of regents, who shall be paid a reasonable compensation for their services out of the university fund. No public auction shall be held and no sale of any part of the said ten acres shall be made until after the board of regents has given notice of the time, place and terms of the sale, by publication for four successive weeks in one daily paper at Spokane, one in Walla Walla, one in Olympia, one in Port Townsend, one in Whatcom, one in Tacoma and one in Seattle; the cost of

Sale of university grounds at public auction.

Publication of sale.

publication to be paid out of the university fund. At the time appointed for the sale the board of regents shall publicly open and announce all bids received by mail or otherwise and invite other bids. The highest bid made on the day of sale shall be accepted, unless it is less than the appraised value of the parcel of land bid for, in which event the board shall postpone the sale and re-advertise: *Provided*, Six-eighths of the board may reject all or any bids, for all or any part of the tract, and postpone the sale thereof until some future date, which postponed sale shall be advertised in the same manner as the original offer to sell. The successful bidder must pay to the state treasurer at least one-third cash within twenty-four hours after the bid is awarded to him, and upon such payment shall be entitled to a certificate of purchase to be issued by the board of regents stating the amount bid, the amount paid, and the balance remaining due and when payable. The balance due shall be paid in two equal semi-annual installments with interest at six per cent. per annum, the first installment to be paid in six months after the date of said certificate, and the second installment one year after said date. Upon full payment the purchaser shall receive a deed to the property, to be executed by the governor, attested by the secretary of state, with the seal of the state thereto affixed, which deed shall convey to him the title of the state to the property described in the deed. The purchaser may at any time prior to maturity pay said balance remaining due, or any part thereof, with interest to date of payment, whereupon interest on the amount paid shall cease. The state retains a lien upon the property sold for all unpaid balances of the purchase price, and upon any default by the purchaser the whole of the balance of the purchase price and interest thereon shall be due, and the lien may be foreclosed and the equity of the purchaser in the land barred and sold as in suit upon foreclosure of mortgage. In case any one making the highest bid, and being awarded the tract bid for, fails to make the first payment within the time specified, the board may award the tract to the next highest bidder or re-advertise and re-sell the land, as to them seems best. But the purchaser or purchasers of the said ten-acre tract

Payments.

Deed.

State retains  
lien for unpaid  
balances.

or any part thereof shall not be entitled to the possession of the property purchased by him or them unless specially authorized by the board to take possession.

SEC. 8. All of the ten acres in the city of Seattle known as "the university grounds" shall remain in the charge and under the direction of the board of regents until the new buildings are ready for occupancy, when the university and all of its movable belongings shall be moved to them: *Provided*, That the board of regents may from time to time as parts of the university grounds are sold, in the manner herein provided, authorize the purchasers to take possession of the lot or lots purchased or may lease all unsold portions under such restrictions as said board of regents may provide.

Regents to have control of university grounds until the new buildings ready for occupancy.

SEC. 9. That 100,000 acres of the lands granted by section 17 of the enabling act, approved February 22, 1889, for state, charitable, educational, penal and reformatory institutions are hereby assigned for the support of the University of Washington.

Support.

SEC. 10. The board of regents is hereby authorized and directed to ascertain how much land granted to the state for university purposes by section 14 of the enabling act, approved February 22, 1889, remains unselected and unsold. All the lands granted for university purposes, and all those granted lands assigned for university purposes by this act, which remain unselected and unsold, shall be selected and sold in the manner prescribed by law for selecting and selling other lands granted to the state, and the proceeds to be placed in the university fund. Said regents shall also take such other action as they may deem necessary to perfect the title to the new university site, and they shall make a detailed printed report of all their actions and investigations to the governor on or before the first Monday in December, A. D. 1894, and biennially thereafter.

Selection and sale of lands.

SEC. 11. There shall be kept by the state treasurer a separate and permanent fund to be known as the "university fund," into which shall be paid all university money received from all sources, which fund shall be paid out by said treasurer only upon warrants drawn by the state auditor, which warrants shall be based on the properly certi-

"University fund."

fied accounts of the board of regents of the University of Washington, as audited by said auditor.

Investment of  
university  
fund.

SEC. 12. The state auditor may, upon the written recommendations of the board of regents with the written consent of the governor and state treasurer, from time to time invest any portion or portions of the unappropriated moneys in any university fund now or hereafter established in this state, whether general or special, all of which moneys shall be invested in national, state, county or municipal bonds.

SEC. 13. The board of regents is hereby authorized to demand and receive from the board of university land and building commissioners and said board of university land and building commissioners is hereby directed to turn over to said board of regents all the books, papers, records and other property in their possession of every name and nature belonging to the University of Washington, and the board of university land and building commissioners is hereby abolished.

SEC. 14. The board of regents is hereby authorized and empowered to give and execute on behalf of the State of Washington the bonds and other papers required by the war department for the safe keeping of the arms and equipments loaned by the United States to the University of Washington.

SEC. 15. All acts and parts of acts in conflict with this act are hereby repealed.

Emergency.

SEC. 16. There being great necessity for the immediate resumption of work in the construction of buildings for the University of Washington and for the selection of university lands, an emergency is hereby declared to exist, and therefore this act shall be in force from and after its approval by the governor.

Approved March 14, 1893.

## CHAPTER CXXIII.

[S. B. No. 190.]

## PROVIDING FOR SYSTEM OF IMPROVED ROADS.

AN ACT providing for the establishment of a system of improved roads in counties, and providing for the manner of laying out, constructing and maintaining the same.

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

SECTION 1. The commissioners of any county may, at any regular or called session, cause to be established, located and constructed, improved, straightened, widened, altered or re-located any public road or highway as herein provided, when the same is conducive to the public convenience or welfare.

SEC. 2. The word "improvement" as used in this act shall mean a road as contemplated to be improved under this act. The word "road" as used in this act shall be construed to mean a public highway or thoroughfare. The words "territory (or property) particularly benefited" as used in this act shall be construed to include, in addition to the lands lying within two miles on either side of the improvement, all cities, road districts or townships which will be subject to special assessment for the improvement. The words "improvement boundary" as used in this act shall be construed to mean a line two miles distant from and parallel to the center line of the improvement on either side thereof, connected at the places of beginning or termini by a line at right angles thereto, unless such line enter the corporate boundary of a city, in which case the improvement boundary shall follow the meandering of the city boundary in so far as said boundary shall come within said two mile limit. Words used in the singular in this act shall include the plural, and the plural the singular.

SEC. 3. No road improvement shall be located or commenced under this act unless the same has its beginning at the boundary limits of an incorporated city, or trade center located on a railroad or navigable body of water, or connect with a road or road system already improved under

Definition  
of terms.

Limitation of  
improvement  
under this act.

this act, or with a road which has been otherwise constructed of such a nature to permit of heavy freighting and rapid travel on the same at any time of the year.

Description of improved road under this act.

SEC. 4. An improved road contemplated under this act shall be constructed as near as practicable along the center line of the established highway, and shall be uniformly graded to a width of not less than sixteen feet; the profile thereof shall not have a greater incline at any point of more than one foot perpendicular to twenty feet horizontal; proper drains, culverts and bridges shall be constructed to convey off all surface and seepage water, and when the road is located along a hillside or incline, the drainage of the surface of the roadbed shall be toward the hillside or incline; a roadway shall be constructed upon the graded road in such a manner and of such material as will permit of heavy freighting by team and rapid driving during any time of the year, and if such construction be a macadam or Telford pavement, or a roadbed of equal durability of other material, it shall not be less than twelve feet wide; if of plank, gravel, crushed stone or other material equally or less permanent, it shall be not less than eight feet wide, and shall be constructed on the grade so that the right hand side of the roadway going out from the place of beginning shall as nearly as practicable conform to the center line of the grade.

Costs.

SEC. 5. The costs and expenses of the improvements made under this act shall be apportioned as near as may be to the corporations, companies, persons and property benefited thereby.

Application to commissioners.

SEC. 6. Application for such improvement shall be made to the commissioners of the county, signed by two or more owners of lots or lands which will be particularly benefited thereby: *Provided*, That such petitioners shall appear by the assessment rolls of the county to own property which will be particularly benefited, representing in value not less than ten thousand dollars for each mile of the improvement petitioned for, and the petitioners must represent property within the improvement boundary equivalent to

Proviso.

not less than five thousand dollars for each mile of the proposed improvement.

SEC. 7. The petition shall be filed with the clerk of the board of county commissioners, and shall set forth the necessity of the improvement, and describe the route and termini thereof; and there shall be filed therewith a bond payable to the county with at least two good and sufficient sureties in not less than one thousand dollars, conditioned for the payment of all costs if the prayer of the petition [petitioners] be not granted, or be dismissed for any cause.

Petition to be filed with clerk of county commissioners.

SEC. 8. If the bond be approved by the clerk of the board of county commissioners, he shall immediately deliver a copy of the petition to the commissioners, who shall thereupon appoint three freeholders of the county, at least two of whom shall reside within the territory particularly benefited by the improvements, and one of whom shall reside or own lands within the improvement boundary, who shall constitute a "board of construction."

Approval of bond.

Board of construction.

SEC. 9. Each member of the board of construction shall take and subscribe an oath for the proper and faithful performance of the duties imposed upon him, and file the same with the clerk of the board of county commissioners, and the board of county commissioners shall have power to remove any member thereof for cause. The board of construction shall give an account of its actions and proceedings to the county commissioners when requested by said commissioners so to do, and when the improvement is completed which they have been appointed to supervise, they shall file with the clerk of the board of county commissioners a final report of their doings. They shall be allowed the same mileage as is allowed county commissioners for necessary travel in the discharge of their duties, but shall not be otherwise paid for their services.

Duties of members of board of construction.

Compensation.

SEC. 10. The board of construction shall take to their assistance a competent and experienced road engineer, and they shall not employ any engineer who does not hold a diploma or other certificate from an accredited technical institute, or from a person of recognized standing as an ex-

Same.

perienced civil engineer. They shall at once proceed to view the line of the proposed improvement, and determine by actual view of the road and premises along and adjacent thereto, whether the improvement is feasible and advisable for the public convenience and welfare, and whether the line petitioned for is the best route; and they shall report their findings in writing to the clerk of the board of county commissioners.

Costs.

SEC. 11. If the commissioners find against the improvement, they shall dismiss the petition and proceedings at the cost of the petitioners; and they shall cause an itemized bill of all costs to be made up by the clerk for their examination and approval, which shall include the per diem of the engineer, together with all other costs necessarily made; the board of construction shall thereupon be discharged.

Manner of proceeding with construction.

SEC. 12. If the commissioners find for the improvement they shall cause to be entered on their journal an order directing the board of construction to proceed with the construction of said improvement in the following manner:

Duties of engineer.

1. The engineer shall go upon the road described in the petition or as changed in accordance with this act, and survey and level the same, and set a stake at every hundred feet, numbering from the place of beginning, out; note the intersection of lines and boundaries of lands, road district, or township lines, land marks and road crossings, and make a report, profile and plat of the same, and estimate the number of cubic yards of earth or other substance to be removed, cut or filled, necessary bridges, culverts and drains to be constructed, obstructions to be removed, the materials along or adjacent to said road which can be made available and used in construction of the same, the estimated cost thereof, and an estimate of the cost of each working section, as hereinafter provided, and of each section of 100 feet.

Same.

2. The engineer shall also make and return a schedule and plat of all the lots and lands lying within the improvement boundary, which plat shall be drawn upon a scale sufficiently large to represent all the meanderings of the road proposed to be improved, and shall distinctly show the

boundary lines of each lot or tract of land included in the improvement boundary, the name of the owner of each lot or tract of land as the same may appear upon the records at the time, and an estimate of the total cost of the entire improvement proposed, which estimate shall include all fees and salaries estimated to be paid for locating, supervising and appraising, together with such other matters as the engineer may deem material. The profile shall show the surface line, the grade line and gradient fixed, and the engineer shall make and file with his report an itemized bill of all costs made in the discharge of his duty under this section, and shall file his report with the clerk of the board of county commissioners within thirty days after making the survey and level.

SEC. 13. Immediately upon the filing of the engineer's Appraisers. report, the county commissioners shall appoint three disinterested appraisers, residing within the county, but not within the territory particularly benefited by the proposed improvement, whose duty it shall be to at once proceed to assess the benefits of such proposed improvement to the corporations, companies, persons and property particularly benefited thereby, and estimate the damages to property over or through which the road shall be established or re-located. and award the same to the owners thereof. Before entering upon their duties, the appraisers shall severally Oath of appraisers. take and subscribe to an oath to impartially and, to the best of their knowledge and ability, perform the duties required of them, and file said oath with the clerk of the board of county commissioners. Said clerk shall thereupon and forthwith deliver into the hands of the appraisers the engineer's report upon the proposed improvement, and all maps, charts and schedules pertaining thereto, taking a receipt from said appraisers therefor. The appraisers shall thereupon proceed to actually view in person all lands Duties of appraisers. as shall appear from the engineer's report to lie within the improvement boundary, and obtain from the duplicate assessment roll of the county the total assessed valuation at the time of all property within the limits of any road

Appraisers  
to prepare  
a schedule.

district or township through or into which the proposed improvement is located, and of all property within the limits of any incorporated city whose boundary lines shall be within ten miles of the proposed improvement, or of any part thereof. They shall then prepare a schedule, which shall set forth—

1. The benefits assessed to the county for such improvement, which shall be one-third of the whole estimated cost thereof.

2. The benefits assessed to each road district or township through or into which the improvement is located, which assessment shall be equal upon all the assessed property in the road district or township according to the value thereof as shall appear upon the duplicate assessment roll of the county at the time, and which benefits shall not be assessed at more than one-third of the whole estimated cost of the improvement within the boundary of the road district or township.

3. The benefits assessed to all property within each incorporated city within the county, which assessment shall be equal upon all the assessed property within the city according to the value thereof as shall appear upon the duplicate county assessment roll at the time, and which benefits shall not be assessed at more than one-sixth of the whole estimated cost of the improvements, or of that portion thereof which is located within a limit of ten miles from the corporate limits of the city, and the property within any city shall not be considered as territory particularly benefited for any improvement lying more than ten miles distant from the corporate boundary of said city.

4. The benefits assessed to the lots and lands lying within the proposed improvement boundary, listing each tract of land assessed, giving the number of acres thereof, the owner as shall appear of record, the estimated valuation of each tract exclusive of improvements, and the benefit assessed thereto, and the total amount of benefits assessed to lots and lands shall in no case exceed one-third of the whole estimated cost of the proposed improvement: *Provided,*

That lots or tracts of land within the improvement boundary whose natural outlet will not be in whole or in part over said road, when improved, shall not be separately assessed under the provisions of this clause.

5. A list of each tract or lot or portion thereof taken and damaged by the establishment or re-location of the road proposed to be improved and the lands contiguous or lying near thereto on which is located material necessary or available to be used in the construction of the proposed improvement, and of materials available for construction on contiguous or near lying lands, which list shall recite the number of acres of each of such lands so to be taken or damaged, and the amount of such contiguous or near lying materials estimated to be required, the owner thereof as shall appear of record, the estimated value thereof including improvements thereon, and the damages resulting therefrom, and the award made therefor.

SEC. 14. The appraisers shall, within sixty days after date of entering upon their duties, file a report of their findings, together with the engineer's report and all other papers to them delivered, with the clerk of the board of county commissioners; and the appraisers shall make and file with their report an itemized bill of all costs made in the proper discharge of their duties under this act; and in such bill the appraisers shall not charge for services in excess of three dollars per day for each appraiser for time actually employed, and no extra compensation shall be allowed for mileage; the clerk shall then without delay fix a date for the hearing of the reports of the engineer and appraisers; he shall prepare and deliver to the petitioners, or any one of them, a notice in writing, directed to the resident lot or land owners, officer or agent [of] any private corporation, and to the mayor or clerk of each city, and to the road overseer of each road district or board of overseers or clerk of each township affected by the improvement, setting forth the pendency, substance and prayer of the petition, together with a tabular statement of the assessments and award[s] of damages as made by the ap-

Appraisers to file report of findings.

Itemized bill of costs.

Compensation.

Notice to land owners, etc.

Copy of notice to be served.

Return.

Notice to non-resident owners.

Meeting of commissioners.

Commissioners may amend appraisers' report.

May adjourn hearing not exceeding twenty days.

praisers in their report; a copy of each notice shall be served upon each lot or land owner, officer or agent of private corporations, mayor or clerk of each city, each road district overseer, and the board of overseers or clerk of each township at least ten days before the day set for the hearing; and the person who serves the same shall make return on the notice under oath, of the time and manner of service, and file the same with the clerk of the board of county commissioners on or before the day set for hearing; and the clerk shall at the same time give like notice to each non-resident lot or land owner, or by publication in the official newspaper of the county for at least two consecutive weeks before the day set for the hearing, which notice shall be verified by the affidavit of the printer or other person knowing the fact and filed with the clerk on or before that day.

SEC. 15. The county commissioners shall meet at the clerk's office on the day so fixed by the clerk, and shall first determine whether the required notice has been given. If they find that due notice has not been given, they shall continue the hearing to a day to be fixed by them, and order the notices to be served as hereinbefore provided, and when they find that due notice has been given, they shall examine the reports of the appraisers and the assessment made and the damages awarded, and if such apportionments are in all respects fair and just according to the benefits and damages, they shall approve and confirm the same.

SEC. 16. If the commissioners find that the apportionment of assessments and awards of damages made by the appraisers is unfair and unjust, and ought not to be confirmed, they shall so order and amend the appraisers' report as to make it fair and just; and if necessary, in their opinion, they may adjourn the further hearing not exceeding twenty days, to a day to be fixed by them, and go upon the premises, and by actual view apportion the entire cost of location and construction, or any part thereof, as may seem just and proper, and award damages as may seem just and proper, and on the day so fixed by

them they shall again meet at the clerk's office and determine the assessment of benefits and awards of damages. Award of damages.

SEC. 17. Any person, company or corporation party to the proceedings may file exceptions to the apportionment of benefits or compensation for damages at any time before the time set for the final hearing of the report and apportionment; the commissioners may hear testimony and examine witnesses upon all questions made by the exceptions, and for that purpose may compel the attendance of witnesses by subpoena, which the clerk of the superior court shall issue on demand; and their decisions on the exceptions shall be entered on the journal, and if they sustain the exceptions, the cost of hearing thereon shall be paid out of the county treasury, and if they overrule the same, such costs shall be taxed against the person, company or corporation filing the exceptions. Who may file exceptions to apportionment. Cost of hearing.

SEC. 18. Any person or corporation aggrieved thereby may appeal from any final order or judgment of the commissioners made in the proceedings and entered upon their journal for determining either of the following matters — *First*, whether said improved road will be conducive to the public needs, convenience and welfare; *second*, whether the route thereof is practicable; *third*, the compensation for land or construction materials appropriated; *fourth*, the damages awarded to the owners of property affected by the improvement. And the appellant shall file with the commissioners, at the final hearing before them, a notice in writing of his intention so to do, and specifying therein the matter appealed from. The commissioners shall fix the amount of the bond to be given by the appellant, and cause an entry thereof and of the notice to be made upon their journal. The party appealing shall, within ten days thereafter, file with the clerk a bond in the amount so fixed, with at least two sufficient sureties, to be approved by the clerk, conditioned to pay all the costs made on the appeal in case the appellant fails to sustain the same, or the appeal to be dismissed for any cause; and the clerk shall make a complete transcript of the proceedings had Appeal.

before the commissioners, and certify the same, together with all original papers, except bonds filed by appellant, filed in his office, and transmit them to the superior judge of the county within twenty days from the day of the final hearing.

Superior judge to fix a day not more than five days thereafter, for hearing.

SEC. 19. The superior judge shall file the transcript and original papers, and docket the case, styling the appellant plaintiff, and the county commissioners and petitioners defendants, and thereupon he shall fix a day, not exceeding five days thereafter, for the hearing of all preliminary motions and the examination of the papers so filed; on the day so fixed all preliminary motions shall be heard and determined, as well as all questions arising upon the record, and if he find that the proceedings are irregular in substance, or that the appeal has not been perfected according to law, he shall dismiss the appeal at the cost of the appellant, and certify such dismissal, with his findings thereon, back to the commissioners; but the judge may, in his discretion, order and allow the correction of any technical defect, error, or omission in such proceedings.

Costs.

SEC. 20. Appeals may be tried as in cases of appeals from justices of the peace to the superior court.

Jurors' oath.

SEC. 21. The superior court shall administer to the jurors an oath, faithfully, impartially, and to the best of their ability, and from actual view of the premises along the whole route of the improvements, to examine and determine the particular matters appealed from, and to render a true verdict according to the facts appearing to them from actual view of the premises, and the evidence under the charge of the court.

Who may or may not accompany the jury.

SEC. 22. The sheriff or his deputy, together with the engineer who surveyed, leveled, apportioned and platted the improvement, may accompany the jury and point out its route; no other person shall be permitted to interfere in any way with the jurors in the discharge of their duties, and after the jury has fully examined the premises and returned to court, either party may be heard in person or by counsel, and may offer evidence to the jury, under the di-

rections of the court, upon any matter given it especially in charge.

SEC. 23. The jury shall find and return a verdict <sup>Verdict.</sup> determining the matter or matters appealed from, being one or more of the following propositions, viz.: *First*, Whether said improved road will be conducive to the public needs, convenience or welfare; *second*, whether the route thereof is practicable; *third*, the compensation due each appellant for land or construction materials appropriated; *fourth*, the damage due each appellant for property affected by the improvement. The jury shall return their verdict in writing, signed by the jurors. As to said proposition, it shall be necessary for only nine jurors to agree.

SEC. 24. Upon the return of the verdict the same shall be recorded, and together with all papers and records, duly certified, forwarded to the office of the clerk of the board of county commissioners.

SEC. 25. If the verdict of the jury be in favor of the appellant the commissioners shall cause to be made on their journal an entry carrying out the findings of the jury; and if the jury find that the improvement is not necessary, or will not be conducive to the public need, convenience or welfare, or is not practicable, the commissioners shall cause <sup>Costs.</sup> an entry to be made upon their journal dismissing the proceedings at the cost of the county, which shall be paid out of the general county fund on the order of the county commissioners.

SEC. 26. If the jury find that the improvement is neces- <sup>Same.</sup> sary and that the same will be conducive to the public needs, convenience and welfare, and is practicable, the commissioners shall assess the costs to the appellant.

SEC. 27. If the jury find that the allowance of compen- <sup>Same.</sup> sation and damages, as made by the commissioners, fully compensate for all land and construction materials appropriated and damages sustained, the commissioners shall assess the costs made by the appeal to the appellant.

SEC. 28. If more than one party appeal, the superior judge may order the cases to be consolidated and tried to-

gether, and the rights of each party as to compensation and damages shall be separately determined by the jury in its verdict.

Bids for  
construction.

Notice of time  
and place of  
awarding  
contracts.

What notice  
for bids shall  
contain.

SEC. 29. After the transcript of the proceedings before the superior judge, and all other papers in the case, are returned to the clerk of the board of county commissioners, the commissioners shall cause such entry to be made on their journal as may be necessary to give effect to the verdict and findings of the jury, and shall fix a time for the receiving and opening of sealed bids for the construction of the proposed improvement, and if in the opinion of the board of county commissioners the interest[s] of the public will be advanced thereby, they shall divide the improvement into sections of a more or less number of lineal feet, and call for bids on each of said sections, or they may call for bids for each kind of work to be done or material to be furnished, or any one or more of such kinds of labor and material as they may believe to be advisable, but in every case all of the construction shall be performed by contract, duly awarded, as provided in this section. They shall cause notice to be given, as hereinafter provided, of the time and place of awarding contracts, and direct the board of construction and the engineer who made the survey and estimates, or other competent engineer, to attend at the time and place of opening bids. The board of construction shall superintend and conduct the same, receive all bids for the construction of the improvement, and enter into agreements in the name of the county. The notice for bids shall state the location and general nature of the improvements to be done, and where the plans and specifications are filed for examination, and shall be signed by the clerk of the board of county commissioners by order of the board. The commissioners may provide in such notice, if convinced that the interests of their county will be protected or advanced thereby, that no foreign, alien or pauper labor shall be employed in the construction to be let. The notice shall be published for at least two consecutive weeks previous to the date of letting, in one or more daily or weekly papers

published and of general circulation in the county, and in such other manner as the board may see fit to direct.

SEC. 30. Every bid shall be accompanied by a certified check or bond in the sum of five hundred dollars, or not less than one-tenth of the amount of the bid, with security satisfactory to the board of construction, conditioned that if the contract be awarded to him he will, when required by the board of construction, execute an agreement in writing to perform the work according to the plans and specifications. No bid shall be received by the board of construction or any member thereof except at such meeting, and all bids then received shall be immediately, when opened, publicly read. The board of construction shall reject any or all bids if in their opinion good cause exists therefor, or if the total amount of such lettings shall exceed the estimated cost of construction, but otherwise they shall award the contract or contracts to the lowest responsible bidder, who shall give satisfactory evidence of his ability to perform the contract. The bidder to whom contracts shall be awarded shall execute to the board of construction, for the benefit of the county, a bond to accompany each separate agreement, conditioned for the faithful performance of the contract, in a sum equal to one-half the amount of the contract, and with sureties satisfactory to the board of construction.

Every bid to be accompanied with certified check or bond.

Board may reject any or all bids.

Bond of the successful bidder.

SEC. 31. When the amount of any contract is less than one thousand dollars, no payment shall be made thereon until the contract is fully completed to the satisfaction of the board. When partial payments are provided for in the agreement, as each payment becomes due and before payment shall be made, the board of construction shall file with the clerk of the board of county commissioners their certificate, stating as near as may be the total amount of work done or material furnished, and that such work appears to have been done in all respects as required by the contract. The clerk of the board of county commissioners shall thereupon draw a warrant on the county treasurer in favor of the contractor for the amount due: *Provided,*

No payment until contract is completed.

Manner of allowing and making partial payments.

Proviso.

That no partial payment made during the progress of the work shall exceed eighty per centum of the estimated value of the work done: *And provided further*, That before final payment is made on any contract, the work shall first be examined by the engineer who prepared the estimate, or other competent engineer, and his certificate be filed with the clerk of the board of county commissioners that the work has been fully performed and completed in accordance with the contract.

Re-advertising for bids.

SEC. 32. If, at the time of letting, satisfactory bids are not received for the whole or any part of the improvement, a future time and place shall be fixed for again receiving bids, notice of which shall be given and the same conducted in every manner as hereinbefore provided; or, if any contractor shall fail to perform his work or complete the same, the contract shall be re-let in manner as hereinbefore provided.

Board of construction to inspect work.

SEC. 33. It shall be the duty of the board of construction to inspect all work of construction from time to time and see that the same is being done according to contract, and in case any disa[gree]ment arise[s] as to the manner of doing the same or of the kind of material used, they shall have authority to suspend the construction in question and call in the engineer who prepared the specifications, whose decision shall be final and shall be abided by.

Cost of improvement.

SEC. 34. When not otherwise provided for in the petition the cost of the improvement shall be entered by the clerk of the board of county commissioners upon the duplicate assessment roll against the persons and property as shown on the schedule of appraisement, first deducting from any assessment against a person, company or corporation to whom awards of damages have been made the amount of the same, and in case of any excess of damages over the assessment, a warrant shall be drawn on the county treasurer in favor of the person, company or corporation to whom such damage has been awarded for the balance due after deducting the assessment. And the assessment so made shall be a tax upon the persons and property, and the same shall be collected as other taxes are collected.

SEC. 35. When the petition shall so request, the im-  
 improvements provided for under this act shall be paid for in Payment in  
 annual in-  
 stallments. annual installments by an annual tax levied upon the prop-  
 erty assessed for benefits. The petition shall set forth  
 "that the improvement be paid for on the ..... years  
 installment plan," and the number of years shall not be  
 more than ten. When the improvement is done under the  
 provisions of this section the clerk of the board of county  
 commissioners shall divide the total estimated cost of the  
 improvement, including interest on deferred payments, into  
 as many equal parts as there are installments, and shall  
 each year when an installment is payable, enter the amount  
 of the same upon the duplicate assessment roll against the  
 persons and property assessed for benefits, and it shall be  
 the duty of the county treasurer to collect the same the  
 same as other taxes are collected.

SEC. 36. Construction done under the yearly installment  
 plan shall commence at the place of beginning and be com-  
 pleted without intermission toward the place of ending,  
 and the payment of improvements under such installment  
 plan shall not in any year exceed the benefit assessments  
 for that year. The board of construction shall let con- Contracts.  
 tracts from time to time during the progress of construc-  
 tion in like manner as hereinbefore provided, and the  
 engineer shall divide the road into as many annual con-  
 struction sections of equal cost as there are years for con-  
 struction, and any excess of funds appropriated to one  
 section shall be applicable to the succeeding section.

SEC. 37. The petition may set forth that public welfare Petition.  
 requires that the construction of the *whole* line of improve-  
 ment petitioned for be begun without delay. If upon the  
 hearing of the petition the board of county commissioners  
 determine that public welfare calls for the construction of  
 the whole line of improvement as soon as possible, they  
 shall provide for paying the cost thereof out of the general When pay-  
 ment may be  
 made out of  
 general fund.  
 road fund of the county, and if the county has not suffi-  
 cient funds on hand or in process of collection they may,  
 by resolution passed at any regular or special session, di-

rect that an election be called and held for the purpose of submitting to the legal voters of such county the question whether the bonds of the county shall be issued to provide funds for such construction. Notice of such election shall be given by publication in some newspaper published in this state, and having a general circulation in such county, and to be designated by the board of county commissioners, at least once in each week for four successive weeks, but the first publication shall be at least thirty days prior to the day of election, and if such notice be not published in a newspaper printed in the county where such election is to be held, the notice shall be posted in twenty of the most public places in said county at least thirty days prior to the date of said election. The election notice shall state the amount of bonds proposed to be issued, and shall be signed by the county auditor. The ballots used at such election must contain the words, "Bonds, yes," and "Bonds, no," and the elector receiving the same shall cross out therefrom part of the ballot in such manner that the remaining part shall express his vote upon the question of issuing bonds. In all other respects the general election laws of the state shall control. If three-fifths of the legal voters of such county voting at such election shall deposit a ballot bearing the words "Bonds, yes," it shall thereupon be lawful for the board of county commissioners to issue the bonds of such county, not exceeding the amount so authorized, to be styled, "Road bonds of ..... county." Such bonds shall be issued in denominations of not less than one hundred nor more than one thousand dollars, and shall be numbered from one up consecutively; shall bear the date of their issue; shall be made payable to the bearer at a time to be specified therein not more than twenty years from their date; and shall bear interest at the rate of not to exceed six per cent. per annum, payable semi-annually, and such interest shall be evidenced by coupons attached to such bonds, and the principal and interest shall be payable at the office of the treasurer of such county, and cause the same to be specified in such bonds; subject, however, to

Notice of election to provide for issue of bonds.

What election notice shall state.

Form of ballot.

Denominations of bonds.

Time to run.

Interest.

any general law of this state regulating the place of payment of county bonds. Such bonds shall be printed, engraved or lithographed on good bond paper, and shall be signed by the chairman of the board of county commissioners, and countersigned by the county auditor, and shall have the seal of the board of county commissioners thereto affixed; and the coupons shall be executed by the autograph signatures or by engraved or lithographed *fac similes* of the autograph signatures of the chairman of the board of county commissioners and the county auditor, and need not be sealed. Nothing in this act contained shall be construed to authorize the issue of any bonds which would make the aggregate indebtedness of such county exceed one and one-half per cent. of the value of the taxable property therein, to be ascertained by the last assessment for state and county purposes.

Manner of printing bonds.

Limit of bond issue.

SEC. 38. When bonds are issued to defray the whole or any part of any improvement provided for under this act the entire estimated cost of the improvement shall be divided into as many equal parts as the bonds have years to run, and each part thereof placed annually upon the duplicate assessment roll for collection as other taxes, as hereinbefore provided, and such taxes when collected shall be credited to the general road fund of the county.

Annual tax levy to meet bonds.

SEC. 39. The board of county commissioners of any county issuing bonds under this act are authorized to sell any such bonds to the highest bidder at a price not less than the par or face value of the same, after inviting proposals by advertising the sale thereof in such paper or papers for such period of time as such board shall direct. The proceeds of the sale of such bonds shall be paid over to the county treasurer, and remaining proceeds shall be applied only to the construction of such roads and bridges in such county as are mentioned in section ten of this act, and the construction and repair of such roads and bridges shall be deemed to be and are hereby declared to be strictly county purposes for which indebtedness of such county may lawfully be incurred as in this act provided.

Sale of bonds.

Proceeds.

SEC. 40. The board of county commissioners of any county issuing bonds under this act are authorized and required annually to levy and collect a tax sufficient in amount to pay when due the interest on such bonds, and in case such bonds are issued to run longer than ten years they are further authorized and required annually to levy and collect, beginning with the annual tax levy next succeeding the expiration of ten years from the date of such bonds, an additional tax to provide a sinking fund for the payment of the principal of such bonds. Such annual sinking fund levy shall be at least equal to ten per cent. of the amount of bonds issued. Such sinking fund may be invested in any bonds of the State of Washington or of any county, city, town or school district therein, or may be used to pay off the bonds issued under this act as hereinafter provided.

Sinking fund.

Investment of sinking fund.

County treasurer to call in bonds.

Publication of call.

Proviso.

SEC. 41. Whenever the sinking fund provided for by the last preceding section shall amount to the sum of two thousand dollars or more, not previously applied as in this section provided, it shall be lawful for the county treasurer to designate sufficient bonds, bearing the lowest numbers among those outstanding, to absorb the amount of said fund on hand, as near as may be, and he shall call such bonds by publishing a notice, giving the numbers of the bonds so called for payment, and fixing a day, not less than thirty days after the first publication of the notice, when the bonds will be paid with accrued interest at the place of payment of said bonds, which notice shall be published in a daily newspaper published in the county seat once in each week for four consecutive weeks. And in case the bonds so called for payment are not presented on the day fixed therefor in such notice, interest thereon shall thereupon cease: *Provided*, The money for the payment thereof shall at all times thereafter be retained at the place of payment of the bonds, in readiness for payment of the same on presentation, until such bonds are presented for payment. All bonds and coupons received by the county treasurer under the provisions of this section shall be at

once canceled by him and filed as vouchers with the county auditor as *ex officio* clerk of the board of county commissioners.

SEC. 42. If an engineer, clerk of the board of county commissioners, member of the board of construction, or appraiser, neglect or refuse to perform any duty imposed upon him by the provisions of this act, he shall forfeit and pay a fine of twenty-five dollars for every such neglect or refusal, to be recovered before any officer having competent jurisdiction, in the name of the state, for the benefit of the common schools of the county, at the suit of any person aggrieved thereby. Penalty.

SEC. 43. The court in which any proceeding is brought to recover any tax or assessment paid, or declare void the proceedings to locate or establish any road, or to enjoin any tax or assessment levied or ordered to be levied to pay for the labor and expense as aforesaid shall, if there is manifest error in the proceedings, allow the plaintiff in the action to show that he has been injured thereby, and may on application of either party, appoint such person or persons to examine the premises or to survey the same, or both as may be deemed necessary, the court in which any such proceedings are begun shall allow parol proof that said improvement is necessary and will be conducive to the public needs, convenience and welfare, and that any steps required by law for any improvement have [been] substantially complied with, notwithstanding any defects or omissions in the records required to be kept by any board or officer; and with or without finding error, the court may correct any gross injustice in the apportionment made by the commissioners; the court shall, on final hearing, make such order in the premises as shall be just and equitable, and may order that such tax and assessment remain on the duplicate assessment roll for collection, or the same to be levied, or may perpetually enjoin the same or any part thereof; or if the same has been paid under protest may order the whole or any part thereof as is just and equitable to be refunded, and the costs of such proceedings Court may correct error.

shall be apportioned among the parties or paid out of the county treasury as justice requires.

Commissioners to hear and determine petition for locating improvements.

SEC. 44. The county commissioners may hear and determine at the same time and under the same petition the necessity of locating any new improved road, or of a road already partly improved, or of widening, straightening, re-locating or altering any road previously improved, or in process of improvement under this act, as the necessity of the case requires, and shall cause such entry to be made on their journal as in their judgment is required. All estimates shall be made in the manner provided in this act. No assessment shall be made to any land, person, or property upon any principal other than that of benefits derived and in proportion thereto.

Assessment to be made in proportion to benefits.

SEC. 45. The board of county commissioners shall require each engineer and appraiser appointed by them under the provisions of this act to enter into a good and sufficient bond, with surety to be approved by them, conditioned for the faithful performance of his duties, in a sum to be fixed by the county commissioners, and an action may be brought on such bond by any person aggrieved by a failure of any such person so appointed to do his duty, in the name of such party, and recovery may be had for his benefit.

District road officers to take charge of roads.

SEC. 46. Upon the completion of any improved road or any section thereof, for which final payment has been made, the charges and care thereof shall be assumed by the district road overseer or township road officers in each district or township in which the improvement is located, and it shall be the duty of such road officers to keep the improved roads in their respective districts or townships in constant and good repair, and any failure so to do shall justify the county commissioner in the commissioner's district in which the neglect occurs, to cause such repairs to be made at the expense of the road district or township in which repairs are done.

SEC. 47. In case the road proposed to be improved be located so as to connect with two or more trading points located upon a railroad or body of navigable water, or

with a road already improved under this act, or with a road over which heavy freighting and rapid travel can be done at any time in the year, then each of said points shall be construed as "places of beginning" under this act, and construction may be commenced at one or more of them as the board of construction shall direct.

SEC. 48. The county commissioners may, on the proper petition and bond being filed, and the same notice being given as required in cases of the location of an improved road, declare any such road vacated and abandoned and its location and establishment to be held for naught, if in their judgment the same has ceased to be of public utility, and the public need, convenience and welfare no longer demand the maintenance thereof; but private rights of persons acquired by reason of the location and establishment of such road shall not be interfered with nor in any way impaired thereby unless due compensation be made therefor.

Commissioners may declare road vacated.

SEC. 49. All state, county, school, school district or other lands shall be subject to the provisions of this act, and the proper authorities having charge of said lands may institute proceedings to enjoin assessment of benefits hereunder or for damages herefrom as in the case of private persons: *Provided*, That such public authorities shall not be required to give any bond in such proceedings.

SEC. 50. The clerk of the board of county commissioners shall make, in a suitable book to be provided for that purpose, at the expense of the county, a complete record of each road in his county improved under the provisions of this act, which record shall include the petition and all bonds, reports of the engineer, appraisers and board of construction and all journal entries made, together with all plats and other papers necessary to show a complete history of all that is done in each case up to and including the final order made by the board.

Record of roads to be made by clerk of board of commissioners.

SEC. 51. The commissioners of any county wherein a road improvement is ordered shall provide a suitable book in which to keep the improved road accounts of the county. The clerks shall open therein an account with each im-

Road accounts, how kept.

provement in the name by which the same is known, and charge all assessments and credit all payments made in the case. The money collected on each improvement shall constitute a special fund unless the cost of the improvement shall have been advanced out of the general road fund, in which case the money collected shall be credited to the general road fund.

Fees. SEC. 52. Fees for services of officers under this act shall be the same as for like services in civil cases, or as is or may be provided by law.

Per diem. SEC. 53. In performing their duties under this act, the county commissioners shall be entitled to a per diem allowance equal to that allowed by law for other services.

Blanks. SEC. 54. It shall be the duty of the prosecuting attorney in each county to prepare suitable blanks for the use of the board of county commissioners, under this act.

SEC. 55. All fees under this act, when not otherwise provided for herein, shall be paid out of the county treasury as soon as the bills and items thereof are examined and allowed by the commissioners; and for all amounts so paid, except to the commissioners and clerk, the commissioners shall order the general county fund to be reimbursed from the money raised for the respective improvements.

SEC. 56. All balances remaining unexpended of any road improvement fund arising from excess of assessments made after the expenses thereof have been fully paid, shall be transferred to the general road fund of the county.

Approved March 15, 1893.

## CHAPTER CXXIV.

[S. B. No. 260.]

## REVENUE LAW.

AN ACT to provide for the assessment and collection of taxes in the State of Washington, and declaring an emergency.

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

SECTION 1. That all real and personal property now existing, or that shall be hereafter created or brought into this state, shall be subject to assessment and taxation for the support of the state government, and for county, school, municipal or such other purposes as shall be designated by law, upon equalized valuations thereof, fixed with reference thereto on the first day of April at 12 o'clock, meridian, in each and every year in which the same shall be listed, except such property as shall be expressly exempted therefrom by the provisions of law.

All property subject to assessment and taxation unless expressly exempted.

SEC. 2. Real property for the purposes of taxation shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, or other fixtures of whatsoever kind thereon, and all rights and privileges thereto belonging, or in any wise appertaining, and all quarries and fossils in and under the same, which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, for the purposes of taxation.

Real property defined.

SEC. 3. Personal property for the purposes of taxation shall be construed to embrace and include, without specially defining or enumerating it, all goods, chattels, moneys, stocks or estate; all improvements upon lands, the fee of which is still vested in the United States, or in the State of Washington, or in any railroad company or corporation, and all and singular of whatsoever kind, name, nature and description, which the law may define or the courts interpret, declare and hold to be personal property, for the purpose of taxation, and as being subject to the laws, and

Personal property defined.

under the jurisdiction of the courts of this state, whether the same be in any marine craft, as ships and vessels, or in other property holden under the laws and jurisdiction of the courts of this state, be the same at home or abroad; all credits including accounts, notes, bonds, certificates of deposit, judgments, choses in action and all other debts of whatsoever kind or nature, due or to become due (whether secured or not by mortgage or otherwise): *Provided, however,* That in making up the amount of money or credits which any person is required to list or have listed or assessed, he will be entitled to deduct from the gross amount thereof all debts in good faith owing by him, but no acknowledgment not founded on actual consideration, and no such acknowledgment made for the purpose of being so deducted shall be considered a debt within the intent of this section, and so much only of any liability of such person as security for another shall be deducted, as the person making the list believes he is equitably or legally bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute, then so much only as he in whose name the list is made will be found to contribute; but no person will be entitled to any deduction on account of any obligation of any kind given to any insurance company for the premiums of insurance, nor on account of any unpaid subscription to any institution, society, corporation or company; and no person shall be entitled to any deduction on account of any indebtedness contracted for the purchase of United States bonds or other non-taxable property: *Provided,* That credits shall be assessed at their true and actual value: *And provided further,* That mortgages and all credits for the purchase of real estate shall not be considered as property for the purposes of this act.

Definition  
of terms.

SEC. 4. The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, gold and silver certificates, treasury notes, bank notes and every deposit which any person owning the same or holding in trust, and residing in this state, is entitled to with-

draw in money on demand. The term "tract" or "lot," and "piece or parcel of real property," and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as, the property of the same claimant, person or company. Every word importing the singular number only may be extended to or embrace the plural number, and every word importing the plural number may be applied and limited to the singular number, and every word importing the masculine gender only may be extended and applied to females as well as males. Whenever the word "oath" is used in this act it may be held to mean affirmation, and the word "swear" in this act may be held to mean affirm. The term "person," whenever used in this act, shall be construed to include firm, company or corporation. The words "county auditor," when used in this act, shall be construed to mean register or recorder, whenever it shall be necessary to use the same for the proper construction of this act.

SEC. 5. All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say—*First*, All public school houses, state colleges, state university and state normal schools, with the books and furniture therein, and the grounds attached to such buildings necessary for their proper occupancy; *second*, all lands used exclusively for public burying grounds or cemeteries, all churches built and supported by donations, whose seats are free to all, and the grounds whereon such churches are built, not exceeding one hundred and twenty feet by two hundred feet in quantity: *Provided*, Such grounds are used wholly for church purposes; *third*, all property, whether real or personal, belonging exclusively to any county, municipal corporation, the state or to the United States; *fourth*, all buildings belonging to counties, used for holding courts, for jails, for county offices or county hospitals, with the ground on which such buildings are erected; *fifth*, all lands, houses or other buildings or property belonging to any county, township, city or town, used exclusively for the accommodation or support of the poor; *sixth*,

Special exemption from taxation.

all fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and for the meeting of fire companies, whether belonging to any town or any fire company organized therein; *seventh*, all free public libraries, hospitals for the care of the sick, supported in whole by charity, orphanages and orphan asylums, institutions for the reformation of fallen women, and homes for the aged and infirm, and the grounds whereon such libraries, hospitals, asylums, institutions or homes are built, not exceeding one hundred and twenty feet by two hundred feet, when used exclusively for the purposes in this subdivision enumerated; *eighth*, the personal property of each householder and head of a family, liable to assessment and taxation under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding three hundred dollars: *Provided*, That each person shall list all of his personal property for taxation, and the county assessor shall deduct the amount of the exemption authorized by this section from the total amount of this assessment, and assess the remainder.

All property listed annually.

SEC. 6. All real and personal property in this state, subject to taxation, shall be listed and assessed every year, with reference to its value on the first day of April preceding the assessment: *Provided*, That no male animal kept solely for breeding purposes shall be assessed for more than three hundred dollars.

Change of residence; assessment, how and when made.

SEC. 7. The owner of personal property removing from one county to another between the first day of April and the first day of July shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state between the first day of April and the first day of July shall list the property owned by him on the first day of April of such year in the county in which he resides: *Provided*, If such person has been assessed, and can make it appear to the assessor that he is held for tax for the current year on the property in another state or county, he shall not be again assessed for such year.

SEC. 8. Personal property shall be listed in the manner following: *First*, Every person of full age and sound mind, being a resident of this state, shall list all his moneys, notes, accounts and other credits, bonds or stock, shares of stock of joint stock or other companies (when the property of such company is not assessed in the state), franchises, royalties and other personal property; *second*, he shall also list separately, and in the name of his principal, all moneys deposited subject to his order; *third*, the property of a minor child shall be listed by his guardian or by the person having such property in charge; *fourth*, the property of an idiot or lunatic, by the person having charge of such property; *fifth*, the property of a person for whose benefit it is held in trust by the trustee of the estate of the deceased person, or by the executor or administrator; *sixth*, the property of corporations whose assets are in the hands of receivers, by such receivers or their agents; *seventh*, the property of a body politic or corporate, by the president or proper agent or officer thereof; *eighth*, the property of a firm or company, by a partner or agent thereof; *ninth*, money and property in litigation, in possession of any county officer, must be assessed to the custodian thereof, and the taxes thereupon paid by the custodian thereof under the direction of the court.

Manner of listing personal property, and by whom listed.

SEC. 9. Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county where the owner or agent resides. If there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on.

Place where listed.

SEC. 10. The personal property of express, transportation and stage companies shall be listed and assessed in the county where the same is usually kept. All vessels of every class which are by law required to be registered, licensed or enrolled, must be assessed and the taxes thereon paid only in the county where the owner, or managing owner or agent thereof resides: *Provided*, That such inter-

Same; taxes paid where assessed.

est shall be taxed but once. Vessels registered, licensed or enrolled out of, and plying in whole or in part in the waters of this state, the owners, managing owners or agents of which reside in this state, must be assessed in this state, and in the county in which the owners, managing owners or agents reside, to the value of the respective share or shares owned by said person or persons. All boats and small craft not required to be registered must be assessed in the county where the same are kept.

Same; gas  
and water  
mains defined.

SEC. 11. The personal property of gas and water companies shall be listed and assessed in the town or city where the same is located. Gas and water mains and pipes laid in roads, streets or alleys, shall be held to be personal property.

Street railroad,  
etc., defined.

SEC. 12. The personal property of street railroad, plank road, gravel road, turnpike or bridge companies, shall be listed and assessed in the county, town or city where the same is located, and the track, road or bridge shall be held to be personal property.

Property of  
non-resident,  
where listed.

SEC. 13. When the owner of live stock or other personal property connected with a farm does not reside thereon, the property shall be listed and assessed in the county or place where the farm is situated.

Doubt as to  
listing, how  
settled.

SEC. 14. In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the auditor of state; and when fixed in either case, shall be as binding as if fixed by this act.

Owners or  
agents to  
verify state-  
ment of listed  
property.

SEC. 15. Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which by the provisions of this act he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; no person shall be required to list for taxation in his statement to the assessor

any share or portion of the capital stock, or of any of the property of any company or corporation, which such person may hold in whole or in part, where such company, being required so to do, has listed for assessment and taxation its capital stock and property with the auditor of state, or as otherwise required under the laws of this state.

SEC. 16. The auditor of state shall prepare and furnish county auditors with suitable blank forms of detail lists or schedules, to be used by the assessors for the listing of property, and upon which shall be entered by the assessor, or by the owner or holder, the agent or attorney, the partner, trustee, assignee, receiver, guardian, executor or administrator, or by the president, secretary or principal accounting officer of any company or corporation, a full, true and accurate statement or listing of all property, real and personal, as being owned, held or controlled as aforesaid, and as in such detail list directed, with any and all other property that may not be specified therein, if any such there be, that may be liable to assessment and taxation, and including all property that may or shall be deducted therefrom under exemptions. Such listing shall be verified under the oath of the owner or holder of any such listed property, or by the duly authorized agent making the same, and the true and fair value of such property having been determined and fixed by the assessor, such valuation shall be entered opposite each and every item as therein listed and verified. Such detail list shall show the following schedule of property, made in accordance with the auditor's form marked No. 1, which is made a part and parcel hereof, but to which, however, may and shall be added by the auditor, assessor or his deputy, any and all other taxable property that may at any time be hereafter created or discovered, not at present appearing therein, so that no property shall escape assessment and taxation. Said detail list shall be substantially in the following form:

State auditor to prepare forms, etc.

DETAIL LIST OF PERSONAL PROPERTY.

A schedule of the numbers and amounts of all personal property in the possession or under control of \_\_\_\_\_, belonging to \_\_\_\_\_, on the first day of April, 189\_\_\_\_, listed

Detail list to contain what.

by ....., of the town of ....., county of ....., and State of Washington, as required by the general revenue laws now in force in this state. Residence No. .... street; school district No. ....; road district No. .... (If residing in town or city, give name and number of street.)

<i>Items of property.</i>		No.	Assessor's Val.
1. Horses:	One year old.....		\$.....
	Two years old.....		\$.....
	Three years old and over.....		\$.....
	Work horses.....		\$.....
2. Cattle:	Stallions.....		\$.....
	One year old.....		\$.....
	Two years old.....		\$.....
	Cows.....		\$.....
	All other cattle two years old and over.....		\$.....
	3. Mules and asses of all ages.....		\$.....
	4. Sheep of all ages.....		\$.....
	5. Hogs of all ages.....		\$.....
	6. Wagons and carriages of whatever kind.....		\$.....
	7. Sewing and knitting machines.....		\$.....
	8. Watches and clocks.....		\$.....
	9. Melodeons and organs.....		\$.....
	10. Pianofortes.....		\$.....
	11. Household and office furniture, full value.....		\$.....
	12. Agricultural tools, implements, machinery.....		\$.....
	13. Gold and silver plate and plated ware.....		\$.....
	14. Diamonds and jewelry, and fire arms.....		\$.....
	15. Royalties and patent rights.....		\$.....
	16. Steamboats, sailing vessels, wharf boats, barges, etc.....		\$.....
	17. Goods and merchandise, lumber, saw-logs, wood, coal, wool, hides, etc.....		\$.....
	18. Manufacturers' materials and manufactured articles.....		\$.....
	19. Manufacturers' tools, implements and machinery, including engines and boilers.....		\$.....
	20. Moneys of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
	21. Credits of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
	22. Moneys other than of banks, bankers, brokers or stock jobbers, gold dust or bullion on hand or deposit.....		\$.....
	23. Bonds and stocks (other than bank stock).....		\$.....
	24. Shares of gas, wharf or water stock.....		\$.....
	25. Notes, accounts, warrants and other credits.....		\$.....
	26. Shares of capital stock of insurance or other companies and associations not incorporated by the laws of this state.....		\$.....
	27. Stock and furniture of sample rooms, saloons and eating houses, including billiard, bagatelle and similar tables.....		\$.....
	28. Hay, wheat, oats, corn, barley or other farm products.....		\$.....
	29. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any railroad company.....		\$.....
	30. The value of all improvements on lands held under the laws of the United States.....		\$.....
	31. Shares of stock of insurance or other companies or associations incorporated under the laws of this state.....		\$.....
	32. Gas or water mains. Total number of feet and size.....		\$.....
	33. Gas or water pipe other than mains. Total number of feet and average size.....		\$.....
	34. Telegraph, telephone and electric light lines, as per schedule marked "F," in addition to their personal property above listed.....		\$.....
	35. Cable, horse and electric railways, as per schedule marked "F," in addition to their personal property above listed.....		\$.....
	36. The value of all other articles of personal property not included in the preceding items.....		\$.....
Total value of all personal property listed by assessor under section 16 of revenue law.....			\$.....
.....			\$.....
Total exemptions.....			\$.....
Total value of all personal property assessed by assessor under section 16 of revenue law.....			\$.....

DETAIL LIST OF REAL PROPERTY OF ....., OF ..... COUNTY, WASHINGTON, 189....

Resident road district ..... Resident school district .....  
 ..... Character or designation of property. Description of lands and town property. (In describing lands state whether they are farming, grazing, mineral or timber lands; also, if city or town property, give the name of the town and plat, or addition, and give accurate description of all other designated real estate under this head.) Town or city property. No. lot. No. block. No. of section. No. of township. No. of range. No. of acres in each tract or parcel except lots. No. of acres in each tract or parcel improved. Property, road district. Property, school district. Full cash value of each tract, parcel, lot or block of land assessed. Full cash value of improvements on each tract, lot or parcel of land assessed. Full cash value of all real property assessed. Road poll. Bridge.

Form of real property detail list.

RECAPITULATION.

Farm lands, unimproved (acres), ..... Grazing lands (acres), ..... Timber lands (acres), ..... Mineral lands (acres), ..... Improved lands (acres), ..... Total acreage, ..... Aggregate assessed value of real property, \$..... Aggregate assessed value of personal property, \$..... Total valuation of all property assessed, \$..... Total road poll tax, \$.....

AFFIDAVIT OF PERSON LISTING THE WITHIN PROPERTY.

STATE OF WASHINGTON, COUNTY OF ....., SS.

I, ....., do solemnly swear that I am a resident of the county of ....., that the within and foregoing detail lists contain full and correct statements of all property subject to taxation in this county which I or any firm of which I am a member, or any corporation, association or company of which I am president, cashier, secretary or managing agent, owned, claimed, possessed or controlled on the first day of April, 189..., at 12 o'clock meridian, and which is not already assessed for said year, and that I have not in any manner whatever transferred or disposed of any property or placed any property out of said county

Affidavit of party listing property.

or my possession for the purpose of avoiding any assessment upon the same, or of making this statement.

.....,  
Residence, .....

Subscribed and sworn to before me this ..... day of  
....., 189.....

....., *County Assessor.*

Assessor may examine party under oath as to correctness of list.

SEC. 17. When the assessor shall be of opinion that the person listing property for himself or for any other person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of the property he is required to list, and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person, or his principal, according to his best judgment and information.

Merchandise defined and how listed.

SEC. 18. Whoever owns, or has in his possession or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property within this state, with authority to sell the same, which has been purchased either in or out of this state, with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within the state, shall be held to be a merchant, and when he is by this act required to make out and to deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant. No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise, shall be listed and assessed as merchandise.

Exceptions.

Stock of nurserymen, etc., to be listed.

Manufacturers' property, how assessed.

SEC. 19. Every person who purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing,

shall be held to be a manufacturer, and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as part of his manufacturer's stock, the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of every kind used or designed to be used for the aforesaid purpose.

Stock and machinery of, to be listed.

SEC. 20. The president, secretary or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this act, shall make out and deliver to the assessor a sworn statement of its property, setting forth particularly—*First*, The name and location of the company or association; *second*, the real property of the company or association and where situated; *third*, the nature and value of its personal property. The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

Officers of companies and associations to deliver statements to assessor.

SEC. 21. All the shares of stock in banks, whether of issue or not, existing by authority of the United States or of the state, and located within the state, shall be assessed to the owners thereof in the cities or towns where such banks are located, and not elsewhere; in the assessment of all state, county and municipal taxes imposed and levied in such place, whether such owner is a resident of said city or town or not, all such shares shall be assessed at their full and fair value in money on the first day of April in each year, first deducting therefrom the proportionate part

Banks, etc., where assessed and taxed.

of the value of the real estate belonging to the bank, at the same rate, and no greater, than that at which other moneyed capital in the hands of citizens and subject to taxation, is by law assessed. And the persons or corporations who appear from the records of the banks to be owners of shares at the close of the business day next preceding the first day of April in each year shall be taken and deemed to be the owners thereof for the purposes of this section.

Annual pay-  
ment of tax.

SEC. 22. Every such bank or other corporation shall pay to the collector, or other person authorized to collect the taxes of the state, county, city or town in which the same is located, at the time in each year when other taxes assessed in the said state, county, city or town become due, the amount of the tax so assessed in each year upon the shares in such bank or other corporation. If such tax is not so paid, the said bank or other corporation shall be liable for the same.

Lien on shares  
for unpaid  
taxes.

SEC. 23. The shares of such banks or other corporations shall be subject to the tax paid thereon by the corporation or by the officers thereof, and the corporation and the officers thereof shall have a lien on all the shares in such bank or other corporation and on all the rights and property of the shareholders in the corporate property for the payment of said taxes; which lien may be foreclosed by a similar proceeding as under chattel mortgages.

To furnish list  
to assessor.

SEC. 24. The cashier of every such bank shall make and deliver to the assessor of the county in which such bank is located, on or before the fifteenth day of April in each year, a statement verified by the oath of such cashier showing the name of each shareholder, with his residence and the number of shares belonging to him at the close of the business day next preceding the first day of April, as the same then appeared on the books of said bank. If the cashier fails to make such statement, said assessor shall forthwith, upon such failure, obtain a list of shareholders, with the residence of and number of shares belonging to each.

Foreign banks,  
how taxed.

SEC. 25. Foreign banks and private bankers doing business in this state and having no fixed amount of capital

paid in and used permanently in the conduct of such business, shall be assessed on an amount equal to a general average of money used as exhibited by daily or monthly balance sheets during the year preceding the time of rendering such tax list to the assessor. If such bank or banker shall refuse to make such return of capital as above provided, then the assessor shall proceed to make an arbitrary assessment, which shall be as fair and as equable as he may be able to make from the best information he possesses.

Arbitrary  
assessment,  
when.

SEC. 26. Property held under a contract for the purchase thereof, belonging to the state, county or municipality, and school and other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same.

Property  
under contract.

SEC. 27. The assessor must assess all improvements on public lands as personal property until the settler thereon has made final proof. After final proof has been made, and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not been issued.

Improvements  
on public  
lands.

SEC. 28. Every person, company or corporation owning, operating or constructing a railroad in this state shall return sworn lists or schedules of the taxable property of such railroads as hereinafter provided. Such property shall be listed and assessed with reference to the amount, kind and value, on the first day of April of the year in which it is listed.

Railroad cor-  
porations to  
return sworn  
lists.

SEC. 29. They shall in the month of April of the year eighteen hundred and ninety-three, and at the same time each year thereafter, make out and file with the county assessors of the respective counties in which the railroad may be located, a statement or schedule showing the property held for right-of-way in each county and in each city, town or village in the county through or into which the road may run, and describing each tract of land, other than a city, town or village lot, through which the road may run, in accordance with the United States surveys, where the land is surveyed, giving the width and length of the strip of land held in each tract, and the number of acres thereof. They shall also state the value of improvements

When sched-  
ules to be made  
out, what to  
contain, etc.

and stations located on the right-of-way. New companies shall make such statement in April next after the location of their roads.

Right-of-way.

SEC. 30. All land occupied and claimed exclusively as the right-of-way for railroads by railroad companies or corporations, with all the tracks and all the substructures and superstructures which support the same, must be assessed as a whole and as real estate, without separating the same into lands and improvements, at a certain sum per mile, which sum, like other lands, shall be full cash value thereof, and all such real estate situated in the state, occupied and claimed by any railroad company as such right-of-way shall be deemed to be the property of such company for the purposes of taxation.

Railroad improvements, when deemed personal property.

SEC. 31. All railroad improvements, other than the track, substructures and superstructures which support the same, wherever situated, upon the land occupied as the right-of-way owned or occupied by any railroad company or person, used or occupied as such right-of-way, must be separately assessed as personal property.

Values listed and taxed in each county relatively.

SEC. 32. The value of the "railroad track" shall be listed and taxed in the several counties in the proportion that the length of the main track in such county bears to the whole length of the road in the state, except the value of the side or second track, and all turnouts, and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county in which the same are located.

Moveable railroad property treated as personal.

SEC. 33. The moveable property belonging to a railroad company shall be held to be personal property, and denominated, for the purpose of taxation, "rolling stock." Every person, company or corporation owning, constructing or operating a railroad in this state shall in the month of April, annually return a list or schedule to the county assessor of each county wherein they hold or own property, which shall contain a correct detailed inventory of the rolling stock belonging to such company, and which shall distinctly set forth the number of locomotives of all classes, passenger cars of all classes, sleeping and dining cars, express cars, baggage cars, house cars, cattle cars, coal cars,

Lists, what to contain.

platform cars, wrecking cars, pay cars, hand cars and all other kind of cars.

SEC. 34. The rolling stock shall be listed and taxed in the several counties in the proportion that the length of the main track used or operated in such county bears to the whole length of the road used or operated by such person, company or corporation, whether owned or leased by him or them in whole or in part. Said list or schedule shall set forth the number of miles of main track on which said rolling stock is used in the State of Washington, and the number of miles of main track on which said rolling stock is used elsewhere.

Rolling stock,  
how listed  
and taxed.

SEC. 35. All tools, machinery and material for repairs, and all other personal property of any railroad company, except "rolling stock," shall be listed and assessed as personal property in the county wherever the same may be on the first day of April of each year. All the real estate other than that denominated railroad track and right-of-way, belonging to any railroad, shall be listed as lands or lots, as the case may be, in the county where the same are located and shall be assessed with the improvements in the same manner as other similar property is assessed.

Other railroad  
personal  
property,  
when taxed.

SEC. 36. The proper officer of each railroad shall return to the assessor of the county a copy of the schedule or list of the real estate and of the personal property pertaining to the railroad; and such real and personal property shall be assessed by the assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to railroads under the terms "lands," "lots" and "personal property."

SEC. 37. At the same time that the "lists or schedules" as hereinbefore required to be returned to the county assessor, the person, company or corporation running, operating or constructing any railroad in this state shall return to the state auditor sworn statements or schedules as follows: *First*, of the property denominated as "railroad tracks," giving the length of the main and side or second tracks and turnouts, and showing the proportions in each

Lists and  
schedules to be  
returned to  
state auditor.

What to con-  
tain, in detail.

county and the total in the state, and a list of its lands and real estate other than railroad track; *second*, the "rolling stock," stating what is owned by the railroad company and what is used under lease and taxable to said company by the terms of lease, and from whom leased, giving the length of the main track in each county, the total in this state, and the entire length of the road, and a schedule of other personal property in each county; *third*, showing the number of ties per track per mile, the weight of iron or steel per yard used in main or side tracks, what fastenings are used in track, the ballasting of road, whether gravel or dirt, the number and quality of buildings or other structures on "railroad track," the length of time iron in track has been used, and the length of time the road has been built; *fourth*, a statement or schedule showing (1) the amount of capital stock authorized and the number of shares into which such capital stock is divided; (2) the amount of capital stock paid up; (3) the market value, or if no market value, then the actual value of the shares of the stock; (4) the total amount of all indebtedness except for current expenses for operating the road; (5) the total listed valuation of all its tangible property in this state. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state auditor.

¶  
Duty of assessor when company fails to return lists.

SEC. 38. If any person, company or corporation owning, operating or constructing any railroad, shall neglect to return to the county assessors the statements or schedules required to be returned to them, the property so to be returned and assessed by the assessor shall be listed and assessed as other property. In case of failure to make returns to the state auditor, as hereinbefore provided, the state auditor, with the assistance of the county assessors, when he shall require such assistance, shall ascertain the necessary facts and lay the same before the state board of equalization. In case of failure to make such statements, either to the county assessor or state auditor, such corporation, company or person shall forfeit, as a penalty, not less than ten thousand dollars for each offense, to be recovered in any proper form of action in the name of the State of Washington, and paid into the state treasury.

Penalty.

SEC. 39. When any railroad company shall make or record a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat.

Plat of lots, how designated.

SEC. 40. Any person, company or corporation using or operating a telegraph, telephone or electric light line in this state, shall, annually, in the month of April, return to the county assessor a schedule or statement, under oath, as follows: *First*, the amount of capital stock authorized, and the number of shares into which said capital stock is divided; *second*, the amount of capital stock paid up; *third*, the market value, or, if no market value, then the actual value of the shares of stock; *fourth*, the total amount of all indebtedness, except current expenses for operating the line; *fifth*, the length of the line operated in each county, and the total length in the state; *sixth*, the total assessed valuation of its tangible property in this state. Such schedule shall give the date, character, extent and value of such franchise, the number of poles per mile, the number of wires, and every electric light company shall give the kind of lights and the number of each kind supplied, the location and value of the electric plant, whether the ground is owned or leased, and, if leased, the owner's name, and the value of the plant separate from such ground. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state auditor, and with reference to amounts and values on the first day of April of the year for which the return is made, and it shall be the duty of the county assessor to transmit a copy of such schedule to the state auditor on or before the first Monday in September of each year. All property, real and personal, owned by such person, company or corporation and situated in this state must be listed and assessed for taxation, and shall be subject to the same levies as the property of individuals and the same rules that govern other companies and corporations.

Telegraph and telephone companies to return lists of property to assessor, and what lists to contain.

State auditor to prescribe forms of schedules.

All property to be listed for taxation.

SEC. 41. If any person or corporation shall give a false or fraudulent list, schedule or statement required by this act, or shall fail or refuse to deliver to the assessor, when called on for that purpose, a list of the taxable personal

Penalty for giving false statements.

property which he is required to list under this act, he or it shall be liable to a penalty of not less than ten dollars nor more than two thousand dollars, to be recovered in any proper form of action in the name of the State of Washington, on the complaint of any person, such fine when collected to be paid into the country treasury to the credit of the general fund.

Same.

SEC. 42. Whoever shall willfully make a false list, schedule or statement, under oath, shall, in addition to the penalty provided in the preceding section, be liable as in case of perjury.

Insurance companies to be taxed on premiums.

SEC. 43. All life, life and accident, fire, fire and marine, plate glass and steam boiler insurance companies now doing business in this state, and all other insurance companies not herein mentioned, or that may hereafter do business in this state, must file with the state auditor annually, on or before the first day of April in each year, a statement, under oath, stating the amount of all premiums received by said companies during the year and the amount of all losses paid and shall pay into the state treasury a tax of two per cent. on all such premiums collected, less the amount losses paid. The auditor of state shall file such verified statement and schedule in his office and certify the amount of such gross receipts, less losses as aforesaid, to the state treasurer. Within ten days thereafter such insurance company shall pay or cause to be paid into the state treasury a tax of two per cent. upon all such gross receipts, less such losses paid in the State of Washington, which payment when so made, shall be in lieu of all taxes upon the personal property of such company and the shares of stock therein. Any insurance company failing or refusing to render such statement and to pay the required two per cent. tax thereon for more than thirty days after the time so specified shall be liable to a fine of one hundred dollars for each additional day such statement and payment is delayed, and the taxes may be collected by distraint and the fine recovered by an action to be instituted by the attorney general, in the name of the state, in any court of competent jurisdiction, and such company is enjoined from doing business in this state until such payment of taxes,

Penalty for failure to pay tax.

and fine, should any be imposed, is fully made, and notice thereof given to the auditor of state, as required in all other instances, upon payment of taxes or other moneys to the state treasurer: *Provided*, That all real property, if any, of such company shall be listed, assessed and taxed the same as real property of like character of individuals. Proviso.

SEC. 44. All property shall be assessed at its true and fair value in money. In determining the true and fair value of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair, voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a fair, voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. Property to be assessed at its true value in money; how determine value.

SEC. 45. The assessor shall list all real property according to the smallest legal subdivision as near as practicable, and, where land has been platted into lots and blocks, he shall list each lot or fraction thereof separately. The assessor shall make out in the real property assessment books, in numerical order, complete lists of all lands or lots subject to taxation, showing the names of owners, if to him known, and if unknown, so stated opposite each tract or lot in pencil memorandum, the number of acres, and lots Real property assessed in numerical order.

or parts of lots, included in each description of property. The assessment books and blanks shall be in readiness for delivery to the assessors on the first Monday of March of each year.

Assessor, bond  
of and oath  
of office.

SEC. 46. Every person elected or appointed to the office of assessor shall file with the board of county commissioners, within the time provided by law, his bond, payable to the State of Washington, with two or more good freehold sureties, to be approved by the said board, in the penal sum to be fixed by the board of county commissioners, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond or fails to take the oath required within the time prescribed such failure shall be deemed a refusal to serve.

Assessor may  
appoint  
deputies.

SEC. 47. Any assessor, who deems it necessary to enable him to complete the listing and the valuation of the property of his county within the time prescribed by law, may appoint one or more well qualified citizens of his county to act as his assistants or deputies, and assign them to such portion of his county as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors by the provisions of this act; and each of such deputies shall receive for his services while actually employed in such work the sum which may be designated and allowed by the board of county commissioners, not exceeding five dollars per day: *Provided*, That no assessor shall appoint any deputy unless the same be actually necessary, and then for no longer time than may be actually needed: *Provided further*, That the county commissioners may limit the number of deputies to be employed by the assessor.

Compensation.

Number  
limited.

Time within  
which assessor  
shall perform  
duties.

SEC. 48. The assessor shall begin the preliminary work for each assessment not later than the first day of February of each year in all counties from the first to the six-

teenth class inclusive, and not later than the first day of March in all other counties in the state. He shall also perform the duties of listing and placing valuations on all property during the months of April, May and June of each year, and in the following manner, to wit: He shall actually view and determine as nearly as practicable, the true and fair value of each tract or lot of real property listed for taxation, and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property. He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books opposite the name of the party assessed; and in making such entry in his assessment list, he shall give the name and postoffice address of the party listing the property, and if the party reside in a city the assessor shall give the street and number or other brief description of his residence or place of business.

To list names  
of property  
owners.

SEC. 49. The assessor shall call at the office, place of doing business or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property, in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and shall deliver to the assessor, who shall thereupon assess the value of such property and enter the same in his books: *Provided*, If any property is listed or assessed on or after the fourth Monday of June, and before the return of the assessor's books, the same shall be legal and binding as if listed and assessed before that time: *Provided further*, That if from any reason the assessor shall fail to visit any such person, firm or corpo-

How names  
shall be listed.

Proviso.

ration, said failure shall not impair or invalidate such assessment.

Notice to be left in case of sickness or absence of property owner.

SEC. 50. If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice requiring such person to make out and leave at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice and the name of the person required to list the property shall be noted by the assessor in his assessment book.

Refusal or neglect to list property.

SEC. 51. In every case where any person whose duty it is to list personal property for taxation has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused to list" or "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent or unable from sickness to list the same, the assessor shall list the property of such person and enter opposite the name of such person in an appropriate column, the words "absent or sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine upon oath any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or verify his list of personal property. The assessor shall report to the county board of equalization all cases where the owner or agent of property assessed was, at the time of assessment, either absent or sick or refused to make a sworn statement in reference thereto.

Assessor may administer oaths.

School and road districts to be designated.

SEC. 52. It shall be the duty of assessors, when assessing real or personal property, to designate the number of the school district and road district in which each person and each description of property assessed is liable for tax,

which designation shall be made by writing the number of the districts opposite each assessment, in a column provided for that purpose in the assessment books. When the real and personal property of any person is assessable in several school districts and road districts, the amount in each shall be assessed separately and the name of the owner, if known, together with his postoffice address, placed opposite each amount.

SEC. 53. The county commissioners of each county shall furnish the assessor with a map of the county, showing the boundaries of each road and school district therein numbered. Map of county furnished to the assessor.

SEC. 54. In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. Failure to obtain lists.

SEC. 55. The assessor shall add up and note the amount of each column in his assessment books. He shall also make in each book, under proper headings, a tabular statement showing the footings of the several columns upon each page, and shall add up and set down under the respective headings the total amounts of each column, and on or before the first Monday in August he shall file the same properly indexed with the clerk of the county board of equalization for the purpose of equalization by the said board, and shall deliver therewith the lists and statements of all persons assessed. Such returns shall be verified by his affidavit, substantially in the following form: Footing on each page of assessment books.

STATE OF WASHINGTON, ..... COUNTY, ss.

I, ....., assessor of ....., do solemnly swear that the book to which this is attached contains a correct and full list of all the real property (or personal property, as the case may be) subject to taxation in ..... county, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the Certificate of assessor.

several kinds and descriptions of property, is in each case the true and fair value of such property, to the best of my knowledge and belief, and that the footings of the several columns in said book, and the tabular statement returned herewith, are correct as I verily believe.

....., Assessor.

Subscribed and sworn to before me this ..... day of ..... , 18.....

[ L. S. ]

....., Auditor of ..... County.

*Provided*, That the failure of the assessor to attach his certificate shall in nowise invalidate the assessment. After the same has been duly equalized by the county and state board of equalization, the same shall be delivered to the county auditor, who shall then extend the amount as levied by the state and county boards upon the said rolls as by law provided.

Parties may return lists to auditor, when.

SEC. 56. If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person or his agent having charge of such property, may, at any time before the close of the session of the board of equalization, make out and deliver to the said board a statement of the same as required by this act, and the board shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the said board from any person who refused or neglected to make oath to his statement when required by the assessor as provided herein; nor from any person unless he makes and files with the said board an affidavit that he was absent from his county, without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called on for that purpose.

Exception.

Auditor to examine assessment roll and add omitted property.

SEC. 57. The county auditor shall carefully examine the assessment books when returned to him by the assessor, and if he discovers that the assessment of any property has been omitted, shall enter the same upon the proper list and forthwith notify the assessor making such omission, who

shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform his duty, the auditor shall ascertain the value of such property and make the necessary corrections.

SEC. 58. Any oath authorized to be administered under this act may be administered by any assessor or deputy assessor, or by any other officer having authority to administer oaths.

SEC. 59. The county commissioners, or a majority of them, shall form a board for the equalization of the assessment of the property of the county. They shall meet for this purpose annually, on the first Monday in August, at the office of the auditor, who shall act as clerk of said board, and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of the property of the county, and proceed to equalize the same so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, subject to the following rules: *First*, They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, after at least five days' notice shall have been given in writing to the owner or agent; *second*, they shall reduce the valuation of each tract or lot which in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof; *third*, they shall raise the valuation of each class of personal property which in their opinion is returned below its fair and true value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual, whenever they believe that such aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe to be the true value thereof, after at least five days' notice shall have been given in writing to the owner or agent

thereof; *fourth*, they shall, upon complaint in writing of any party aggrieved, being a non-resident of the county in which his property is assessed, reduce the valuation of each class of personal property enumerated in section 16 aforesaid, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individuals who in their opinion have been assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property; *fifth*, they shall not reduce the aggregate value of the real property or the aggregate value of the personal property of their county below the aggregate value thereof as returned by the assessor, except manifest errors are shown to exist therein, with the additions made thereto by the auditor, as hereinbefore required. The county auditor shall keep an accurate journal or record of the proceedings and orders of said board in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of the state, with the abstract of assessment hereinafter required. The county board of equalization may continue in session and adjourn from time to time during three weeks, and shall remain in session not less than three days, commencing on the said first Monday of August, but after final adjournment the county commissioners shall not have power to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, but may correct errors in description or double assessments: *Provided*, That no taxes shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization for the purpose of raising the state revenue.

Auditor to  
record changes  
in assessment  
lists.

SEC. 60. The county auditor shall make due record of the changes of the assessment lists determined by the county board of equalization and make corrections accordingly. Having made such corrections of the real and personal lists,

or both, as the case may be, he shall make duplicate abstracts of such corrected lists, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state on or before the second Monday of September following each county equalization. The county auditor shall, also, on or before the fifteenth day of January in each year, make out and transmit to the auditor of state, in such form as may be prescribed, a complete abstract of the tax rolls of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the county; the aggregate amount of all taxable property in the county; the total amount as equalized, and the total amount of taxes levied in the county for state, county, town, and all other purposes, for that year. Should the auditor of any county fail to transmit to the state auditor the first abstract provided for in this section by the time the state board of equalization convenes, and if, by reason of such failure to transmit such abstract, any county shall fail to collect and pay to the state its due proportion of the state tax for any year, the state board of equalization shall, at its next annual session, ascertain what amount of state tax said county has failed to collect, and the state auditor shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said sum shall be due and payable immediately by warrant in favor of the state on the general county fund of said county.

Abstract of  
tax rolls.

SEC. 61. The secretary of state, the commissioner of public lands and the auditor of state shall constitute the board of equalization. The auditor shall be president of the board, and they shall remain in session not to exceed twenty days; may adjourn from day to day, and employ such clerical assistance as may be deemed necessary to facilitate its labors: *Provided*, That the expense of such board shall not exceed the sum of \$500 in any one year. The said board shall meet annually, on the second Monday of September, at the office of the auditor of state, and shall examine and compare the returns of the assessment of the

State board of  
equalization.

Expenses.

Duties of  
board.

property in the several counties of the state, and proceed to equalize the same, so that each county in the state shall pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the valuation of the property in each county bears to the total valuation of all property in the state. *First:* They shall classify all property, real and personal, and shall raise and lower the valuation of any class of property in any county to a value that shall be equal and uniform, so far as possible, in every part of the state, for the purpose of ascertaining the just amount of tax due from each county for state purposes. *Second:* The secretary shall keep a full record of the proceedings of the board, and the same shall be published in the biennial report of the auditor of state. *Third:* They shall have authority to adopt rules and regulations for the government of the board, and to enforce obedience to its orders in all matters in relation to return of county assessments, and to the equalization of values by said board. The said board of equalization shall apportion the amount of tax for state purposes as required by law, to be raised in the state among the several counties therein, in proportion to the valuation of the taxable property therein for the year as equalized by the board. It shall be the duty of the county auditor in each county, when he shall have received the report of the state auditor as provided in section 62 of this act, to determine the rate per cent. necessary to raise the taxes required for state purposes, as determined by the state board of equalization and place the same on the tax rolls of the county as provided by law.

Transcript of proceedings transmitted to counties.

SEC. 62. When the state board complete their equalization, the auditor of state shall transmit to each county auditor a transcript of the proceedings of the board, within ten days after said board adjourns, specifying the amount to be levied and collected on said assessment rolls for state purposes for such year, and the county auditor shall compute the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, and shall extend such taxes in the proper columns on such roll: *Provided,* That the rate so

County auditor.

computed shall not be such as to raise a surplus of more than 5 per cent. over the amount required by the state board.

SEC. 63. All county taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property as equalized by the county board of equalization each year, except such general taxes as may be definitely fixed by law. The amount of state tax shall be levied by the state board of equalization and the rate be ascertained by the several county auditors on the valuation in their respective counties: *Provided*, That the amount levied in any one year shall not, for general state purposes, exceed three mills on a dollar, property valuation of the entire state. The amount of levy, as determined annually by the state board, shall be certified by the auditor of state to each county auditor on or before the first Monday of November of each year. The county taxes shall be levied by the county commissioners at the time of their meeting in October of each year. Such taxes shall be based upon an itemized statement of the estimated county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such estimated expenses, with an excess of fifteen per cent. of the same. The rate per centum of all taxes, except the state tax and such other taxes, the rates of which may be fixed by law or the county commissioners, shall be calculated and fixed by the county auditor according to limitations hereinafter prescribed.

SEC. 64. For the purpose of raising a revenue for the state, county, school, road and other purposes, the board shall, at said October session, levy a tax on all taxable property in the county, as shown by the assessment roll, which tax shall be sufficient to defray the state, county, school, road and other expenses of the county or state: *Provided*, The state tax shall not exceed the amount levied by the state board of equalization; the county tax shall not exceed eight mills; the school tax shall not exceed eight

County taxes,  
how levied.

County board  
to levy taxes  
at October  
session.

mills; the road tax shall not exceed five mills; the bridge tax shall not exceed three mills; and all other taxes shall be in accordance with the laws of this state.

Auditor to make out tax rolls.

SEC. 65. The county auditor shall extend the taxes upon the assessment roll in the form hereinafter prescribed. The rate per cent. necessary to raise the required amount of the total tax for state, county, road, bridge, school and all other county and state purposes, shall be computed on the assessed valuation of property as equalized by the county board of equalization as a whole; under the head of consolidated tax, the rate per cent. necessary to raise the required amount of any special district tax shall be computed as to the attested valuation of property within such district as equalized by the county board of equalization; all taxes assessed against any property shall be added together and carried to the total column. In extending any tax whenever it amounts to a fractional part of a cent greater than five mills, it shall be made one cent, and whenever it amounts to a fractional part of a cent less than five mills, it shall be dropped. The amount of all taxes shall be entered in the proper columns as shown by entering the rate per cent. of consolidated tax and of such special tax at the head of the proper columns. On the first day of each month the county treasurer shall distribute *pro rata* according to the rate of levy for each fund the amount collected as consolidated tax during the preceding month and shall certify the same to the county auditor.

Auditor's certificate to tax roll.

SEC. 66. It shall be the duty of the county auditor to make in each tax book or list, a certificate in the following form, viz.:

I, A..... B....., auditor of ..... county, State of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of ..... for the year one thousand eight hundred and .....

Witness my hand and seal this ..... day of .....  
....., *County Auditor*.

Fiscal year.

SEC. 67. The assessment year contemplated in this act shall commence on the first day of April and end on the thirty-first day of March in each year.

SEC. 68. On the first Monday of January next succeeding the date of levy of taxes the county auditor shall deliver to the county treasurer the assessment rolls of his county, for such assessment year, with his warrant thereto attached, authorizing the collection of said taxes, taking his receipt therefor. The amount of said taxes due upon said books shall be charged to the treasurer in an account to be designated as treasurer's "Tax Roll Account" for 18....., and said books with the warrants for collection shall be full and sufficient authority for the county treasurer to receive and collect all taxes therein levied: *Provided*, That the county treasurer shall in no case collect such taxes or issue receipts for the same or enter payment or satisfaction of such taxes upon said assessment rolls before the second Monday of said January. The auditor shall also file with the county treasurer the detail lists and statements of all persons assessed upon said assessment rolls, arranged alphabetically, which shall be preserved as a public record in the office of the county treasurer for the period of two years, and on the expiration of said two years said detail lists and statements may be destroyed.

Time for county auditor to deliver roll to treasurer.

SEC. 69. The county treasurer shall be the receiver and collector of all the taxes extended upon the tax books of the county, whether levied for state, school, bridge, road or other purposes, and also of all fines, forfeitures or penalties, received by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds.

County treasurer to be receiver and collector of all taxes.

SEC. 70. On receiving the tax books from the county auditor, the treasurer shall give notice by publication in some newspaper having general circulation in the county, once in each of three consecutive weeks, that the tax books have been turned over to him for the collection of taxes thereon, on and after the second Monday of January. He shall, when requested, notify each taxpayer in his county, at the expense of the county, having printed on said notice the name of each tax and the levy made on the same, of the amount of his real and personal property, and the total

Notice of taxes due.

amount of tax due on the same; and from and after the taking effect of this act the county treasurer shall be the sole collector of all delinquent taxes and all other taxes due and collectible on the tax lists of the county, and all other county officers having tax lists in their possession, or authority to collect on the same, are hereby directed to deliver up said lists to the treasurer of their respective counties, to the end that such treasurer shall be the sole collector of all taxes levied therein.

Treasurer  
must give  
receipt for  
taxes paid.

SEC. 71. The county treasurer, upon receiving any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, city or town lot, or other real and personal property on which the tax so paid was levied according to its description on the treasurer's assessment roll and the year for which such tax was levied. Such receipts shall be numbered consecutively for such year, and such numbers shall be immediately entered upon the treasurer's assessment roll opposite each and every piece of property therein for which such receipt was given; it shall contain the name of the party paying, with the amount and date of payment and the description of the property paid on. Such receipt shall be made out with a stub, which shall be a summary of the receipt. He shall post such collections in his cash or collection register, provided for that purpose, to thus keep an accurate account not only of the gross amount of collections but also the amount collected upon the consolidated fund and upon each and every separate fund. The treasurer shall also keep a separate register for the purpose of entering therein all collections made on account of delinquent registered taxes.

Personal  
property  
tax, when  
delinquent.

SEC. 72. All unpaid personal property taxes shall become and be deemed delinquent on the first day of April next after they become due, and thereupon a penalty of 5 per cent. shall attach and be charged upon all such taxes, and interest at the rate of 20 per cent. per annum shall be charged upon such unpaid taxes and penalty from date of delinquency until paid. Immediately after the first day of

Interest and  
penalty.

How collected,  
and distraint  
of property.

April the county treasurer shall proceed to collect all delinquent personal property taxes, and if such taxes are not

paid on demand he shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same with the said penalty and interest, together with all accruing costs, and shall immediately proceed to advertise the same in three public places in the county where such property is taken, stating the time when and the place where such property will be sold; and if the taxes for which said property is distrained and the costs which accrue thereon are not paid before the date appointed for such sale, which shall be not less than ten days after the taking of such property, such treasurer shall proceed to sell such property at public auction or so much thereof as will be sufficient to pay such taxes, penalty, interest and costs.

Sale of property.

SEC. 73. If the county treasurer is unable, for the want of goods or chattels whereupon to levy, to collect by distress or otherwise, the taxes, or any part thereof which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, accounting officer, agent or factor, such treasurer shall file with the county auditor on the thirtieth day of June following, a list of such taxes with an affidavit of himself, or of the deputy treasurer entrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels where-with to make such taxes, and was unable to make or collect the same. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied cannot be collected. The county auditor shall then certify to the state auditor the amount of state tax thus found to be delinquent and uncollectible, which amount shall be deducted from the amount to be paid by such county to the state treasurer on account of such taxes.

In case of failure to collect, to file list with county auditor.

SEC. 74. If any county treasurer shall willfully refuse or neglect to collect any tax assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole

Penalty for refusal or neglect to collect taxes.

amount of such taxes uncollected, and the same shall be deducted from his salary and applied to the several funds for which they were levied.

Power to levy and collect taxes devolves upon treasurer.

SEC. 75. The power and duty to levy and collect any tax due and unpaid shall continue in and devolve upon the county treasurer and his successors in office after his return to the county auditor, and until the tax is paid; and the warrant attached to the assessment roll shall continue in force and confer authority upon the treasurer to whom the same was issued, and upon his successors in office, to collect any tax due and uncollected thereon. This section shall apply to all assessment rolls and the warrants thereto attached, which have been heretofore issued, upon which taxes may be due and unpaid, as well as those hereafter issued.

SEC. 76. The county treasurer, or his deputy, shall tax the same fees for making distress and sale of goods and chattels for the payment of taxes as are allowed by law to constables for making levy and sale of property on execution; traveling fees to be computed from the county seat of the county to the place of making the distress.

When settlement to be made with county auditor.

SEC. 77. On the first Mondays of January, April, July and October, respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes from the date of the last settlement up to and including the last day of the preceding month. The county auditor shall, on or before the fifteenth day of the month in which said settlement is made, notify the state auditor of the result of the several quarterly settlements made with the county treasurer as above specified, and the state auditor shall immediately certify to the state treasurer the amount of state funds in the hands of the several county treasurers, as shown by the quarterly reports of the several county auditors, and the state treasurer is hereby authorized to immediately draw a bank draft, payable at sight, on each county treasurer, respectively, for the amount of state funds in his hands or possession. Should any county treasurer fail or refuse to honor such draft or make payment of the amount

thereof (except in case of manifest error) he shall be guilty of nonfeasance in office, and upon conviction thereof shall be punished according to law.

SEC. 78. On the first day of July of each year the county treasurer shall balance up the tax rolls in his hands and with which he stands charged on the roll accounts of the county auditor. He shall then report to the county auditor in full the amount of taxes he has collected and specify the amount collected on each fund. He shall also report the amount of taxes that remain uncollected and delinquent upon the assessment rolls by filing with the auditor a list of all delinquent real and personal property taxes in separate books, which, with his collections and credits on account of errors and double assessments, should balance his roll account as he stands charged. He shall then report the amount of collections on account of interest and penalty since the taxes became delinquent and as added by him to the original amounts when making such collections and with which he is now to be charged by the auditor, such reports to be duly verified by affidavit. He shall also at the same time file with the auditor his collection registers, showing all taxes collected by him since the last preceding annual settlement of current and delinquent taxes. The county auditor shall thereupon proceed to compare the stub tax receipts of the treasurer with the treasurer's tax rolls and the collection registers filed in his office, and shall note if the tax rolls are properly marked opposite each tract or tax, with the word "paid" and the number of the treasurer's receipt that he gave in discharge of any tax is properly entered opposite each tract or tax described in such receipt, and if the description, amount, names and numbers, and funds agree, the auditor shall also compare such receipts with the treasurer's cash book or collection register upon which he is required to post them, and if properly credited to the several funds and also coincides in all respects with the assessment rolls, he shall then test the footings upon the treasurer's collection register to see that no errors have been made or frauds perpetrated. He shall then satisfy himself that the collections of the interest and

Treasurer's  
annual report  
to auditor.

penalty required to be added after taxes have become delinquent have been collected and properly accounted for, and if so, to charge the treasurer with the same. If the treasurer's receipts in all respects are correct and true and the collections fully and properly accounted for on the same, the auditor shall enter the credits and debits upon the treasurer's roll accounts and properly balance the same up to date.

Taxes to  
be a lien.

SEC. 79. All taxes and levies which may hereafter be lawfully imposed or assessed shall be and they are hereby declared to be a lien respectively upon the real estate upon which they may hereafter be imposed or assessed, which liens shall include all charges and expenses of and concerning the said taxes which by the provisions of this act are directed to be made. The said lien shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which said real estate may become charged or liable. All taxes upon real estate unpaid on the first day of April after the year for which they were assessed shall be on [bear] interest at the rate of 20 per cent. per annum until paid, to which shall be added the charge of 5 per centum penalty.

All unpaid  
taxes to be  
registered.

SEC. 80. On or before the thirtieth day of June annually the county treasurer shall, in a book entitled "The register of unpaid taxes of real estate for the year ....., " cause to be registered all unpaid taxes for the preceding year, including the penalty aforesaid, with a column for accruing interest, and no fee for this or any prior registration shall be charged or collected. Such registration book shall be deposited in the office of the county auditor on or before said thirtieth day of June following the date of delinquency. The county treasurer shall also prepare and keep an index showing all delinquent taxes for such year, and such index shall be so arranged as to provide for the entering thereon of the delinquent taxes of succeeding years. Such index shall be carefully prepared and accurately made, and shall be kept up to date, and such index shall be the official record on which his certificates as to the payment of taxes shall be based.

SEC. 81. The county attorney, under the direction of the county treasurer, shall enforce payment thereof in the manner hereinafter provided. Upon presentation to him of a receipt of the county treasurer in full for all taxes, penalty, interest and costs, he shall dismiss any suit which may have been instituted to collect taxes delinquent upon any piece of property. The county clerk and sheriff shall, upon application by the county treasurer, or the owner of any property upon which suit has been instituted for the collection of delinquent taxes, or by the agent of said owner, make and deliver to the applicant a statement of all costs accrued in their respective offices by reason of such suit. The said county treasurer shall, upon receipt of taxes aforesaid, enter a full satisfaction of said lien on the proper register of unpaid taxes on real estate in his office, and the county auditor shall, upon the filing with him by the treasurer of his register showing the payment of delinquent taxes, proceed to mark such taxes paid on the register of unpaid taxes in his office.

County attorney to enforce payment of taxes, in manner of.

County clerk and sheriff.

SEC. 82. All taxes registered as aforesaid and remaining unpaid shall cease to be liens after the expiration of five years from the first day of April on which such taxes become delinquent unless suit be brought to recover the same as hereinafter provided, and such suits be prosecuted to judgment. All such judgments or decrees shall in all respects as to the lien thereof and mode of enforcement be governed by the provisions contained in this act.

When taxes cease to be a lien.

SEC. 83. There shall be an allowance of rebate to all payers of taxes who shall pay the same within the assessment year for which they are assessed as follows: Two per cent. if paid on or before the fifteenth day of February next prior to the date of delinquency, but if not paid on or before the first day of April next ensuing they shall then become delinquent, and a penalty of five per centum shall thereupon be added, and from the said first day of April said unpaid taxes and penalty shall bear interest at the rate of 20 per cent. per annum from said date until paid.

Rebate.

SEC. 84. Any person being the owner or having an interest in an estate or claim to real estate against which

Lien may be satisfied, how.

taxes shall have been registered as unpaid may pay the same and satisfy the lien at any time before suit or sale of said real estate. The person or authority who shall collect or receive the same shall give a certificate that such taxes have been so paid to the person or persons entitled to demand such certificate. Upon neglect or refusal by such officer or authority to so certify the same within ten days after the receipt of such registered taxes, and to enter satisfaction thereof, such officer shall forfeit and pay to the party aggrieved by such neglect the sum of twenty-five dollars, to be recovered in any court having competent jurisdiction, and such court, when satisfied that such registered taxes have been paid, shall issue an order in writing directing the county treasurer and county auditor to enter satisfaction upon such duplicate register of the taxes so paid.

All property heretofore sold to counties for delinquent taxes deemed registered, when.

SEC. 85. All lots, tracts and parcels of land heretofore sold to counties for delinquent taxes, which taxes are due and remaining unpaid at the date of the approval of this act or for the collection of which suit has been instituted but no judgment ordering such property sold for said taxes has been rendered, as shown by the register of unpaid taxes on file in the offices of the several county treasurers, shall be deemed to be registered under the provisions of this act; and suit to enforce the payment of such unpaid taxes, together with penalty, interest, costs and expenses, shall be instituted and payment enforced under the provisions of this act.

SEC. 86. When any tax on real estate is paid by or collected of any occupant or tenant, or any other person, which by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant or other person may recover by action the amount which such owner, lessor or party in interest ought to have paid, with interest thereon at the rate of ten per cent. per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real estate.

SEC. 87. Any person who has a lien, by mortgage or otherwise, upon any real property upon which the taxes

have not been paid, may pay such taxes and the interest, penalty and costs thereon; and the receipt of the county treasurer shall constitute an additional lien on such land, to the amount therein stated; and the amount so paid and the interest thereon, at the rate specified in the mortgage or other instrument, shall be collectible with, or as a part of, and in the same manner as the amount secured by, the original lien.

SEC. 88. The taxes assessed upon real property shall be a lien thereon from and including the first day of April in the year in which they are levied, until the same are paid; but, as between a grantor and grantee such lien shall not attach until the second Monday of January of the succeeding year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed, from and after the time the tax books are received by the county treasurer.

When lien attaches.

SEC. 89. If the county treasurer has reason to believe, or is informed, that any person has given to the assessor a false statement of his personal property; or that the assessor has not returned the full amount of property required to be listed in his county; or has omitted or made an erroneous return of any property which is by law subject to taxation; or if it shall come to his knowledge that there is property of a non-resident of his county which is about to be removed from the state which has not been listed for taxation for the current year, he shall proceed, at any time before the final settlement with the county auditor, to correct the return of the assessor and to charge the owner of said property on the tax list with the proper amount of taxes. To enable him to do this he is hereby authorized and empowered to issue compulsory process and to require the attendance of any person whom he may suppose to have a knowledge of the articles, or value of the property, and to examine such person on oath, in relation to such statement or return; and the treasurer shall, in all such cases, notify every such person before making the entry upon the tax list, that such person may have an opportunity of showing that his statement or the return of

False statement.

the assessor is correct; and the county treasurer shall in all cases file in his office the statement of facts or evidence upon which he made such corrections; but the county treasurer shall in no case reduce the amount returned by the assessor without the written consent of the auditor of state, upon a statement of the case submitted by him or the party aggrieved.

SEC. 90. If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceeding, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the next succeeding year.

SEC. 91. At the time of making the assessment of real property the assessor shall enter each description of property exempt under the provisions of section five of this act, and value and list the same in the manner and subject to the same rule as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used, to entitle it to exemption.

SEC. 92. Every county auditor, county assessor and county treasurer who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents or connives at any evasion of its provisions whereby any proceeding herein provided for is prevented or hindered, whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax roll at less than its true cash value, shall, for every such neglect, refusal, consent or connivance forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction upon the complaint of any citizen who is a taxpayer; and the county attorney shall prosecute such suit to judgment and execution.

Penalty.

SEC. 93. Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor or any other officer for performing or attempting to perform any duty authorized or directed by any statute of

this state for the collection of the public revenue, such treasurer, auditor or other officer may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed and paid out of the county treasury reasonable fees of counsel and other expenses for defending such action.

SEC. 94. The assessor of each county shall on or before the first day of April of each year obtain from the commissioner of public lands, and from the local land offices of the state, lists of public lands sold or contracted to be sold during the previous year in his county, and certify them for taxation, together with the various classes of state lands sold during the same year.

List of public lands sold during previous year.

SEC. 95. The auditor of state shall prescribe the forms of all blanks and books required under the provisions of this act, and, except as hereinafter provided, shall have all detail lists, schedules and assessment books to be used in connection with the assessment and collection of the public revenue printed and, when necessary, bound at the expense of the state, and furnished in sufficient size and quantities to the several counties as may be required: *Provided*, That in preparing such assessment books the state auditor shall follow, substantially the following form:

Auditor shall prescribe form.

ASSESSMENT AND TAX ROLL OF REAL PROPERTY IN		Equalized value by state board.....	\$
		Equalized value by county board .....	\$
		No. of school district.....	
		No. of road district.....	
		Rate per mile.....	\$
		Aggregate assessed valuation of railroad track.....	\$
		Aggregate assessed valuation of town or city lots and improvements thereon.....	\$
		Value of improvements on town or city lots.....	\$
		Value of town or city lots .....	\$
		Aggregate assessed valuation of lands and improvements thereon.....	\$
		Value of improvements on lands.....	\$
		Value of lands.....	\$
		No. of acres improved.....	
		No. of acres .....	
DESCRIPTION OF LAND OR TOWN PROPERTY.		No. of range.....	
		No. of township.....	
		No. of section.....	
		No. of block .....	
		No. of lot.....	
No. of line .....		Part of section, donation, mining or other claim; name of city, town, village or addition thereto.	
		Name of person, firm, company or corporation assessed as owners.	

[ LEFT HAND PAGE. ]

PAGE.

COUNTY, STATE OF WASHINGTON, FOR THE YEAR 189--.

STATE AND COUNTY TAX LEVIES.		No. of line.....	
REMARKS.		No. of tax receipt.....	
		Date of payment.....	
		Total amount tax paid on each description of property after date of delinquency.....	\$ c
		Twenty per cent. interest.....	\$ c
		Five per cent. penalty.....	\$ c
		Total amount of taxes delinquent on each description of property.....	\$ c
		Total amount of taxes paid on each description of property.....	\$ c
		Two per cent. rebate.....	\$ c
		Total amount of taxes on each description of property.....	\$ c
		City or town tax levy.....	\$ c
		Name of city or town..... Mills.	\$ c
SPECIAL TAX LEVIES.		..... Mills.	\$ c
		..... Mills.	\$ c
STATE AND COUNTY TAX LEVIES.			
State general fund.....Mills.			
State military fund.....Mills.			
State interest fund.....Mills.			
TOTAL STATE.....Mills.			
County general fund.....Mills.			
County school fund.....Mills.			
County road and bridge.....Mills.			
County road property.....Mills.			
County.....Mills.			
County.....Mills.			
TOTAL COUNTY.....Mills.			
Total of.....levies, state and county.....Mills.			
\$	c		

[RIGHT HAND PAGE.]

When counties  
may provide  
their own  
blanks, etc.

*And provided further,* That counties having an assessment exceeding ten millions of dollars may provide their own assessment books and blanks, the expense of such books and blanks to be paid by the county. The assessment books and blanks shall be in readiness for delivery to the assessor on the first Monday of March in each year. The state auditor shall decide all questions that may arise in reference to the true construction or interpretation of this act, or any part thereof, in connection with the advice and opinion of the attorney general of the state, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction.

State auditor  
to decide all  
questions  
concerning  
interpretation  
of this act.

Notice of ap-  
plication for  
judgment.

SEC. 96. The county treasurer shall, during the month of April in the second year following the date of delinquency of any taxes on real property, publish an advertisement giving notice of the intended application for judgment for sale of such delinquent lands and lots, in a newspaper published in his county, if any such there be, or if there be no such paper printed in his county, then he shall post three notices of such intended application in the most conspicuous places in such county, one of which shall be at the door of the court house at the county seat of such county. Said advertisement shall be published once each week for three successive publications, and the last of such publications shall be at least one week prior to the date fixed in such advertisement for such intended application. Said advertisement shall contain a list of the delinquent lands and lots upon which the taxes remain due and unpaid, the names of the owners, if known, the total amount due thereon, and the year or years for which the same are due. Said treasurer shall therein give notice that on the second Monday of May in such year he will apply to the superior court of his county for judgment against said lands and lots, for said taxes, penalties, interest and costs, and for an order to sell said lots and lands for the satisfaction thereof; and shall also give notice that on the day to be fixed by the court, the lots and lands, for the sale of which an order shall be made, will be exposed to public sale at the front door of the court house in said county, for the amount of taxes, penalties, interest and costs due thereon; and the ad-

vertisement, published according to the provisions of this section, shall be deemed to be sufficient notice of the intended application for judgment, and of the sale of the lands and lots under the order of the said court. Where the publisher of any paper that may have been selected by the county treasurer shall be unable or unwilling to publish such advertisement, said treasurer shall select some other newspaper, having due regard to the circulation of such paper, or shall post the notices hereinbefore prescribed: *Provided*, That the price charged by any newspaper for Compensation. such publication shall not exceed in any case the sum of thirty cents for each description.

SEC. 97. When it becomes necessary, in the opinion of the county treasurer, to charge the tax on personal property against real property, in order that such personal property tax may be collected, such county treasurer shall select for that purpose some particular tract or lots of real property owned by the person owing such personal property tax, and in his advertisement for judgment and sale shall designate the particular tract or lots of real property against which such personal property tax is charged, and in the list filed for judgment the same facts shall be shown and the court shall take cognizance thereof, and give judgment against such tract or lots of real property for such personal property tax. In all proceedings relative to assessing, advertising or selling lots or lands for taxes, and any entries required to be made by the clerk of the court, or other officer, letters, figures and characters may be used to denote townships, ranges, sections, parts of sections, lots or blocks, or parts thereof, the year or the years for which the taxes were due, and the amount of taxes, assessments, penalties, interest and costs. Whenever the abbreviation "do," or character ".,," or any other similar abbreviations or characters shall be used in any such proceedings, they shall be construed and held as meaning and being the same name, word, initial, letters, abbreviations, figure or figures, as the last preceding such "do" and ".,," or other similar characters. In advertising, the whole of such advertisement shall be contained in one edition of such newspaper, and such list shall not be

Treasurer to select real property to be held for personal property tax.

Proviso.

published in supplemental form: *Provided*, That nothing contained in this section shall prevent the county treasurer from subsequently advertising and obtaining judgment on lands or lots that may have been omitted through no fault of the treasurer, or that may have been erroneously advertised or described in the first advertisement.

Applications for judgment and order of sale to be made to superior court.

SEC. 98. All applications for judgment and order of sale for taxes and assessments, together with penalties, interest and costs, on delinquent lands and lots, shall be made to the superior court of such county at the time hereinbefore specified, to wit: On the second Monday of May in the second year following the date of the delinquency of such taxes and assessments. If from any cause the superior court shall not be in session on such day the cause shall stand continued, and it shall not be necessary to readvertise the list or notice required by law to be advertised before judgment and sale, but as soon thereafter as the same can be heard said court shall hear and determine the matter, and if judgment is rendered the sale shall be made on a day to be fixed by the court: *Provided*, Such sale shall not take place in less than twenty days after judgment is rendered. If from any cause the county treasurer is prevented from advertising and obtaining judgment at said time it shall be held to be legal to obtain judgment at any subsequent time when said court is in session, but if the failure arises from the county treasurer's not complying with any of the requirements of this act he shall be held on his official bond for the full amount of all taxes and assessments, together with penalties, interest and costs charged against him: *Provided*, That any such failure on the part of the county treasurer shall not be allowed as a valid objection to the collection of any tax or assessment, or to the rendition of judgment against any delinquent lands, or lots, included in the application of such county treasurer: *And provided further*, That on the application for judgment at such subsequent term it shall not be deemed necessary to set forth or establish the reasons of such failure.

Proviso.

Certified list under oath to be furnished the county treasurer.

SEC. 99. The printer, publisher or financial officer or agent of the newspaper publishing the list of the delinquent lands or lots shall transmit and deliver to the county treas-

urer seven copies of the paper containing said list, to each of which he shall attach his certificate, under oath, of the due publication of the delinquent list for the time required by law (two of which copies shall be presented by the county treasurer to the county court at the time judgment is prayed), and said copies shall be filed as a part of the records of said court. Upon receipt of said papers by said county treasurer it shall be his duty to file two copies of said paper in his office and deliver at least three copies to the county auditor, all of which officers shall file and safely preserve them in their respective offices.

SEC. 100. In all cases where there is an error in the advertised list, the fault thereof being the printer's, which prevents judgment being obtained against any tracts or lots, or against all of said delinquent list, at the time stated in the advertisement that judgment will be applied for, the printer shall lose the compensation allowed by law, or by contract, for publishing the advertisement of such erroneous descriptions of tracts, or lots, or for publishing the entire list as the case may be. Error in advertised list.

SEC. 101. The county treasurer shall transcribe into a book prepared for the purpose, and known as the tax judgment sale, redemption and forfeiture record, the list of delinquent lands or lots which shall be made out in numerical order, and which shall contain all the information necessary to be recorded, at least five days before the commencement of the term at which application for judgment is to be made, which book shall set forth the name of the owner, if known, the proper description of the land or lot, the year or years for which the taxes or assessments are due, the valuation on which the tax is extended, the amount of the taxes and assessments, together with the penalties, interest and costs charged against such land or lot. Said book shall also be ruled in columns, so as to show the amount paid before the rendition of judgment, the amount of judgment, and a column for remarks, the amount paid before the sale and after the rendition of said judgment, the amount of the sale, amount of interest or penalty, amount of cost, amount forfeited to the county, date of County treasurer to transcribe in record.

What record is to contain.

sale, acres or part sold, name of purchaser, amount of sale and penalty, taxes of succeeding years, interest and when paid, interest and cost, total amount of redemption, date of redemption, when deed executed, by whom redeemed, and a column for remarks, or receipt of redemption money.

Lien on property for taxes paid by one having interest.

SEC. 102. Any person owning an interest in lands or lots upon which judgment is prayed, as provided in this act, may in person or by agent pay the taxes, assessments, penalties, interest and costs due thereon to the county treasurer of the county in which the same are situated at any time before sale; and for the amount so paid he shall have a lien on the property liable for taxes, assessments, penalties, interest and costs for which judgment is prayed.

Treasurer's report to superior court.

SEC. 103. On or before the morning of the day on which judgment on delinquent lands or lots is prayed, it shall be the duty of the treasurer to report to the clerk of the superior court all the lands or lots, as the case may be, upon which taxes and assessments, together with penalties, interest and costs have been paid, if any, from the filing of the list mentioned in section 98, up to that time, and the clerk shall note the fact opposite each tract upon which such payments have been made.

SEC. 104. The treasurer, assisted by the clerk, shall prepare and correct said list and shall make and subscribe an affidavit, which shall be substantially in the following form:

Affidavit of treasurer.

I, ....., treasurer of the county of ....., State of Washington, do solemnly swear (or affirm, as the case may be) that the foregoing is a true and correct list of the delinquent lands and lots within the county of ....., for the year, or years, therein specified upon which I have been unable to collect the taxes, assessments, penalties, interest and costs charged thereon as required by law; and that said taxes now remain due and unpaid, as I verily believe. ...., *County Treasurer.*

Said affidavit shall be entered at the end of the list and signed by the treasurer, duly attested by his seal.

Court to hear and determine summarily.

SEC. 105. The court shall examine said list, and if defense (specifying in writing the particular cause of objection) be offered by any person interested in any of said

lands or lots to the entry of judgment against the same, the court shall hear and determine the matter in a summary manner, without pleadings, and shall pronounce judgment as the right of the case may be; or said court may, in its discretion, continue such individual cases, wherein defense is offered, to such time as it may deem necessary, in order to secure substantial justice to the defendant therein; but in all other cases said court shall proceed to determine the matter in a summary manner as above specified. The court shall give judgment for such taxes, assessments, penalties, interest and costs as shall appear to be due upon the several lots or tracts described in said notice of application, and such judgment shall be considered as a several judgment against each tract or lot, or part of a tract or lot, for each kind of tax or assessment included therein, including all penalties, interest and costs, and the court shall order and direct the clerk to make out and enter an order for the sale of such real property against which judgment is made, which shall be substantially in the following form:

“WHEREAS, Due notice has been given of the intended application to this court for a judgment against the lands and lots hereinbefore described, and no sufficient evidence having been made or cause shown why judgment should not be entered against said lands or lots for taxes, assessments, interest, penalties and costs due and entered thereon for the year or years herein set forth: therefore, it is considered, adjudged and decreed by this court that judgment be and is hereby entered against the aforesaid tract or tracts or lots of land, or parts of tracts or lots (as the case may be), in favor of the State of Washington, for the sum annexed to each, being the amount of taxes, assessments, penalties, interest and costs due severally thereon, and it is ordered by the court that the said several tracts or lots of land, or so much of each of them as shall be sufficient to satisfy the amount of taxes, assessments, penalties, interest and costs annexed to them severally, be sold as the law directs, and on the ..... day of ....., 18.....”

Form of order  
of sale.

Said order shall be signed by the judge of such superior court and attested by the clerk thereof, and a certified

Certified copy  
of order to be  
served upon  
the county  
treasurer.

copy of said order together with a certified list of the property therein ordered sold shall be served upon the county treasurer, and the said service shall be full and sufficient authority for him to proceed to sell said property for said sums set forth in said order and to take such further steps in the matter as are provided by law. In all judicial proceedings of any kind for the collection of taxes, assessments, and the penalties, interest and costs therein, all amendments may be made which, by law, can be made in any personal action pending in such court, and no assessments of property or charge for any of said taxes shall be considered illegal on account of any irregularity in the tax lists or assessment roll, or on account of the assessment rolls or tax lists not having been made, completed, or returned within the time required by law, or on account of the property having been charged, or listed, in the assessment or tax list without name, or any other name than than that of the original owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, not affecting the substantial justice of the tax itself, shall vitiate, or in any manner affect the tax, or the assessment thereof, and any irregularity or informality in the assessment rolls, or tax lists, or in any of the proceedings connected with the assessment or levy of such taxes, or any omission or defective act of any officer or officers connected with the assessment or levying of such taxes may be, in the discretion of the court, corrected, supplied and made to conform to law by the court.

Amendments  
may be made.

Appeals to  
supreme court.

SEC. 106. Appeals from the judgment of the court may be taken to the supreme court at any time within six months after the rendition of said judgment, on the party praying an appeal executing a bond to the State of Washington, with two or more sureties to be approved by the court, in some reasonable amount to be fixed by the court, conditioned that the appellant will prosecute his said appeal with effect, and will pay the amount of any taxes, assessments, penalties, interest and costs which may finally be adjudged against the real estate involved in the appeal by any court having jurisdiction of the cause. But no appeal

shall be allowed from any judgment for the sale of lands or lots for taxes, nor shall any writ of error to reverse such judgment operate as a *supersedeas*, unless the party praying such appeal, or desiring such a writ of error, shall, before taking such appeal, or suing out such a writ of error, deposit with the county treasurer an amount of money equal to the amount of the judgment and costs. If in case of an appeal, or suing out a writ of error, the judgment shall be confirmed in whole or in part, the supreme court shall enter judgment for the amount of taxes, with damages, not to exceed ten per cent., and order that the amount deposited with the treasurer aforesaid, or so much thereof as may be necessary, be credited upon the judgment so rendered, and execution shall issue for the balance of said judgment, damages and costs. The clerk of the supreme court shall transmit to said county treasurer a certified copy of the order of affirmance, and it shall be the duty of such county treasurer, upon receiving the same, to apply so much of the amount deposited with him, as aforesaid, as shall be necessary to satisfy the amount of the judgment of the supreme court, and to account for the same as collected taxes. If the judgment of the superior court shall be reversed, and the cause remanded for a re-hearing, and if, upon the re-hearing, judgment shall be rendered for the sale of the land or lots for taxes, or any part thereof, and such judgment be not appealed from, or writ of error prosecuted with *supersedeas* issued thereon, as herein provided, the clerk of such superior court shall certify to the county treasurer the amount of such judgment, and thereupon it shall be the duty of the county treasurer to certify to the county clerk the amount deposited with him, as aforesaid, and the county clerk shall credit the said judgment with the amount of such deposit, or so much thereof as will satisfy the judgment, and the county treasurer shall be chargeable and accountable for the amount so credited as collected taxes. Nothing herein done shall be construed as requiring an additional deposit, in case of more than one appeal or writ of error being prosecuted in said proceedings. If, upon a final hearing, judgment shall be refused for the sale of lands or lots for the taxes, penalties, interest

and costs, or any part thereof, the county treasurer shall pay over to the party who shall have made such deposit, or his legally authorized agent or representatives, the amount of the deposit, or so much thereof as shall remain after the satisfaction of the judgment against the premises in respect of which such deposit shall have been made.

Execution of judgment.

SEC. 107. If judgment is rendered by any court at any time against any lands or lots for any taxes, assessment, penalty, interest or costs, the county treasurer shall, after publishing notice of sale, in compliance with the requirements of section 96 of this act, proceed to execute such judgment by the sale of lands and lots against which such judgment has been rendered: *Provided, however,* That in case of an appeal from any such judgment the county treasurer shall not sell until such appeal is disposed of.

County clerk shall certify to correctness of record.

SEC. 108. On the day advertised for sale the county clerk, assisted by the county treasurer, shall carefully examine said list upon which judgment has been rendered, and see that all payments have been properly noted thereon, and said clerk shall make a certificate, to be entered upon said record, following the order of [the] court, that such record is correct, and that judgment was rendered upon the property therein mentioned for the taxes, penalty, interest and costs due thereon, which certificate shall be attested by the clerk, under seal of the court, and shall be the process on which all real property, or any interest therein, shall be sold for taxes, assessments, penalties, interest and costs due thereon, and may be substantially in the form following:

Form of clerk's certificate.

I, ....., county clerk and clerk of the superior court in and for the county of ....., State of Washington, do hereby certify that the foregoing is a true and correct record of the delinquent real estate in said county against which judgment and order of sale was duly entered in the superior court of said county on the ..... day of ....., 189....., for the amount of the taxes, assessments, penalties, interest and costs due severally thereon, as therein set forth, and that the judgment and order of court in relation thereto fully appears on said record. ....,

*Clerk of Superior Court.*

Said certificate shall be duly signed by the clerk of said superior court and attested by his official seal.

SEC. 109. The county treasurer shall, in person or by deputy, attend all sales of real estate for taxes, and such sales shall be publicly conducted. County treasurer to attend sales, which are to be public.

SEC. 110. Whenever a tract or lot shall be sold it shall be the duty of the county treasurer to certify such sale to the county clerk, whose duty it shall be to enter on the record aforesaid the quantity sold and the name of the purchaser opposite such tract or lot, in the blank columns provided for that purpose; and when any such property shall be redeemed from sale the clerk shall enter the name of the person redeeming, and the date and amount of redemption in the proper column, on production of the certificate of the county treasurer under seal that said property has been redeemed from such sale. Manner of keeping record.

SEC. 111. All tracts or lots forfeited to the county at such sale as hereinafter provided shall be noted on said record.

SEC. 112. Said book shall be known and designated as the tax judgment sale, redemption and forfeiture record, and be kept in the office of the county clerk.

SEC. 113. The county treasurer, in person or by deputy, shall attend at the front door of the county court house in his county on the day specified in the judgment of the superior court ordering such sale (due notice of which shall be given by said treasurer), for the sale of real estate for taxes, and then and there, between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon, proceed to offer for sale separately and in consecutive order, each tract of land, or town or city lot, in the said list on which the taxes, assessments, penalties, interest or costs have not been paid. The sale shall be continued from day to day during the same hours until all the tracts or lots in the delinquent list shall be sold or offered for sale. Time of day for sale.

SEC. 114. The person at such sale offering to pay the amount due on each tract or lot for the least quantity thereof, shall be the purchaser of such quantity, which shall be taken from the east side of such tract or lot. In determining such piece or parcel of such tract or lot, a Same.

line is to be drawn due north and south, far enough west of eastern point of tract, to make the requisite quantity.

Same.

SEC. 115. Every tract or lot so offered at public sale, and not sold for want of bidders, shall be forfeited to the county in which such property is situated, and in which such sale is made: *Provided, however,* That whenever the superior court and county treasurer shall certify that the taxes, penalties, interest and costs on forfeited lands equals or exceeds the actual value of such lands, the officer directed by law to expose for sale lands for delinquent taxes shall, upon receipt of such certificate, offer for sale to the highest bidder the tract or lands in such certificate described, after first giving ten days' notice by advertising, in some paper of general circulation in his county, the time and place of sale, together with the description of the tracts or lands so to be offered. And a certificate of purchase shall be issued to the purchaser at such sale as in other cases in this act provided, and the county treasurer shall receive credit in his settlement with the county auditor for the amount on the several funds not realized by such sale. All collections made under the provisions of this act shall be paid into the several funds by the county treasurer, and accounted for in the same manner as all other moneys received by him.

Penalty for treasurer not attending sale.

SEC. 116. If any county treasurer by himself or deputy shall fail to attend any sale of lands or lots advertised according to the provisions of this act and make sale thereof as required by law, he shall be liable, upon his official bond, to pay the amount of taxes, assessments, penalties, interest and costs due upon the lands or lots so advertised. The said treasurer may afterwards advertise and sell such delinquent property to reimburse himself for the amount advanced by him; but at no such sale shall there be any property forfeited to the county.

Payment.

SEC. 117. The person purchasing any tract or lot, or any part thereof, shall forthwith pay to the treasurer the amount charged on such tract or lot, and on failure so to do the said tract or lot shall be again offered for sale in the same manner as if no sale had been made; and in no case

shall the sale be closed until payment is made or the tract or lot again offered for sale.

SEC. 118. The county treasurer, on being requested so to do, shall make out and deliver to the purchaser of any lands or lots, or any portion thereof as aforesaid, a certificate of purchase, describing the land or lot, or portion thereof, sold, as the same was described in the delinquent list, the date of such sale, the amount of taxes, assessments, penalties, interest and costs for which the same was sold, and that payment has been made therefor. If any person shall become the purchaser of more than one tract or lot, he may have the whole, or one or more of them, included in one certificate. Such certificate of purchase shall be assignable by indorsement, and an assignment thereof shall vest in the assignee, or his legal representatives, all the right and title of the original purchaser. Such certificates, when issued, shall be numbered consecutively by the treasurer in the order of their issuance, and the number of such certificate shall be indorsed upon the tax judgment sale, redemption and forfeiture record, described in section 101.

Certificate of purchase.

SEC. 119. The county treasurer is hereby authorized to make an index to tax sale records in a book when furnished by the county, which index shall be kept in his office as a public record open to the inspection of all persons during office hours.

Index to tax sale records open to inspection.

SEC. 120. The county treasurer shall, within thirty days after any sale for taxes, make out and transmit to the county auditor a transcript of such sale for taxes, which transcript shall be in the form of a book suitable and sufficient for that purpose. The county treasurer shall certify to the correctness of said transcript under the seal of his office. Said list shall not include any tracts or lots forfeited to the county at such sale, and shall be filed by the county auditor in his office, together with the register of unpaid taxes theretofore filed with him by the county treasurer, covering the same taxes, penalties, interest and costs for which such land or lots have been sold as shown by said list.

Treasurer to make out transcript of sale for taxes and transmit to auditor.

Redemption  
of property  
sold for taxes.

SEC. 121. Real property sold under the provisions of this act may be redeemed at any time before the expiration of two years from the date of sale by payment, in legal money of the United States, to the county treasurer of the proper county the amount for which the same was sold, together with 20 per cent. interest thereon from the date of sale until payment. The person redeeming such property shall also pay the amount of all taxes, assessments, penalties, interest and costs accruing after such sale, with 20 per cent. interest thereon from the day the same were due until paid, unless such subsequent taxes or assessments, penalties, interest or costs has been paid by or on behalf of the person for whose benefit the redemption is made, and not being purchaser at the tax sale, or his assignee. No fee shall be charged for any redemption after the passage of this act. If the real property of any minor heir or insane person be sold for non-payment of taxes or assessments the same may be redeemed at any time after sale and before the expiration of one year after such disability has been removed upon the terms specified in this section on the payment of 10 per cent. per annum on the amount for which the same was sold, from and after the date of sale, which redemption may be made by themselves or by any person in their behalf. Tenants in common, or joint tenants, shall be allowed to redeem their individual interests in real property sold under the provisions of this act in the same manner and under the terms specified in this section for the redemption of real property other than that of insane persons and minor heirs. Any redemption made shall inure to the benefit of the person having the legal or equitable title to the property redeemed, subject, however, to the right of the person making the same to be reimbursed by the person benefited.

Forfeiture.

SEC. 122. If any purchaser of real estate sold for taxes or assessments shall suffer the same to be forfeited to the county or sold again for taxes before the expiration of the last day of the second annual sale thereafter, such purchaser shall not be entitled to a deed for such real property until the expiration of a like term from the date of the second sale or forfeiture, during which time the land shall

be subject to redemption upon the terms and conditions prescribed in this act; but the person redeeming shall only be required to pay, for the use of such first purchaser, the amount paid by him. The second purchaser, if any, shall be entitled to the redemption money as provided for in the preceding section: *Provided, however,* It shall not be necessary for any municipal corporation which shall bid in its own delinquent special assessments at any sale, in default of other bidders, to protect the property from subsequent forfeitures or sales, as above required in this section.

SEC. 123. The books and records belonging to the office of county treasurer, certified by said treasurer, shall be deemed *prima facie* evidence to prove the sale of any land or lot for taxes or assessments, the redemption of the same or payment of taxes or assessments thereon. The county treasurer shall, at the expiration of his term of office pay over to his successor in office all moneys in his hands received for redemption from sale for taxes on real estate.

SEC. 124. Whenever it shall be made to appear to the satisfaction of a county treasurer that any tract or lot was sold which was not subject to be taxed or upon which taxes or assessments have been paid previous to the sale, he shall make an entry opposite to such tract[s] or lots in the sale or redemption record that the same was erroneously sold, and such entry shall be *prima facie* evidence of the fact therein stated. Erroneous sale.

SEC. 125. When the purchaser at such erroneous sale, or any one holding under him, shall have paid any taxes or assessments, together [with] the penalty, interest and costs, upon the property so sold, which has not been paid by the owner of the property, he shall have the right to recover from such owner the amount he has so paid, with 10 per cent. interest from the time of payment, as money paid for the owner's use.

SEC. 126. The receipt of the redemption money of any tract of land or lot by any purchaser, or by the county treasurer for the benefit of such purchaser, or the return of the certificate of purchase for cancellation, shall operate as a release of all the claim to said tract under or by virtue of the purchase, and the county treasurer, upon the Release.

receipt of any such redemption money, shall immediately indorse upon the sale or redemption record the fact that such taxes, penalties, interest and costs have been paid, and the property therein described has been redeemed from sale by said payment, and shall deliver to the person redeeming the same the certificate of redemption provided for [in] section 134.

Conditions to be complied with prior to receipt of deed.

SEC. 127. Hereafter no purchaser, or assignee of such purchaser, of any land, town or city lot, at any sale of lands or lots for taxes or assessments, penalties, interest and costs, due either to the state or county, shall be entitled to a deed for lands or lots so purchased, until the following conditions have been complied with, to wit: Such purchaser, or assignee, shall serve or cause to be served a written or printed or partly written and partly printed notice of such purchase, on every person in actual possession or occupancy of such land or lot; also the person in whose name the same was assessed or taxed, if upon diligent inquiry he, or she, can be found in the county; also the owners of and parties interested in said land or lot, if they can, upon diligent inquiry, be found in the county, at least three month[s] before the expiration of the time of redemption on such sale; in which notice he shall state when he purchased the land or lot, in whose name taxed, the description of the land or lot he has purchased, for what year taxed, or specially assessed, and when the time of redemption will expire. If no person is in possession or occupancy of such land or lot, and the person in whose name the same was taxed or assessed, upon diligent inquiry cannot be found in the county, then such person or his assignee shall publish such notice in some newspaper of general circulation in said county in which said land or lot is situated, which notice shall be inserted three times—the first time not more than three months and the last time not more than one month before the time of redemption shall expire: *Provided, however,* That if the owners of said land or lots, or the parties interested therein, cannot be found in the county, and the person in actual occupancy is tenant to or is in possession under the owner or party interested therein, then service of said notice upon such tenant

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shall be deemed service upon the owner or party interested: *And provided further*, That if the owners, or parties interested, are unknown to such purchaser or his assignee, then said publication, as to them, may be to the unknown owner or parties interested.

SEC. 128. Every such purchaser or assignee, by himself or agent, shall, before he shall be entitled to a deed, make an affidavit of his having complied with the conditions of the foregoing section, stating particularly the facts relied on as such compliance, which affidavit shall be delivered to the county treasurer, and which shall by him be filed and carefully preserved with the records of his office, and which record or affidavit shall be *prima facie* evidence that such notice has been given. Any person swearing falsely in such affidavit shall be deemed guilty of perjury, and upon conviction thereof shall be punished accordingly.

SEC. 129. In case any person shall be compelled to publish such notice in a newspaper, then, before any person who may have a right to redeem such lands or lots from sale shall be permitted to redeem, he shall pay to the officer who by law is authorized to receive such redemption money the amount forpaid publishing such notice for the use of the person compelled to publish such notice, as aforesaid; the fee for such publication shall not exceed \$1.00 for the first tract or lot contained in such notice and 25 cents for each additional tract or lot. The fact of publication shall be established by affidavit of the publisher.

SEC. 130. At any time after the expiration of two years from the date of sale of any real estate for taxes or assessments, penalties, interest and costs, if the same shall not have been redeemed, the county treasurer, on request and on the production of the certificate of purchase, and upon compliance with the three preceding sections, shall execute and deliver under his hand and seal to the purchaser, his heirs or assigns, a deed of conveyance for the real estate described in such certificate.

SEC. 131. When any person shall hold more than one certificate of purchase at the same sale and for the same year's tax or assessment the treasurer shall, on the request of the holder of such certificates, include as many tracts or

lots described therein in the deed of conveyance as such person may desire, and for which deed the county treasurer shall have and receive, for the benefit of the county, a fee of fifty cents for each certificate embraced therein: *Provided*, That no greater fee than five dollars shall be charged upon any one deed. The deed so made by the county treasurer, under the official seal of his office, shall be recorded in the same manner as other conveyances of real estate, and shall vest in the grantee, his heirs and assigns the title to the property therein described, without further acknowledgment or evidence of such conveyance, and said evidence shall be substantially in the following form:

STATE OF WASHINGTON, COUNTY OF .....

Form of deed.

Whereas, at a public sale of real estate for the non-payment of taxes, penalty, interest and costs made in the county aforesaid on the ..... day of ..... 189 .., the following described real estate was sold, to wit: (here place description of real estate conveyed); and, whereas, the same not having been redeemed from said sale, and it appearing that the holder of the said certificate of purchase of said real estate has complied with the laws of the State of Washington necessary to entitle (insert him, her or them) to a deed for said real estate: Now, therefore, know ye that I, ....., county treasurer of said county of ....., in consideration of the premises and by virtue of the statutes of the State of Washington, in such cases provided, do hereby grant and convey unto ....., his heirs and assigns, forever, the said real estate hereinbefore described, subject, however, to any redemption provided by law.

Given under my hand and seal of office this ..... day of ....., A. D. 18.....

....., *County Treasurer*,

Deeds executed by county treasurer to be prima facie evidence of right of purchaser.

SEC. 132. Deeds executed by the county treasurer, as aforesaid, shall be *prima facie* evidence in all controversies and suits in relation to the right of the purchaser, his heirs and assigns, to the real estate thereby conveyed of the following facts: *First*, that the real estate conveyed was subject to taxation at the time the same was assessed, and had been listed and assessed in the time and manner required by law; *second*, that the taxes or assessments were not paid

at any time before the sale; *third*, that the real estate conveyed had not been redeemed from the sale at the date of the deed; *fourth*, that the real estate was advertised for sale in the manner and for the length of time required by law; *fifth*, that the real estate was sold for taxes, assessments, penalties and costs, as stated in the deed; *sixth*, that the grantee in the deed was the purchaser, or assignee of the purchaser; *seventh*, that the sale was conducted in the manner required by law. And any judgment for the sale of real estate for delinquent taxes rendered after the passage of this act, except as otherwise provided in this section, shall estop all parties from raising any objections thereto, or to a tax title based thereon, which existed at or before the rendition of such judgment, and could have been presented as a defense to the application for such judgment in the court wherein the same was rendered, and as to all such questions the judgment itself shall be conclusive evidence of its regularity and validity in all collateral proceedings, except in cases where the tax or assessments have been paid, or the real estate was not liable to the tax or assessment.

SEC. 133. Unless the holder of the certificate for real estate purchased at any tax sale under this act takes out a deed as entitled by law, and files the same for record within one year from and after the time he is entitled to such deed, the said certificate or deed, and the sale on which it is based, shall, from and after the expiration of such one year, be absolutely null. If the holder of such certificate shall be prevented from obtaining such deed by injunction, or order of any court, or by the refusal of the treasurer to execute the same, the time he is so prevented shall be excluded from the computation of such time. Certificates of purchase and deeds executed by the county treasurer shall recite the qualifications required in this section.

Deed and sale to be null if not filed for record in one year's time.

SEC. 134. If any person shall desire to redeem, or purchase, any tract of land or lot forfeited to the county, he shall apply to the county treasurer who shall receive from such person the amount due on said tract or lot, together with the penalty, interest and costs on all taxes heretofore forfeited, and shall give such person a duplicate receipt

Redemption of forfeiture.

therefor, setting forth a description of the property and the amount received, which receipt shall be evidence of the redemption or sale of the property therein described, as the case may be. In case of sales the county treasurer shall make the receipt in the form of a certificate of purchase, in the same manner as though said property had been bid off at the regular sale for delinquent taxes. Property purchased under this section shall be subject to redemption notice, etc., as if sold at regular public tax sale.

SEC. 135. The treasurer shall, each year, upon receiving the tax roll from the county auditor, enter against each tract of land or town lot sold for taxes and remaining unredeemed, and on which tax deed has not issued, and against each tract of land or lot theretofore forfeited to the county for unpaid taxes, in columns for that purpose, the year for which said tracts or lots or portions thereof were sold, or unpaid, and the said statement shall be noted on each tax receipt, together with all subsequent taxes paid by holder of tax sale certificate, issued after the date of any tax sale, and the amount thereof shall be collected and paid over in like manner as other taxes. The county treasurer is hereby authorized to advertise and sell said property on which taxes become delinquent in the manner hereinbefore required by this act as if said property had never been sold or forfeited to the county, and the county may, by its agent, attend such sale for taxes and buy said lands and acquire the same rights that individuals now have under the law; and acquire, hold, sell and dispose of said title thereto the same as and in the same manner as individuals may do under the laws of this state, in case of sale for taxes. Said sales shall be continued from year to year until the taxes on said property are paid, by sale or otherwise: *Provided*, That any person purchasing property at tax sale which has heretofore been forfeited to the county for unpaid taxes prior to said sale, shall, before receiving the certificate of sale of such property, pay, or cause to be paid, to the county treasurer, all unpaid taxes, together with all penalties, interests and costs to date due to said county, and such amount so paid shall constitute a lien on said property, and the purchaser paying such delinquent

County treasurer authorized to advertise and sell property for delinquent taxes.

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taxes shall, upon redemption thereof, be entitled to receive the same, and the county treasurer shall, in case of redemption, collect for the benefit of such purchaser the amount so paid by him with interest at the rate of twenty per cent. per annum.

SEC. 136. All lots, tracts and parcels of land heretofore forfeited or sold to counties for delinquent taxes due and remaining unpaid at the date of the approval of this act, or for the collection of which suit has been instituted, but no judgment ordering such property sold for said taxes has been rendered, as shown by the registers of unpaid taxes now on file in the office of the several county treasurers of the state, shall be deemed to be registered under the provisions of this act, and suit to enforce the payment of such unpaid taxes, together with penalty, interests and costs, may be instituted, and payment enforced under and by virtue of the provisions of this act as follows: Suit to collect the unpaid taxes of 1890 and previous years may be instituted at any time subsequent to the passage and approval of this act, on order of the board of county commissioners, and when so ordered shall be instituted and enforced under the provisions of this act. Suit to collect the unpaid taxes of 1891 shall be instituted in 1894 at the time and in the manner specified in this act, and all subsequent taxes remaining unpaid shall be collected under the provisions herein set forth.

Manner of procedure to collect the unpaid taxes of 1890 and 1891.

SEC. 137. All acts and parts of acts heretofore enacted by the legislature of the Territory or State of Washington providing for the assessment and collection of taxes in this state shall be and the same are hereby repealed.

SEC. 138. Whereas, the existing laws of this state relating to the assessment and collection of taxes are defective and insufficient, an emergency is hereby declared to exist, and, therefore, this act shall take effect and be in force from and after its passage and approval by the governor.

Emergency.

Approved March 15, 1893.

## CHAPTER CXXV.

[S. B. No. 160½.]

## CREATING THE STATE BOARD OF LAND COMMISSIONERS.

AN ACT to provide for the creation of a state board of land commissioners for the management and disposition of the public lands of the state, making appropriations therefor, and declaring an emergency.

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

SECTION 1. That there be and is hereby created an executive board to be designated "Board of state land commissioners," which said board shall be composed of the commissioner of public lands as an *ex officio* member and chairman of said board, and three other members, not more than two of whom shall be members of any one political party thereof, to be appointed by the governor, to hold their office for the term of four (4) years; the said official term to begin on the first Monday of March after their appointment: *Provided*, That the first appointees under this act shall qualify and assume their official duties within thirty days after their appointment: *And provided further*, That two of the said first commissioners shall be appointed for two years and the other commissioner for the term of four years, and thereafter one commissioner shall be appointed every two years during the regular biennial session of the legislature, and shall continue in office until his successor is appointed and qualified. The said board shall choose its own secretary, who shall hold office during the pleasure of the board, and receive compensation as the board shall determine, not to exceed fifteen hundred (\$1,500) dollars.

Board  
composed  
of whom.

Term of office.

Official oath  
and bond.

SEC. 2. That each member of said board shall, before assuming his official duties, take and subscribe an oath to faithfully support the constitution and laws of the State of Washington, and also give a good and sufficient bond, with sureties, to be approved by the secretary of state and attorney general, in the penal sum of \$10,000 for the faith-

ful discharge of the duties of his said office, which said oath and approved bond shall be filed and remain in the office of the secretary.

SEC. 3. That the commissioner of public lands shall receive a salary of \$2,000 per annum and the other members of said board shall each receive a salary of \$2,000 per annum, and all the members of said board shall be repaid all expenses actually and necessarily incurred by them in the discharge of their duties as herein provided, to be paid monthly the same as the salaries and expenses of the other state officers are paid.

Salaries  
of commis-  
sioners.

SEC. 4. That the said board is hereby authorized to expend a sum of money not to exceed \$1,800 per annum for such clerical work as it may require in the performance of its official duties; and that the auditor of state is hereby authorized and required to issue his warrants for the amounts thus expended upon vouchers therefor properly authenticated by said board for the payment thereof, and also in like manner for the payment of the salaries of the members of the said board; and the treasurer of state is hereby directed to pay the same out of any moneys in the state treasury not otherwise appropriated.

Expenditures  
for clerical  
labor.

SEC. 5. That the said board of state land commissioners shall have full supervision and control, under the law, of all public lands granted to the State of Washington for common school, university and all other educational purposes; also including lands granted for charitable, reformatory and penal institutions, public buildings; and also all tide lands and harbor line areas, and all other public lands that are now or shall hereafter be owned by the State of Washington, so far as the same shall not have been disposed of, and not appropriated by law to any specific public use; and that the said board shall, from the date of its assumption of official duties, possess and exercise over all such lands and areas all the authority, power and functions, and shall perform all the duties which the state land commission, the state school land commission and the state board of equalization and appeal for the appraisalment of tide and shore lands, respectively, had and exercised, and which by law heretofore devolved upon and were the func-

Board to have  
control of all  
state and  
granted lands.

tions which they performed; and the said board of state land commissioners is hereby constituted their successor, and all the provisions of law heretofore applicable to the said state land commission, state school land commission and the state board of equalization and appeal, shall, so far as consistent with this act, be deemed, and is hereby made applicable to the said board of state land commissioners hereby created; that as soon as the said board assumes its official functions, the said "state land commission," the said "school land commission," and that the said "state board of equalization and appeal" shall, on demand, forthwith hand over to the said board of state land commission[ers] all books, records, abstracts, maps, plats, papers, accounts, implements, furniture, and all other state property in their possession or under their control, respectively, as well also as that in the office of the late harbor line commission; and that the said "state land commission," the "state school land commission," and the said "state board of equalization and appeal" shall thereupon and thenceforth cease to exist. And said board of state land commissioners shall have supervision of the selection of state and granted lands and shall provide necessary rules and regulations for the government of the selecting of such lands, and shall take all necessary steps for the confirmation and completion of the several grants to the state by the United States.

Authorization  
of the func-  
tions of the  
commis-  
sioners.

SEC. 6. That whenever there does not exist in this state any other commission authorized by law to exercise the functions of the commission mentioned and intended in article xv of the constitution of this state, the board of state land commissioners shall be such commission, and in all cases where harbor lines shall not previously have been established, shall have and exercise all powers necessary for the performance of the duties belonging to such commission, and the necessary and actual expenses of the said board, or any of its members in discharge of such duties, whether for traveling expenses or for materials, or for clerical, expert or other assistance, shall be audited by the state auditor on properly authenticated vouchers, and paid by the state treasurer on the warrant of the said auditor

out of any tide or shore land funds in the state treasury, and said board in the exercise of its functions, under said article xv of the constitution, shall be entitled to receive and have all maps, plats, books, papers, writings, accounts, vouchers, furniture, and other public property that have been heretofore in the possession of or under the control of any harbor line commission previously existing under the laws of this state. And said board of state land commissioners shall have full power and authority to expend the moneys appropriated under an act entitled "An act relating to the improvement of harbors and waterways of the State of Washington," approved March 10, '91. And all powers vested by the act last mentioned in the harbor line commission therein mentioned are hereby transferred to and devolved upon said board of state land commissioners hereby created, and said board are hereby authorized to draw warrants upon the state treasurer against the harbor improvement fund of the proper city for the amounts of all expenditures made by them in the improvement of harbors in pursuance of said act last mentioned, or of any law in force for the time being, and are hereby vested with all powers and authority necessary to carry into effect the full intent and purpose of said act and of all provisions of law relative to the improvement or leasing of harbor's areas.

SEC. 7. That in dealing with the various descriptions of land the supervision, control, management or disposition whereof is committed to said board of state land commissioners by the provisions of this act, said lands shall be dealt with according to the following classification: (1) Common school lands and lieu and indemnity lands therefor; (2) university lands and lieu and indemnity lands therefor; (3) overflowed lands and shore and tide lands; (4) harbor line areas or rims; (5) all other lands belonging to the state. And said board of state land commissioners, in dealing with said lands, shall deal with all matters and things respecting said classes separately, and shall not in any account, voucher, abstract, book or transaction intermingle matters or things pertaining to the one class with matters and things pertaining to another class: *Provided,*

Classification  
of lands.

Classes to be  
kept separate.

*however*, That the powers contemplated by this section shall be exercised subject to and in conformity with requirements of the state constitution and all applicable provisions of law in force for the time being.

Contracts  
for surveys.

SEC. 8. That the board of state land commissioners is hereby authorized to contract for any and all surveys of the lands now owned by the state, or the title to which may hereafter vest in the state, pursuant to appropriation first made by law, when surveys are necessary to divide lands in smaller tracts than government subdivisions or otherwise. All contracts for such surveys shall be let to the lowest responsible bidder, he being a competent surveyor; and the surveyor receiving such contract shall furnish a good and sufficient bond for the faithful execution of his duties in double the amount of such contract, such bond to be approved by the said board before such contract shall become binding upon the state. Surveys made under the provisions of this act shall be paid for only when the same shall have been examined and approved by the state board, and all field notes and plats of such surveys shall be filed and preserved in the office of the commissioner of public lands. All such surveys shall be made under such regulations as shall be prescribed by the said board of state land commissioners: *Provided*, That moneys heretofore paid into or deposited in the state treasury on account of surveys of tide lands shall be paid out to the persons who made the surveys, or their assigns, upon accounts approved by said state board of land commissioners, and audited by the state auditor as other bills are audited, and there is hereby appropriated for this purpose out of the fund created by such deposits in the state treasury the sum of twenty thousand dollars, or so much thereof as may be necessary, to be paid out upon warrants drawn by the state auditor.

Proviso.

Application for  
appraisement  
and sale.

SEC. 9. That any person or company may make written application to said board for the appraisement and sale of any of the lands of this state subject to sale. The said board of state land commissioners shall cause to be prepared blank applications containing such instructions as will inform and aid intending purchasers in making appli-

cations for the appraisalment and sale of any lands. Each application must be accompanied with a certificate of deposit or certified check upon any bank of this state, made payable to the state treasurer, and equal in amount to ten cents per acre for the land described in such application: *Provided*, That in no case shall such deposit be less than five dollars. In case the lands described in such application are sold at the time they are offered for sale, in accordance with such application, the amount of such deposit shall be returned to such applicant. If such lands be not sold at such sale, such deposit shall be forfeited to the state, and shall be so declared by the said board, and the state treasurer shall thereupon place the said forfeited money to the credit of the general fund.

SEC. 10. That when in the judgment of the board of state land commissioners a sufficient number of applications have been received for the appraisalment and sale of any of the public lands of the state, the said board shall cause any of said public land so applied for to be personally inspected as to its character, its topography, whether agricultural, timber, mineral, stone or rock quarry, or grazing; its distance from any city, town, railroad, river, irrigation ditch, or other waterways, and its location and character for irrigation purposes, when irrigation is required, and fully report the same to the said board, together with the inspector's judgment as to its present and prospective value; which said report shall be considered, and thereupon a price per acre fixed for each quarter section or subdivision thereof, which shall not be less than \$10 per acre. That the inspection of the land as provided in ~~this act~~ may be made by one of the said board, but when it is deemed advisable and for the best interest of the state, the said board may employ not to exceed two competent and trustworthy citizens, freeholders of the state, familiar with such work, to personally inspect the lands applied for as aforesaid, and report the same to the board, and if said land is timbered, the timber thereon to be reported as to quality, quantity and value. That the compensation of such inspectors shall not exceed \$5 per day for the time actually employed, and necessary expenses, which shall be

Inspection  
of lands.

Compensation  
of inspectors.

submitted to the said board in an itemized and verified account to be approved by the board. That when deemed necessary an assistant inspector may be employed, who may be paid not to exceed \$3.00 per day and necessary expenses, submitted as aforesaid.

Assistant inspector.

SEC. 11. That the said inspectors provided for in this act, before entering upon their duties, shall execute a bond to the State of Washington in the sum of \$5,000, conditioned to well and faithfully perform their duties as such, to be approved by the board of state land commissioners, and shall take and subscribe an oath before some officer authorized to administer oaths according to the laws of the state, as follows: "I, A B, do solemnly swear that I will well and truly perform the duties of agent of the State of Washington in inspecting and appraising lands belonging to said state, to the best of my knowledge and ability; that I will personally and carefully examine each parcel and tract of land to be listed by me, and make an appraisement and valuation of same and the timber thereon; that I am not, nor will I become, interested directly or indirectly in the sale or purchase of such lands, and that I will report every material fact connected with said lands directly to the state board of land commissioners, to enable it to determine the situation, value and character of the timber thereon, and the lands inspected by me."

Inspectors' bond.

Oath.

SEC. 12. That immediately upon the appraisement as aforesaid being made of said land in any county of the state, the secretary of said board shall prepare in duplicate a certificate of such appraisement, showing the land appraised is [in] not more than quarter sections, by reference to the surveys thereof, as fixed by the said board, and certified by the commissioner of public lands; one copy of which certificate shall be forwarded by the commissioner of public lands to the auditor of the county in which said lands are situated, to be by him filed in his office as a public record for the inspection and information of the public; the other of which shall be filed and preserved in the office of the commissioner of public lands.

Certificate of appraisement.

Notice.

SEC. 13. That upon receipt of such certificate it shall be the duty of the auditor of the county receiving the same to

immediately give notice that a certificate of such appraisal has been filed in the office of said auditor and is subject to the inspection of any person desiring to see the same. Such notice shall be given by conspicuously posting the same in a public place in the office of the county auditor.

SEC. 14. That no land granted to the state by the United States for educational purposes shall be sold otherwise than at public auction to the highest bidder, the value thereof having been, before any such sale, appraised by said board of state land commissioners, as hereinbefore provided, and no sale shall be valid unless the sum bid be equal to or more than the appraised value of the land. In estimating the value of lands, as hereinbefore provided, the value of the improvements thereon shall be excluded.

Granted lands to be sold at public auction.

SEC. 15. That at the time of making the inspection provided for in this act, the commissioner or inspectors shall note as to the land inspected every valuable growth of timber, or valuable deposit of stone or minerals, which might be advantageously sold separate and apart from the land, and every valuable deposit of coal, and shall, with such expert assistance as they shall find necessary, appraise the value of such coal, stone or mineral, and report the same to the board of state land commissioners in the report provided to be made by said section 10, and as soon as such timber shall have been inspected and reported upon to said board by the inspector, as hereinafter provided, the said board shall have power to determine that such stone or mineral or timber, or any part thereof, on any such tracts or tract shall be for sale, and the like further proceedings by said board shall be had for the appraisal of the value and for the sale of such stone or mineral or timber, as is provided in the case of appraisal or sale of the land.

Inspector to note character of land.

SEC. 16. That in every appraisal of land granted to this state for educational purposes, the board of state land commissioners shall be and serve as the board of appraisers mentioned in section 2 of article XVI of the state constitution, and in every appraisal under this act the said board shall appraise all improvements placed upon any land of the state, prior to the taking effect of this act, and found on such land at the time of the appraisal, and shall also

Improvements, waste and damages.

appraise all damages and waste done to the said land by the cutting and removal of timber, or the removal of stone or other materials by the person or persons claiming such improvements, or by his consent, and the damage to the land or materials thereon by reason of the use and occupancy of such lands, shall be considered in the appraisal; and the balance, after deducting such damages and waste appraised as aforesaid, shall be determined as the value of the improvements upon the land so appraised, and every such appraisal shall be recorded in the proceedings of the said board of state land commissioners: *Provided*, That this section shall not be considered to effect the right of the state to the value of such land: *And provided further*, That if the purchaser of such land from the state be not the owner of the improvements, he shall pay to the owner in cash, within thirty days from the day of sale of such land, the appraised value of such improvements determined in the manner hereinbefore provided. That in determining the value of such improvements, the board is hereby authorized to compel by subpoena the attendance, swear and examine witnesses as to the cost and value of such improvements, and the damage and waste as well.

Proviso.

Land may be re-advertised.

SEC. 17. That if any land offered for sale pursuant to the order of the board of state land commissioners be not bid off at the sale held thereunder, the same may again be advertised for sale as provided in section 19 [20] of this act, whenever, in the opinion of the board, it shall be expedient to do so; and such land shall be again advertised for sale, as provided in said section 20, whenever any person shall apply to said board, in writing, to have such land sold, and shall agree to bid the appraised price therefor, and shall deposit with the state treasurer at the time of making said application a sufficient sum of money to pay the cost of advertising for such sale.

SEC. 18. That all state lands excepting coal lands, tide lands and excepting such lands as shall be in whole or in part within the limits of any incorporated city, and appraised at no more than \$100 per acre, or within two miles of such limits, shall be sold on the following terms:

One-tenth to be paid on the day of sale; one-tenth on the first day of March next after the date of sale, and the balance within ten years from the date of sale: *Provided*, That any purchaser may make full payment at any time. All deferred payments shall draw interest at the rate of 6 per cent. per annum. The first installment of interest shall become due and payable on the first day of March next after the date of sale, and thereafter all interest shall become due and payable annually on the first day of March. All remittances for payment of either principal or interest must be forwarded to the commissioner of public lands and be made payable to the state treasurer. That coal lands not within said limits, or two miles thereof, shall be sold only in tracts of not less than one hundred and sixty acres, unless such land in a body is of less area, and only on the following terms: One-fifth cash, on the day of sale, and the balance of the purchase price within five days thereafter. Tracts of common school land, in whole or in part within the limits or within two miles of the limits of any incorporated city, shall be sold on the following terms: — One-fifth cash at the time of sale; one-fifth on the first day of March following said sale; one-fifth annually thereafter on the first day of March until the whole purchase price shall have been paid. All deferred payments shall draw interest at the rate of six per cent. per annum, the first installment of interest to be paid on the first day of March following the date of sale, and the balance annually on the first day of March. That all timber, stone or minerals, if sold separately from the land shall be sold for cash to the highest bidder, in lots not exceeding one hundred and sixty acres for timber, and not exceeding ten acres for stone or minerals: *Provided*, That in the judgment of the board it is for the interest of the state to sell the timber, stone or minerals separate from the land.

SEC. 19. That all purchasers of the timber, stone or minerals on state granted lands shall have power to enter upon said lands and remove such timber, stone or minerals therefrom, and shall complete such removal within a period of three years or less from the date of purchase, at the discretion of the board of state land commissioners, and if

Timber, stone  
or minerals  
removable by  
the purchaser.

not removed within the time fixed by said board, then all timber, stone or minerals sold under the provisions of this act and not so removed shall revert to the grant of lands to which they belong, and may be again sold, in like manner as provided for the original sale: *Provided*, That the timber, stone or minerals upon state land lying in or adjacent to any incorporated city, when sold, shall be removed within one year, or such less time as the board of state land commissioners shall fix, from the date of such purchase: *And provided further*, That no timber, stone or mineral shall be sold from any state land by a purchaser of any tract, until the whole purchase price of such tract shall have been paid therefor.

Notification to the auditor.

SEC. 20. That whenever the board of state land commissioners shall have determined any tract or tracts of state land, other than shore, tide or overflowed land, to be for sale, it shall, through its chairman, notify the auditor of the county in which said lands are situated, of that fact, specifying which of said lands are for sale, and order the sale thereof, and thereupon the said county auditor shall, under the direction of the said board, forthwith fix the date of sale and give notice thereof, by advertisement published once a week for six weeks next before the time he shall name in said notice, in at least one newspaper of general circulation published in said county, which notices shall specify the place and terms of sale, describing with particularity each parcel of land to be sold, and the appraiser's value thereof, and by conspicuously posting such notice in the office of the county auditor of the county wherein such lands are situated. Proof of publication shall be made by the affidavit of the publisher, or person in charge of the said paper, and by the affidavit of the person posting such notice as aforesaid, which shall be at once sent to and filed in the office of the board of state land commissioners, and the said board is hereby authorized to expend any sum of money not exceeding fifteen dollars in advertising such sale as the said board shall determine to be for the best interest of the state. Such sales shall take place on the day advertised between the hours of ten o'clock in the forenoon and four o'clock in the afternoon,

Auditor to fix date of sale and give notice thereof, by advertisement.

Proof of publication.

in front of the court house, or of the building in which the superior court is held in counties in which there is no court house, and shall be at public auction, to the highest bidder, and on the terms specified in the notice herebefore prescribed, and no land shall be sold for less than its appraised value; and that no more than two adjournments of such sale shall be had, nor any adjournment for more than one week. Such sale shall be conducted under the direction of the board of state land commissioners by the county auditor of the county in which the lands sold are situate, and such auditor shall, at once, deliver to the purchaser under his hand and seal, a memorandum of his purchase, containing a description of the land purchased, the price bid and the terms of sale, upon the delivery to such auditor, by the purchaser, of a certified check upon some bank, for an amount equal to one-tenth of the price of the land by him purchased, payable to the order of the treasurer of the State of Washington; and such auditor shall at once send to the commissioners such certified check and a copy of the memorandum delivered to the purchaser: *Provided, however,* That the powers and duties hereinbefore conferred or imposed upon county auditors may, any or all of them, be performed by any member of the board of state land commissioners when it is convenient, and is deemed advisable by said board; but the commissioner performing such or any of such duties shall not be entitled to make any charges or incur any expense in performing such duties other than in this act hereinbefore provided.

No land to be sold for less than appraised value.

SEC. 21. That the member of the said board of state land commissioners, or the county auditor, conducting the sale shall, upon making sale of any school land or stone, mineral or timber thereon, report such sale to the said board of state land commissioners, as provided in section 20 of this act, together with other information touching the same, as the said board shall have prescribed, and within thirty days from the date of the reception of such report, if no affidavit showing that the interests of the state in such sale were injuriously affected by fraud or collusion shall have [been] filed with said board, and if it shall appear from such report that the sale was fairly con-

Report of sale.

Confirmation  
of sale.

Patent.

Sale may be  
vacated, when.

ducted and that the purchaser was the highest bidder at such sale, and that his bid was not less than the appraised value of the property sold, and if the said board shall be satisfied that the land sold would not, upon being re-advertised and sold, sell for at least 25 per cent. more than the price at which it shall have been sold, and that the payment required by law to be made at the time of making sale has been made, the said board shall confirm the sale, and thereupon the chairman of the said board shall issue to the purchaser a contract of sale as in this act hereinafter provided. That when the entire purchase price of any land shall have been fully paid such fact shall be certified by the chairman of the said board to the governor, whereupon he shall cause a patent to be issued to the purchaser. Patents shall be signed by the governor and attested by the secretary of state with the seal of the state attached thereto; and need not be acknowledged, and shall be entitled to be recorded in the office of the county auditor of any county in which any land therein described is situated. That if it does not appear to the said board from the report of sale that the sale was fairly conducted, and the purchaser was the highest bidder, and that his bid was not less than the appraised value, and that proper payment has been made; or if within said thirty days an affidavit showing that the interests of the state in such sale were injuriously affected by fraud or collusion shall have been filed with the said board; or if the said board shall, within said time, be advised that the land sold would, upon being re-advertised and again sold, sell for a price 25 per cent. in excess of the price for which it shall have been sold, it shall be the duty of the said board to immediately inquire into and determine the facts in a summary manner, and thereupon confirm or vacate the said sale according as it may find the sale to have been fair and regular in all said particulars or otherwise: *Provided*, That any sale so vacated or set aside shall be so vacated or set aside within thirty days from the date of such sale; and, if it vacate the sale, it shall forthwith order a re-sale of said land. That the said re-sale shall take place in pursuance of like advertisement, as in the case of the original sale. That, whenever

a sale shall be vacated by the said board, it shall return the said certified check and also furnish a certificate of such vacation signed by the chairman thereof to the purchaser.

SEC. 22. That the time for making the payments provided for in this act, except in cases where this act prescribes cash payment, may be extended for one year by the board of state land commissioners on a satisfactory showing being made to said board, but no extension shall be granted for the payment of principal unless the interest on the whole sum due and unpaid be first paid. The purchaser of land under the provisions of this act, except in cases where this act prescribes cash payment, shall enter into and sign a contract with the state, to be signed by the commissioner of public lands, on behalf of the state, and in a form to be prescribed by the said board, in which he shall covenant that he will make the payment of principal and interest when due, and that he will pay all taxes and assessments that may be levied or assessed on such land, and that on a failure to make the payments prescribed by this act, when due and for six months thereafter, that he will, on demand of the said board or other authorized officer of the state, surrender the said premises, and upon such failure for six months all rights of the purchaser under the said contract may, at the election of said board of state land commissioners, acting for the state, and without notice to said purchaser, be declared to be forfeited, and when so declared forfeited the state shall be released from all obligation to convey the land. When the payments provided for in this act for land, stone, minerals or timber shall have been made in full the commissioner of public lands shall procure the proper deed of conveyance to be made to the purchaser, but in no case shall final deed of conveyance be issued until after all the purchaser's money has been paid. The contract provided for by this section shall be executed in duplicate, and one copy shall be retained by the purchaser and the other shall be filed in the office of the commissioner of public lands. All contracts provided for in this section shall be signed by the purchaser and also by the commissioner of public lands on the part of the state.

Extension of  
time for mak-  
ing payment.

Contract  
between  
purchaser  
and the state.

Deed.

Leasing  
of common  
school lands.

SEC. 23. The said board of state land commissioners shall have power to lease the common school lands of the state for a term not exceeding five years. That all applications therefor shall be made in writing to the said board and shall be accompanied with a certificate of deposit or certified check on some bank in this state, each made payable to the order of the state treasurer, equal in amount to the first year's rent of such land in accordance with such bid. All applications to rent such land shall be addressed to "Board of State Land Commissioners," and plainly marked thereon "Bid for the lease of school lands." Such lands shall be leased to the highest bidder: *Provided*, That the said board shall have the right to reject any and all bids when the interest of the state appears to justify it. That the commissioner of public lands shall issue all leases of such lands and shall return to the bidders all deposits received therefrom, with rejected applications, and shall deliver to the state treasurer all deposits received, with approved applications for lease of such lands. That no lease shall be so drawn as to interfere with the sale of lands ordered by the board of state land commissioners to be sold.

Commission-  
ers to cause  
abstracts to be  
made of all  
land owned  
by the state.

SEC. 24. That the board of state land commissioners shall cause full and correct abstracts to be made and kept in the office of the commissioner of public lands of all the lands owned or that shall be owned by the state, which abstracts shall be in suitable and well bound books. Such abstracts shall show in proper columns and pages the section or part of section, township and range in which each tract is situated, whether timber or prairie, improved or unimproved, the appraised value per acre, the value of improvements, and the value of damages, and the total value, the several values of stone, minerals and timber thereon, the date of sale, date of lease, name of purchaser, name of lessee, price per acre, amount of lease per acre, amount of cash paid, amount unpaid and when due, amount of annual interest, and such other columns as may be necessary to show a full and complete abstract of the conditions and circumstances of each tract or parcel of land from the time

What abstracts  
to show.

title was acquired by the state until final payment by the purchasers, and the issuance of a deed by the state for the land.

SEC. 25. That whenever there shall be in the state school fund applicable to investment the sum of \$5,000 or more, the board of state land commissioners may invest the same in national, state or county bonds at par, of the United States, this state, or of the counties or school districts, bearing not less than five per cent. interest per annum. Upon such investment being made the bonds purchased shall be deposited with the state treasurer, and thereupon the duties and powers of the board of state land commissioners as to such funds or securities shall cease.

Investment  
of funds.

SEC. 26. That any person, corporation or association engaged in the business of logging shall have a right-of-way over public lands when necessary for the purpose of hauling or removing timber from other lands, but permission shall be first obtained in writing from the board of state land commissioners.

Right-of-way  
to loggers.

SEC. 27. The board of state land commissioners may make all necessary rules and regulations for carrying out the provisions of this act, not inconsistent with law.

Rules and  
regulations.

SEC. 28. All appraisements heretofore made under existing laws, where sales have not yet been made, are hereby annulled, and all such lands shall be appraised and sold, or leased, as herein provided: *Provided*, That lease may be made upon the basis of values heretofore fixed by county commissioners in said appraisements.

Prior ap-  
praisements  
annulled.

SEC. 29. The board of state land commissioners shall have the power to lease any and all portions of the areas within the harbor lines of the State of Washington for a term not exceeding thirty years, subject to and in conformity with any provisions of law regulating the making of such leases, in force at the time of the making thereof.

Lease of  
harbor lines.

SEC. 30. That all notices, orders, contracts, certificates, rules and regulations, and other documents or papers made and issued by or on behalf of the board of state land commissioners, or the commissioner of public lands shall be authenticated by a seal, whereon shall be the vignette of

Seal. Washington, with the words "Seal of the commissioner of public lands, State of Washington."

Appropriation  
for clerical aid.

SEC. 31. The commissioner of public lands is authorized to expend a sum not to exceed \$10,000 per annum for such clerical assistance as may be required in and about his office, and the state auditor is hereby authorized and required to draw a warrant for the amount so expended, upon the presentation of properly authenticated vouchers, and the state treasurer to pay the same out of any moneys not otherwise appropriated.

Fees.

SEC. 32. That the commissioner of public lands, for services performed by him as such, may charge and collect the following fees: (1) For a copy of any document or paper on file in his office, fifteen cents per folio. (2) For affixing a certificate and seal, fifty cents. (3) For each contract of sale or grant issued, if for one-quarter section or less, one dollar. (4) For each copy of the plat of township, or any portion thereof, one dollar. All transcripts under the hand and seal of the said commissioner, and otherwise duly authenticated, shall be received in evidence in any court of this state.

Fee book.

SEC. 33. That the commissioner of public lands shall keep a fee book, in which must be entered all fees received by him, with the date paid and the name of the person paying the same, and the nature of the services rendered for which the fee is charged, which book must be verified quarterly by his affidavit entered therein, and all fees so collected by him shall be paid into the state treasury quarterly, and the receipt of such treasurer taken, to be retained in the office of said commissioner of public lands as a voucher.

Repeal.

SEC. 34. An act entitled "An act to provide for the sale and leasing of school lands and declaring an emergency," approved March 28th, 1890, be and the same is hereby repealed; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Emergency.

SEC. 35. Whereas, under existing laws the state is sustaining great and irreparable loss in the appraisalment, sale and disposition of its lands, an emergency is hereby

declared to exist, and this act shall take effect and be in force from and after its passage.

Approved March 15, 1893.

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CHAPTER CXXVI.

[S. B. No. 255.]

TO PROVIDE FOR A STATE ROAD THROUGH CASCADE MOUNTAINS.

AN ACT to provide for the establishment of a state road through the Cascade mountains, *via* pass north of Mount Baker, to connect Eastern and Western Washington, and providing an appropriation therefor.

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

SECTION 1. That there be laid out, established and maintained for the use of the public a state road, commencing on the road or trail up the north fork of the Nooksack river, at "Thompson's," where Glacier creek empties into the north fork of the Nooksack, said place of beginning being in township 39 north of range 7 east in the State of Washington; running thence by the best practicable route, *via* pass north of Mount Baker, to a point on the Columbia river opposite the town of Marcus, Stevens county.

SEC. 2. That a commission consisting of three members is hereby created, to be appointed by the governor and confirmed by the senate.

SEC. 3. That the commissioners provided for in section 2 of this act shall hold office until [the] first day of January, 1894, or until the road is completed, or the appropriation exhausted. Should a vacancy occur in said commission by death, resignation or otherwise, such vacancy shall be filled by appointment by the remaining members of said commission: *Provided*, That such person appointed to fill any vacancy in said commission shall continue as a member of said commission until the date specified in this section of this act.

Oath.

SEC. 4. That each of the commissioners provided for in this act shall take and subscribe an oath or affirmation before some person authorized to administer the same, to faithfully and impartially discharge the duties of his office as a member of said commission. Each of said commissioners shall make a bond unto the State of Washington in the sum of one thousand (\$1,000) dollars, to be approved by the governor, conditioned for the faithful performance of his duties as a member of the board of state road commissioners, which bond shall be filed with the secretary of state.

Bond.

Duties of the commission.

SEC. 5. That the commission shall, as soon as practicable, and with the utmost diligence and economy, proceed to lay out, survey and determine the width of such road, and shall superintend the opening and construction thereof; and shall employ a clerk and a competent surveyor and such assistance as may be necessary, and purchase such material and supplies as may be necessary to carry out the full intent of this act: *Provided*, That the surveyor provided for in this section of this act may be a member of said commission, and when acting in such capacity shall receive an additional per diem of two dollars.

Authority vested in the board.

SEC. 6. Said board of commissioners shall be vested, for the purpose of establishing such road, with all the powers vested by law in the boards of county commissioners of the several counties and the viewers, generally, relating to the control and management of county roads, and shall proceed, as near as may be practicable, in conformity with the laws provided for the establishment of county roads.

Notice of proposed route.

SEC. 7. After the completion of such survey, the board of commissioners shall cause a notice to be published for four consecutive weeks in a newspaper authorized to do the county printing in the county or counties through or in which the road is proposed to be laid out and established, which notice shall describe the proposed route of the road, and state a time and place of meeting of the board to consider claims for damage or compensation in consequence of the opening of the road.

Damages.

SEC. 8. The board of commissioners shall at such time and place proceed to assess and determine the damages sus

tained by any person through whose premises the road is sought to be established, and be heard in respect to the amount of damages sustained; and all applications for damages shall be barred unless they are presented as provided for by this act.

SEC. 9. Every claimant of compensation or damages, on Appeal. account of the establishment of such road, may appeal to the superior court of the county in which his lands are located, from the decision of the board of commissioners upon his claim, and such appeal and all proceedings connected therewith, shall be in conformity with the provisions of the code relating to appeals from decision of county commissioners in like cases.

SEC. 10. For the purpose of carrying into effect the pro- Appropriation. visions of this act for the establishment and construction of said state road there is hereby appropriated from funds in the state treasury not otherwise appropriated the sum of twenty thousand (\$20,000) dollars, or so much thereof as may be necessary: *Provided, however,* That the appropriation hereby made shall not be available unless the county of Whatcom shall appropriate the sum of five thousand (\$5,000) dollars, and the counties of Okanogan and Stevens one thousand (\$1,000) dollars each, which said county appropriations shall be placed in the state fund for the use of said commission.

SEC. 11. Each member of such board of commissioners Compensation of board. shall receive three dollars per day for each and every day employed in the discharge of his work and his actual traveling expenses.

SEC. 12. The board of commissioners shall examine and Manner of making payment of expenses. allow all bills incurred by them in the discharge of the duties provided for in this act, and on presentation of the vouchers as allowed, the state auditor is authorized to draw his warrant on the state treasurer for the several amounts so allowed and the state treasurer is hereby authorized to pay said warrants out of any money in the treasury appropriated for this purpose: *Provided,* That no expenses shall be incurred for the payment of which no appropriation shall have been made.

Report.

SEC. 13. All records, papers and documents relating to the establishment of such road, together with a full and complete report of all transactions and proceedings, and an itemized account of all expenses incurred in connection therewith, shall be filed in the office of the state auditor, and a complete and accurate plat and description of the route of the road shall also be filed in the auditor's office of each of the several counties within whose boundaries portions of the road extend.

Counties to keep road in repair.

SEC. 14. After the completion of such road and when the term of office of such board of commissioners shall have expired, it shall become the duty of the boards of county commissioners respectively of the county in which said road extends to keep such portion of the road as is situated in their respective counties in good repair, in like manner as if the same were a county road.

SEC. 15. That the said board of road commissioners shall proceed to construct said road, beginning at each end, as designated above, and expend the money so as to fully complete the road at the continuation of such roads as named in section one (1) of this act, and proceed to construct the same so that the same number of miles shall be constructed from each of the points of commencing as named in section one (1), until such road is fully completed.

Compensation for county commissioners.

SEC. 16. For their services under the preceding section the county commissioners shall receive from the state the same compensation as they are entitled to receive from their respective counties for similar services.

Manner of payment of bills.

SEC. 17. The said county commissioners shall examine and allow all bills properly incurred by them in the discharge of their duties provided by this act, and an itemized account of all expenses thus incurred shall be filed in the office of the state auditor, and such bills shall be paid in like manner as provided in section twelve of this act for the payment of bills incurred by the board of state road commissioners.

Approved March 15, 1893.

## CHAPTER CXXVII.

[S. B. No. 167.]

## COMMENCEMENT OF CIVIL ACTIONS IN SUPERIOR COURTS.

AN ACT to provide for the manner of commencing civil actions in the superior courts, and bringing the same to trial.

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

SECTION 1. Civil actions in the several superior courts of this state shall be commenced by the service of a summons, as hereinafter provided.

SEC. 2. The summons must be subscribed by the plaintiff <sup>Summons.</sup> or his attorney, and directed to the defendant requiring him to answer the complaint, and serve a copy of his answer on the person whose name is subscribed to the summons, at a place within the state therein specified in which there is a postoffice, within twenty days after the service of the summons, exclusive of the day of service.

SEC. 3. The summons shall also contain—(1) The title <sup>Contents of summons.</sup> of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant. (2) A direction to the defendants summoning them to appear within twenty days after service of the summons, exclusive of the day of service, and defend the action. (3) A notice that, in case of failure so to do, judgment will be rendered against them, according to the demand of the complaint. It shall be subscribed by the plaintiff, or his attorney, with the addition of his postoffice address, at which the papers in the action may be served on him by mail. There may, at the option of the plaintiff, be added at the foot, when the complaint is not served with the summons, and the only relief sought is the recovery of the money, whether upon tort or contract, a brief notice specifying the sum to be demanded by the complaint.

SEC. 4. Such summons shall be substantially in the following form:

..... COURT, ..... COUNTY.

A B, *Plaintiff*,  
vs.  
C D, *Defendant*.

Form of summons.

The State of Washington, ....., to the said ....., defendant: You are hereby summoned to appear within twenty days after service of this summons, exclusive of the day of service, and defend the above entitled action in the court aforesaid; and in case of your failure so to do, judgment will be rendered against you, according to the demand of the complaint, which will be filed with the clerk of said court, or a copy of which is herewith served upon you.

E F, *Plaintiff's Attorney*.

P. O. Address, ..... County, Wash.

Service of summons to be accompanied by a copy of complaint, when.

SEC. 5. A copy of the complaint must be served upon the defendant with the summons unless the complaint itself be filed in the office of the clerk of the superior court of the county in which the action is commenced within five days after service of such summons, in which case the service of the copy may be omitted; but the summons in such case must notify the defendant that the complaint will be filed with the clerk of said court; and if the defendant appear within ten days after the service of the summons, the plaintiff must serve a copy of the complaint on the defendant or his attorney within ten days after the notice of such appearance, and the defendant shall have at least ten days thereafter to answer the same; and no judgment shall be entered against him for want of an answer in such case till the expiration of the time.

Who may serve summons.

SEC. 6. In all cases, except when service is made by publication, as hereinafter provided, the summons shall be served by the sheriff of the county wherein the service is made or by his deputy, or by any person over twenty-one years of age, who is competent to be a witness in the action, other than the plaintiff.

On whom summons must be served.

SEC. 7. The summons shall be served by delivering a copy thereof, as follows: (1) If the action be against any county in this state, to the county auditor. (2) If against any town or incorporated city in the state, to the mayor thereof. (3) If against a school district, to the clerk

thereof. (4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state. (5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state. (6) If against an insurance company, to any agent authorized by such company to solicit insurance within this state. (7) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state. (8) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, secretary, cashier or managing agent thereof. (9) If the suit be against a foreign corporation or non-resident joint stock company or association doing business within this state, to any agent, cashier or secretary thereof. (10) If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be. (11) If against any person for whom a guardian has been appointed for any cause, then to such guardian. (12) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his usual abode with some person of suitable age and discretion then resident therein. Service made in the modes provided in this section shall be taken and held to be personal service.

SEC. 8. Whenever any corporation, created by the laws of this state, or late Territory of Washington, does not have an officer in this state upon whom legal service of process can be made, an action or proceeding against such corporation may be commenced in any county where the cause of action may arise, or said corporation may have property, and service may be made upon such corporation by depositing a copy of the summons, writ, or other process, in the office of the secretary of state, which shall be taken, deemed and treated as personal service on such corporation:

Manner of making service on domestic corporation.

*Provided*, A copy of said summons, writ, or other process, shall be deposited in the postoffice, postage paid, directed to the secretary or other proper officer of such corporation, at the place where the main business of such corporation is transacted, when such place of business is known to the plaintiff, and be published at least once a week for six weeks in some newspaper printed and published at the seat of government of this state, before such service shall be deemed perfect.

SEC. 9. When the defendant can not be found within the state, of which the return of the sheriff of the county in which the action is brought, that the defendant can not be found in the county, is *prima facie* evidence, and upon the filing of an affidavit of the plaintiff, his agent or attorney, with the clerk of the court, stating that he believes that the defendant is not a resident of the state, or can not be found therein, and that he has deposited a copy of the summons and complaint in the postoffice, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons, by the plaintiff or his attorney in either of the following cases: (1) When the defendant is a foreign corporation, and has property within the state. (2) When the defendant, being a resident of this state, has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with like intent. (3) When the defendant is not a resident of the state, but has property therein and the court has jurisdiction of the subject of the action. (4) When the action is for divorce in the cases prescribed by law. (5) When the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly, or partly, in excluding the defendant from any interest or lien therein. (6) When the action is to foreclose, satisfy, or redeem from a mortgage, or to enforce a lien of any kind on real estate in the county where the action is brought, or satisfy or redeem from the same. (7) When the action is

Service by  
publication.

against any corporation, whether private or municipal, organized under the laws of this state and the proper officers on whom to make service do not exist or can not be found.

SEC. 10. The publication shall be made in a newspaper printed and published in the county where the action is brought (and if there be no newspaper in the county, then in a newspaper printed and published in an adjoining county, and if there is no such newspaper in an adjoining county, then a newspaper printed and published at the capital of the state) once each week for six consecutive weeks; and the service of the summons shall be deemed complete at the expiration of the time prescribed for publication as aforesaid. Publication of summons.

SEC. 11. Personal service on the defendant out of the state shall be equivalent to service by publication, and the defendant shall be required to appear and answer within sixty days after such service.

SEC. 12. If the summons is not served personally on the defendant in the cases provided in the last two sections, he or his representatives, on application and sufficient cause shown, at any time before judgment, shall be allowed to defend the action and, except in an action for divorce, the defendant or his representative may in like manner be allowed to defend after judgment, and within one year after the rendition of such judgment, on such terms as may be just; and if the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs.

SEC. 13. When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows: Manner of proceeding in certain cases. (1) If the action is against the defendants jointly indebted upon a contract, he may proceed against the defendants served unless the court otherwise directs; and if he recovers judgment it may be entered against all the defendants thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the defendants served. (2) If the action is against defendants severally liable, he may proceed against the de-

defendants served in the same manner as if they were the only defendants. (3) Though all the defendants may have been served with the summons, judgment may be taken against any of them severally, when the plaintiff would be entitled to judgment against such defendants if the action had been against them alone.

Proof of service.

SEC. 14. Proof of service shall be as follows: (1) If served by the sheriff or his deputy, the return of such sheriff or his deputy indorsed upon or attached to the summons; (2) if by any other person, his affidavit thereof indorsed upon or attached to the summons; or (3) in case of publication, the affidavit of the printer, publisher, foreman, principal clerk or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or (4) the written admission of the defendant; (5) in case of personal service out of the state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or a clerk of a court of record. In case of service otherwise than by publication, the return, admission or affidavit must state the time, place and manner of service.

SEC. 15. From the time of the service of the summons in a civil action, the court is deemed to have acquired jurisdiction, and to have control of all the subsequent proceedings. A voluntary appearance of a defendant is equivalent to a personal service of the summons upon him.

Voluntary appearance equivalent to personal service.

SEC. 16. A defendant appears in an action when he answers, demurs, makes any application for an order therein, or gives the plaintiff written notice of his appearance. After appearance a defendant is entitled to notice of all subsequent proceedings; but when a defendant has not appeared, service of notice or papers in the ordinary proceedings in an action need not be made upon him. Every such appearance made in an action shall be deemed a general appearance, unless the defendant in making the same states that the same is a special appearance.

Actions affecting title to real property.

SEC. 17. In an action affecting the title to real property the plaintiff, at the time of filing the complaint, or at any time afterwards, or whenever a writ of attachment of property shall be issued, or at any time afterwards, the plaintiff

or a defendant, when he sets up an affirmative cause of action in his answer, and demands substantive relief at the time of filing his answer, or at any time afterwards, if the same be intended to affect real property, may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: *Provided, however,* That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, in its discretion, at any time after the action shall be settled, discontinued or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled of record, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be made by an indorsement to that effect on the margin of the record.

SEC. 18. Notices shall be in writing; and notices and other papers may be served on the party or attorney in the manner prescribed in the next three sections where not otherwise provided by statute.

SEC. 19. The services may be personal or by delivery to the party or attorney on whom service is required to be made, or it may be as follows:

Manner of  
making  
service.

1. If upon an attorney, it may be made during his absence from his office by leaving the papers with his clerk

therein, or with a person having charge thereof; or, when there is no person in the office, by leaving it between the hours of six in the morning and nine in the evening in a conspicuous place in the office; or, if it is not open to admit of such service, then by leaving it at the attorney's residence with some person of suitable age and discretion.

2. If upon a party, it may be made by leaving the papers at his residence between the hours of six in the morning and nine in the evening, with some person of suitable age and discretion.

SEC. 20. Service by mail may be made when the person making the service and the person on whom it is to be made reside in different places between which there is a regular communication by mail.

Service by mail.

SEC. 21. In case of service by mail, the papers shall be deposited in the postoffice, addressed to the person on whom it is served, at his place of residence, and the postage paid; and in such case the time of service shall be double that required in case of personal service.

Service when no attorney appears.

SEC. 22. Where a plaintiff or defendant who has appeared resides out of the state and has no attorney in the action, the service may be made by mail if his residence is known; if not known, on the clerk for him. But where a party, whether resident or non-resident, has an attorney in the action, the service of papers shall be upon the attorney instead of the party. But if the attorney shall have removed from the state, such service may be made upon him personally either within or without the state, or by mail to him at his place of residence, if known, and if not known, then by mail upon the party, if his residence is known, whether within or without the state. And if the residence of neither the party or attorney are known, the service may be made upon the clerk for the attorney.

Service upon the attorney.

Service upon attorney's clerk.

Not apply to contempt proceedings.

SEC. 23. The provisions of the four preceding sections do not apply to the service of a summons or other process, or of any paper to bring a party into contempt.

Validity of notice not affected by defect in title or omission thereof.

SEC. 24. A notice or other paper is valid and effectual though the title of the action in which it is made is omitted, or it is defective either in respect to the court or parties, if it intelligently refers to such action or proceed-

ings; and in furtherance of justice upon proper terms, any other defect or error in any notice or other paper or proceeding may be amended by the court, and any mischance, omission or defect relieved within one year thereafter; and the court may enlarge or extend the time, for good cause shown, within which by statute any act is to be done, proceeding had or taken, notice of paper filed or served, or may, on such terms as are just, permit the same to be done or supplied after the time therefor has expired, except that the time for bringing a writ of error or appeal shall in no case be enlarged, or a party permitted to bring such writ of error or appeal after the time therefor has expired.

Time within which court may allow amendment.

Time may be extended.

SEC. 25. A defendant who has appeared may, without answering, demand in writing an assessment of damages, of the amount which the plaintiff is entitled to recover, and thereupon such assessment shall be had or any such amount ascertained in such manner as the court on application may direct, and judgment entered by the clerk for the amount so assessed or ascertained.

Defendant may demand an assessment of damages.

SEC. 26. The time within which an act is to be done shall be computed by excluding the first day and including the last. If the last day falls on a Sunday it shall be excluded.

Defining the time in which act to be done.

SEC. 27. The publication of legal notices required by law, or by an order of a judge or court, to be published in a newspaper once in each week for a specified number of weeks, shall be made on the day of each week in which such newspaper is published.

SEC. 28. Issues arise upon the pleadings when a fact or conclusion of law is maintained by one party and controverted by the other, they are of two kinds—First, of law; and second, of fact.

Issues arise upon pleadings, when.

SEC. 29. An issue of law arises upon a demurrer to the complaint, answer or reply.

SEC. 30. An issue of fact arises—*First*, Upon a material allegation in the complaint controverted by the answer; or, *second*, upon new matter in the answer, controverted by the reply; or, *third*, upon new matter in the reply, except when an issue of law is joined thereon; issues

When issue of fact arises.

both of law and of fact may arise upon different and distinct parts of the pleadings in the same action.

Trial.

SEC. 31. A trial is the judicial examination of the issues between the parties, whether they are issues of law or of fact.

Issue of law.

SEC. 32. An issue of law shall be tried by the court, unless it is referred as provided by the statutes relating to referees.

Jury trial in certain cases, of issue of fact.

SEC. 33. An issue of fact, in an action for the recovery of money only, or of specific real or personal property shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees.

All other issues of fact tried by court.

SEC. 34. Every other issue of fact shall be tried by the court, subject, however, to the right of the parties to consent, or of the court to order, that the whole issue, or any specific question of fact involved therein, be tried by a jury, or referred.

Notice of trial of issue of fact.

SEC. 35. At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least three days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least three days before the day of setting such causes for trial file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue. In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least three days before the day set apart by the court under its rules

Notice of trial of issue of law.

for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with

a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court. When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court. The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice on his part.

Cause once docketed remains from day to day.

SEC. 36. Either party, after the notice of trial, whether given by himself or the adverse party, may bring the issue to trial, and, in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with his case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

Either party, after notice, may bring issue to trial.

SEC. 37. All pleadings in any civil action shall be filed with the clerk of the court, on or before the day when the case is called for trial, or the day when any application is made to the court for an order therein, and in case the moving party shall fail, or neglect to cause the pleadings to be filed with the clerk of the court as above required, the adverse party may apply to the court, without notice, for an order on such moving party to file such pleadings forthwith, and for a failure to comply with such order the court may order the cause dismissed unless good cause is shown for granting an extension of time within which to file such pleadings.

Filing of pleadings.

SEC. 38. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeal.

Approved March 15, 1893.

## CHAPTER CXXVIII.

[S. B. No. 206.]

MAKING RAILWAY COMPANIES LIABLE FOR INJURY  
TO STOCK.

AN ACT to protect the owners of stock from injury thereto by moving railway trains, declaring the law of negligence and providing for a reasonable attorney's fee in all actions for such injury.

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

SECTION 1. That in all actions against persons or corporations owning or operating steam railways in the State of Washington, for injuries to stock of any kind, except hogs, by collision with moving trains, it shall be *prima facie* evidence of negligence on the part of the defendant to show that the railroad track was not fenced so as to turn said stock from the track.

Placing and  
maintaining  
gates.

SEC. 2. When any person or corporation, owning or operating a railroad, shall fence the railroad track through the occupied or enclosed or cultivated lands of any individual or corporation it shall be the duty of said person or corporation, at their expense, to put in place and maintain such crossings with gates or bars as may be necessary to give the owner, together with his stock, access to the several parts of his occupied or enclosed and cultivated lands. Persons holding or occupying land under any of the land laws of the United States, or by contract of purchase from any land grant railroad, or under equitable title of any kind which gives them the right of occupancy, shall be considered as the owners of the land so held and occupied for the purposes of this act. Failure to provide such crossings with gates or bars for sixty days after written notice from the owners requiring the same, shall subject the person or corporation in default to a penalty of not greater than two hundred and fifty dollars, to be recovered by the owner of the land by action in the superior court of the county: *Provided*, That no more than one crossing in every half mile shall be required under this act upon the property of any one owner.

Owners  
defined.

Penalty.

SEC. 3. When any stock shall be killed or injured by collision with a railroad train or with a railroad engine it shall be the duty of the engineer and fireman of the engine, within forty-eight hours thereafter, to report the accident to the division superintendent of the road, stating the manner of the accident, place of its occurrence and the name of the owner of the stock killed or injured, if known, and immediately upon the receipt of such report it shall be the duty of such division superintendent to transmit the same to the owner of the stock, if known, and if not known to cause the said report to be filed with the agent of the company nearest the place of the accident, to be by him kept at his office for the inspection of the public. Failure on the part of the officers or agents in this section mentioned to comply with the requirements of this section, shall subject the person or corporation owning or operating the railway to a penalty of double the market value of the stock injured or killed, to be recovered by the owner thereof in an action in the superior court of the county.

Engineer and fireman to report killing of stock.

Penalty.

SEC. 4. In all actions for injury to stock by collision with moving railway trains where the plaintiff shall recover, and in actions to recover a penalty under this act in which the plaintiff shall recover judgment, the judge shall allow a reasonable attorney's fee to be taxed as a part of the costs.

Attorney's fee.

Approved March 15, 1893.

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## CHAPTER CXXIX.

[S. B. No. 261.]

### RELATING TO THE FILING AND CANCELLATION OF PLATS.

AN ACT amending section 2331, Code of 1881, laws of the State of Washington, relating to the filing and cancellation of plats, and declaring an emergency.

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

SECTION 1. Section 2331, Code of 1881, is hereby amended so as to read as follows: Section 2331. Every

person whose duty it may be to comply with the foregoing regulations shall at or before the time of offering such plat for record, acknowledge the same before the auditor of the proper county, or any other officer who is authorized by law to take acknowledgments of deeds, a certificate of which acknowledgment shall be indorsed on or annexed to such plat and recorded therewith. In all cases where any person or persons, corporation or corporations shall desire to file a plat, map, subdivision or re-plat of any property, or shall desire to vacate the whole or any portion of any existing plat, map, subdivision or re-plat, such person or persons, corporation or corporations must, at the time of filing the same for record or of filing a petition for vacation thereof, file therewith a certificate from the proper officer or officers who may be in charge of the collection of taxes for which the property affected may be liable at that date, that all taxes and assessments which have been levied and become chargeable against such property at such date have been fully paid, satisfied and discharged.

Deposit.

SEC. 2. That any person filing a plat subsequent to April 1st in any year and prior to the date of the collection of taxes, the said party shall deposit with the county treasurer a sum equal to an increase of twenty-five per cent. of the amount of the tax for the previous year on the property platted. The treasurer's receipt for said amount shall be taken by the auditor as evidence of the payment of the tax. The treasurer shall appropriate so much of said deposit as will pay the taxes on the said property when the tax rolls are placed in his hands for collection, and in case the sum deposited is in excess of the amount necessary for the payment of the said taxes, the treasurer shall return, to the party depositing, the amount of said excess, taking his receipt therefor, which receipt shall be accepted for its face value on the treasurer's quarterly settlement with the county auditor.

Appropriation  
of part of  
deposit for  
payment  
of taxes.

SEC. 3. All acts or parts of acts in conflict with this act shall be and the same are hereby repealed.

Emergency.

SEC. 4. An emergency is hereby declared to exist and this act shall be in force from and after its passage.

Approved March 15, 1893.

CHAPTER CXXX.

[H. B. No. 390.]

FEEES OF STATE AND COUNTY OFFICERS, WITNESSES AND JURORS.

AN ACT in relation to the fees of state and county officers, witnesses and jurors, and amending section 2086 of the Code of Washington of 1881.

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

SECTION 1. Section 2086 of the Code of Washington of 1881 is hereby amended to read as follows: "Section 2086. The several officers hereinafter enumerated shall be entitled to collect the fees hereinafter provided for their official services, to wit:

CLERKS OF THE SUPREME AND SUPERIOR COURTS.

1. For filing declaration, petition, plea, demurrer, affidavit, exhibit or other paper required to be filed in any cause or procedure.....	\$0 10
2. Issuing <i>capias</i> , attachment, execution, <i>certiorari</i> , <i>supersedeas</i> , <i>habeas corpus</i> , mandate, writ of error, and for any other original writ, and noting return of the same,.....	1 00
3. Issuing order of sale, per folio of 100 words.....	15
4. Entering appearance of either party, personally or by attorney, charged but once.....	25
5. For docketing appeals from justice of the peace.....	25
6. Docketing each cause, charged but once.....	25
7. Swearing witnesses, each.....	10
8. Indorsing on sheriff's deed "presented and entered in book of levies," and certifying the same.....	50
9. Entering sheriff's return in book of levies, per folio.....	15
10. Entering judgment, recognizance, special rule, continuance, discontinuance, <i>retraxit</i> , rule of reference, allowance of writ of <i>habeas corpus</i> , confession of judgment, default or consent, rule or plea, notice of appeal to supreme court, issue joined, motion, non-suit, report of referees, judgment upon any issue of law or fact, or on any report of referees, appeals from inferior courts, appeals to higher courts, per folio.....	10
11. Taking affidavit, without seal.....	25
12. Taking affidavit, with seal.....	50
13. [Stricken out in enrolled law.]	
14. Issuing <i>subpœna</i> , one or more names.....	50
15. Approving bond, including justification.....	50
16. For certificate and seal.....	50
17. Entering a declaration of intention to become a citizen of the United States, and for a certified copy of such entry under seal.....	1 50

18. Entering the final admission of an alien to citizenship and for a certified copy thereof under seal.....	\$3 00
19. Issuing letters of administration, letters testamentary or letters of guardianship, and recording the same.....	1 00
20. Issuing commission to take disposition [deposition].....	1 00
21. Entering probate of will, decree of settlement of estate, order of distribution, order appointing administrator, executor or guardian, and for entering any other order in probate proceedings, per folio.....	15
22. Issuing notice of petition for letters of administration, letters of guardianship, probate of will, notice of settlement of estate, or any other notice of hearing in probate proceedings.....	25
23. For making copies of any notice, per folio.....	15
24. Issuing warrants to appraise or divide an estate.....	50
25. Issuing citation or other original writ in probate matters not herein provided for.....	50
26. For filing each paper required to be filed in probate proceedings (unless otherwise provided for).....	10
27. For examining accounts, counting each two figures as one word, per folio.....	15
28. Entering any order in probate proceedings, per folio.....	15
29. [Stricken out in enrolled law.]	
30. Examining inventory of appraisement or return of sale, per folio.....	15

## FOR SHERIFF.

1. For service of each summons and complaint and return thereon, on each defendant, beside mileage.....	60
2. For levying each writ of attachment or writ of execution on real or personal property, beside mileage.....	60
3. For service of <i>capias ad satisfaciendum</i> upon the body of each defendant named in the writ.....	80
4. For each bail bond.....	50
5. Serving writ of possession without the aid of the county, besides mileage.....	1 50
6. Serving writ of possession with the aid of the county, besides mileage.....	2 00
7. Executing writ of inquiry and returning the same, besides mileage.....	1 00
8. For copy of any complaint, notice, writ or process necessary to complete service, per folio.....	10
9. For serving each subpoena, on each person served, besides mileage.....	25
10. For summoning each juror, besides mileage.....	25
11. For serving declaration in ejectment and return, besides mileage.....	80
12. For serving scire facias, for each defendant, besides mileage.....	80
13. For bringing up a person on a writ of habeas corpus, besides mileage.....	80

14. For making a deed of land sold on execution, decree or order of court, to be paid by grantee.....	\$3 00
15. Posting each notice, besides mileage.....	25
16. For each mile necessarily traveled in going to and returning from the place of service in any case.....	10
17. Percentage on all moneys actually made and paid to the sheriff on execution or order of sale, under one thousand dollars, two per centum.	
18. Percentage on all sums over one thousand dollars, one per centum.	

FOR CONSTABLES.

Constables shall be allowed the same fees that are paid to the sheriff for a similar service.

FOR COUNTY AUDITORS.

1. Filing each paper or instrument.....	10
2. Recording any paper or instrument, per folio.....	15
3. Indexing each paper or instrument, if more than two names, for each name over two.....	5
4. Making certified copies of any paper or record, besides certificate and seal, per folio.....	10
5. Certificate and seal.....	50
6. Administering an oath or taking affidavit, without seal....	25
7. Issuing miscellaneous license and entering on record.....	75
8. Issuing marriage license, including fee of one dollar for county clerk for recording.....	3 00
9. Recording plats, 5 cents per lot and one dollar for each acknowledgment, dedication or description, with a minimum fee of one dollar for each plat.	
10. Searching records, per hour.....	75

FOR JURORS.

1. Each grand and petit juror shall be allowed for each day's attendance on a court of record.....	3 00
2. Talesman serving as a petit juror, each trial, when he may be detained more than one day, per day.....	1 00
3. Every day's attendance upon a justice of the peace court,	2 00
4. Serving on inquest.....	2 00
5. Mileage each way, per mile.....	10

WITNESS.

1. Witnesses in all of the courts of the state shall receive, besides mileage at ten cents per mile each way, for each day's attendance.....	2 00
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FEEES OF SECRETARY OF STATE.

1. For a copy of any law, resolution, record or other document or paper on file in his office, fifteen cents per folio: *Provided*, No copy shall be furnished by the secretary of state unless under the seal of the state.
2. For any certificate under seal of state, two dollars.
3. For filing articles of incorporation, including issuance of certificate, five dollars.

- 4. For recording articles of incorporation, fifteen cents per folio.
- 5. For filing and recording trade mark, five dollars.
- 6. For each deed or patent of land issued by the governor, if for one hundred and sixty acres of land, or less, one dollar, and for each additional one hundred and sixty acres, or fraction thereof, one dollar.

7. For recording miscellaneous records, papers or other documents, ten cents per folio, and five dollars for filing in each case. But no member of the legislature, state officer, judge of the supreme or superior courts, shall be charged for any search relative to matters pertaining to the duties of their offices; nor must they be charged for a certified copy of any law or resolution passed by the legislature relative to their official duties: *Provided*, Such law has not been published as a state law.

All fees herein enumerated must be collected in advance, and shall be paid into the treasury of the state to the credit of the general fund, on the last day of each and every month.

NOTARIES PUBLIC.

1. Protest of a bill of exchange of [or] promissory note.....	\$1 00
2. Attesting any instrument of writing, with seal.....	50
3. Taking acknowledgment, two persons, with seal.....	50
4. Taking acknowledgment, each person over two.....	15
5. Certifying affidavit, without seal.....	25
6. Certifying affidavit, with seal.....	50
7. Registering protest of bill of exchange or promissory note for non-acceptance or non-payment.....	50
8. Being present at demand, tender or deposit, and noting the same, besides mileage at the rate of ten cents per mile.....	50
9. Noting a bill of exchange or promissory note for non-acceptance or non-payment.....	50
10. For copying any instrument or record, besides certificate and seal, per folio.....	15

FOR CORONERS.

1. For each inquest he may hold, besides mileage.....	\$10 00
2. For drawing all necessary writings, per folio.....	15
3. Issuing venire.....	1 00
4. Mileage each way, per mile.....	10
5. When performing the duties of sheriff he shall receive the same fees to which the sheriff is entitled for the same service.	

All officers enumerated in this act who are paid a salary in lieu of fees shall collect the fees prescribed in this act for the use of the county or state, as the case may [be], and shall pay the same into the state or county treasury, as the case may be, on the first Monday in each month.

Fees of clerk of superior court.

SEC. 2. The fees of clerks of the superior courts specified in section 1 of this act shall not be applicable to civil

action and proceedings other than probate causes, but instead thereof the parties to such civil actions and proceedings shall pay to the clerk of the superior court of the proper county for the use of the county, the sundry clerk's fees hereinbelow prescribed, and it shall be the duty of such clerks to collect such fees, for the use of the county, at or prior to the times hereinbelow prescribed for the payment of the same, respectively; that is to say: The plaintiff or other party instituting any such action or proceeding shall pay when the cause is entered in the court, or when the first paper on his part is filed therein, a fee of four dollars (\$4.00).

The defendant or other adverse party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when his or their appearance is entered in the cause, or when the first paper on his or their part is filed therein, a fee of two dollars (\$2.00).

Where no issue of fact is joined in the cause and no judgment other than a dismissal or discontinuance without trial of an issue of fact is rendered, no further fee need be paid. Where, after an issue of fact has been joined, the cause is dismissed or discontinued without trial of such issue, the party causing such dismissal or discontinuance to be entered shall pay, at the time of the entry thereof, a further fee of one dollar (\$1.00).

Fee on dismissal.

If a judgment other than a dismissal or discontinuance is rendered, the party obtaining the same shall pay, at the time of the entry thereof, a further fee as follows:

1. Where the judgment is rendered without the taking of proof of any fact pleaded, (*a*) if no adverse party has appeared in the cause, two dollars (\$2.00); (*b*) or, if an adverse party has appeared [appeared], three dollars (\$3.00).

Judgment without taking proof.

2. Where the judgment is rendered upon proof taken, but without assessment of damages by a jury, and in a case other than for foreclosure of a lien or mortgage, or partition of real estate, (*a*) if no adverse party has appeared in the cause, three dollars (\$3.00); (*b*) or, if an adverse party has appeared, five dollars (\$5.00).

Judgment when proof is taken.

Assessment  
of damages.

3. Where the judgment is rendered upon an assessment of damages by a jury, no adverse party having appeared in the cause, five dollars (\$5.00).

Lien or  
mortgage.

4. Where judgment is rendered after appearance by an adverse party and a trial by jury, or by the court or a judge, referee or commissioners thereof, in a cause other than for foreclosure of a lien or mortgage, or partition of real estate, six dollars (\$6.00).

5. Where the judgment is rendered in an action for the foreclosure of a lien or mortgage or the petition [partition] of real estate, (a) if no adverse party has appeared in the cause, six dollars (\$6.00); (b) or, if an adverse party has appeared, eight dollars (\$8.00).

Fee on order of  
final record.

In addition to the fees prescribed in this section any party ordering a final record to be made in a cause, other than probate, affecting the title to real estate, or ordering any files or records in a cause to be transcribed and certified for the purposes of an appeal, or for any other purpose, shall pay clerk's fees for such recording or transcribing, when he orders the same done, at the rate of fifteen cents for each folio of the matter to be recorded or ten cents for each folio of the matter to be transcribed, beside twenty-five cents for any certificate required to any such transcript: *Provided*, That in the case of transcripts such party may himself furnish to the clerk a transcript of any matter that he may desire to have certified, and in such case the clerk's fee to be paid for comparing the transcript furnished with the original and certifying the same shall be one-half of the amount per folio above prescribed, beside the full fee above prescribed for the certificate. The fees prescribed in this section shall be in full for all services performed by the clerk of the superior courts in the progress of civil actions and proceedings other than probate causes, from the beginning thereof down to and including the entry, collection and satisfaction of final judgment therein, and including all proceedings in open court, and all entries, filings and recording therein except for the recording and transcribing for which special fees are prescribed in this section: *Provided*, That this section shall

apply only to actions and proceedings begun after this act shall take effect.

SEC. 3. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 15, 1893.

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## CHAPTER CXXXI.

[H. B. No. 417.]

### PROVIDING FOR ECONOMICAL MANAGEMENT OF COUNTY AFFAIRS.

AN ACT to provide for the economical management of county affairs.

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

SECTION 1. It shall be the duty of every board of county commissioners to reduce the expenditures of their respective counties to the lowest practicable sum consistent with law.

SEC. 2. No deputies or assistance of any kind shall be allowed to any officer or person receiving compensation from a county unless the same is necessary. No higher compensation shall be allowed for any deputy of, or assistance for, such officer or person than is necessary. No other expenditure for or connected with such officer or person, or his office or employment, or the performance of his official duties, or any of them, than shall be necessary. In case the payment of any fee or fees is required for the performance of any duty of such officer or person, the total amount allowed and expended by any board of county commissioners for, on account of, or connected with such person or officer, his office or employment, and the performance of the duties thereof, including the salary allowed by law to such officer or person, shall not exceed the amount of the legal fees collected on account of such office or employment and the performance of the duties thereof: *Provided, however,* That the provisions of this act

Unnecessary  
compensation  
forbidden.

Expenses.

shall not apply to the office of county attorney: *Provided further*, That the fees properly chargeable to counties shall be included in the total of the earnings of such officers.

Approved March 15, 1893.

## CHAPTER CXXXII.

[H. B. No. 445.]

### LIENS UPON SAW LOGS, SPARS, PILES, ETC.

AN ACT providing liens upon saw logs, spars, piles or other timber, and upon lumber and shingles, and concerning the remedy to secure and obtain such liens, and the benefit thereof, and the manner and procedure of obtaining the same.

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

Lien on logs,  
spars, etc.,  
who has.

SECTION 1. Every person performing labor upon or who shall assist in obtaining or securing saw logs, spars, piles or other timber, has a lien upon the same, and upon all other logs, spars, piles or other timber which, at the time of the filing of the claim of lien hereinafter provided, belonging to the person or corporation for whom the labor was performed, for (or) the work or labor done upon or in obtaining or securing the particular saw logs, spars, piles or other timber in said claim of lien described, whether such work or labor was done at the instance of the owner of the same or his agent. The cook in a logging camp shall be regarded as a person who assists in obtaining or securing the timber herein mentioned.

Lien on manu-  
factures from  
logs and other  
timber.

SEC. 2. Every person performing work or labor or assisting in manufacturing saw logs and other timber into lumber and shingles, has a lien upon such lumber while the same remains at the mill where it was manufactured, or in the possession or under the control of the manufacturer, whether such work or labor was done at the instance of the owner of such logs or his agent or any contractor or subcontractor of such owner. The term lumber, as

used in this act, shall be held and be construed to mean all logs or other timber sawed or split for use, including beams, joists, planks, boards, shingles, laths, staves, hoops, and every article of whatsoever nature or description manufactured from saw logs or other timber.

SEC. 3. Any person who shall permit another to go upon his timber land and cut thereon saw logs, spars, piles or other timber, has a lien upon the same for the price agreed to be paid for such privilege, or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price.

Owner's lien for logs, etc., cut on his land.

SEC. 4. The liens provided for in this chapter are preferred liens and are prior to any other liens, and no sale or transfer of any saw logs, spars, piles or other timber or manufactured lumber or shingles shall divest the lien thereon as herein provided, and as between liens provided for in this act those for work and labor shall be preferred: *Provided*, That as between liens for work and labor claimed by several laborers on the same logs or lot of logs the claim or claims for work or labor done or performed on the identical logs proceeded against to the extent that said logs can be identified, shall be preferred as against the general claim of lien for work and labor recognized and provided for in this act.

Preferred liens.

Proviso.

SEC. 5. The person rendering the service of [or] doing the work or labor named in sections 1 and 2 of this act is only entitled to the liens as provided herein for services, work or labor for the period of eight calendar months, or any part thereof next preceding the filing of the claim, as provided in section 8 of this act.

Lien only for work eight months prior to filing claim.

SEC. 6. The person granting the privilege mentioned in section 3 of this act is only entitled to the lien as provided therein for saw logs, spars, piles and other timber cut during the eight months next preceding the filing of the claim, as herein provided in the next succeeding section of this act.

Same.

SEC. 7. Every person, within thirty days after the close of the rendition of the services, or after the close of the work or labor mentioned in the preceding sections, claiming the benefit hereof, must file for record with the county

Filing of claim.

auditor of the county in which such saw logs, spars, piles and other timber were cut, or in which such lumber or shingles were manufactured, a claim containing a statement of his demand and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any, and in case there is no express contract, the claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or some other person to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:

..... *Claimant, vs.* .....

Form of claim.

Notice is hereby given that ..... of ..... county, State of Washington, claims a lien upon a ..... of ..... , being about ..... in quantity, which were cut or manufactured in ..... county, State of Washington, are marked thus ....., and are now lying in ....., for labor performed upon and assistance rendered in ..... said ..... ; that the name of the owner or reputed owner is ..... ; that ..... employed said ..... to perform such labor and render such assistance upon the following terms and conditions, to wit:

The said ..... agreed to pay the said ..... for such labor and assistance ..... ; that said contract has been faithfully performed and fully complied with on the part of said ....., who performed labor upon and assisted in ..... said ..... for the period of ..... ; that said labor and assistance were so performed and rendered upon said ..... between the ..... day of ..... and the ..... day of ..... ; and the rendition of said service was closed on the ..... day of ....., and thirty days have not elapsed since that time; that the amount of claimant's demand for said service is ..... ; that no part thereof has been paid except ....., and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of ....., in which amount he claims

a lien upon said ..... The said ..... also claims a lien on all said ..... now owned by said ..... of said county to secure payment for the work and labor performed in obtaining or securing the said logs, spars, piles or other timber, lumber or shingles herein described.

State of Washington, county of ..... ss.

..... being first duly sworn, on oath says that he is ..... named in the foregoing claim, has heard the same read, knows the contents thereof, and believes the same to be true.

Subscribed and sworn to before me this ..... day of .....

SEC. 8. Every person mentioned in section three of this act claiming the benefit thereof must file for record with the county auditor of the county in which such saw logs, spars, piles or other timber were cut, a claim in substance the same as provided in the next preceding section of this act, and verified as therein provided.

SEC. 9. The county auditor must record any claim filed under this act in a book kept by him for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds and other instruments.

SEC. 10. No lien provided for in this act binds any saw logs, spars, piles or other timber, or lumber and shingles, for a longer period than eight calendar months after the claim as herein provided has been filed, unless a civil action be commenced in a proper court, within that time, to enforce the same: *Provided, however,* That in case such civil action so commenced should for any cause other than the merits, be non-suited or dismissed, then the lien shall continue for the term of one calendar month, if the said eight months have expired, to permit the commencement of another action thereon, which shall be as effective in prolonging the lien as if it had been entered during the term of eight months hereinbefore stated.

SEC. 11. The liens provided for in this act shall be enforced by a civil action in the superior court of the county wherein the lien was filed, and shall be governed by the laws

Same.

Record of claims.

Length of time lien binding.

Manner of enforcing liens.

regulating the proceedings in civil actions touching the mode and manner of trial, and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien that be against it; except as hereinafter otherwise provided.

Sheriff to be a receiver for purposes of this act.

SEC. 12. The sheriff of the county wherein the lien is filed shall be a receiver for the purpose of this act, and shall be allowed such fees as may seem just to the court for services performed as such receiver, but such fees shall be accounted for by said sheriff, as other fees accruing to him for services performed in his office of sheriff.

Answer, motion, demurrer.

SEC. 13. If the defendant or defendants appear in a suit to enforce any lien provided by this act he or they shall make their answer on the merits of the complaint, and any motion or demurrer against the said complaint must be filed with the answer; and no motion shall be allowed to make complaint more definite and certain, if it appear to the court that the defendant or defendants have or should have knowledge of the facts, or that it can be made more certain and definite by facts which will appear necessarily in the testimony; but the case, unless the court sustains the demurrer to the complaint, shall be heard on the merits as speedily as possible, and amendments of the pleadings, if necessary, shall be liberally allowed.

Right to demand enforcement of lien.

SEC. 14. Any person who shall bring a civil action to enforce the lien herein provided for, or any person having a lien as herein provided for, who shall be made a party to any such civil action, has the right to demand that such lien be enforced against the whole or any part of the saw logs, spars, piles or other timber or manufactured lumber or shingles upon which he has performed labor or which he has assisted in securing or obtaining, or which he has cut on his timber land during the eight months next preceding the filing of his lien, for all his labor upon or for all his assistance in obtaining or securing said logs, spars, piles or other timber, or in manufacturing said lumber or shingles during the whole or any part of the eight months mentioned in section seven (7) of this act, or for timber cut during the whole or any part of the eight months above mentioned. And where proceedings are commenced against

any lot of saw logs, spars, piles or other timber or lumber or shingles as herein provided, and some of the lienors claim liens against the specific logs, spars, piles or other timber or lumber or shingles proceeded against, and others against the same generally, to secure their claims for work and labor, the priority of the liens shall be determined as hereinbefore provided.

SEC. 15. No mistake or error in the statement of the demand, or of the amount of credits and offsets allowed, or of the balance asserted to be due to claimant, nor in the description of the property against which the claim is filed, shall invalidate the lien, unless the court finds that such mistake or error in the statement of the demand, credits and offsets or of the balance due was made with intent to defraud, or the court shall find that an innocent third party without notice, direct or constructive, has, since the claim was filed, become the *bona fide* owner of the property liened upon, and that the notice of claim was so deficient that it did not put the party upon further inquiry, in any manner.

Errors in statement of demand to invalidate lien, when.

SEC. 16. It shall be conclusively presumed by the court that a party purchasing the property liened upon within thirty days given herein to claimants wherein to file their liens, is not an innocent third party, nor that he has become a *bona fide* owner of the property liened upon, unless it shall appear that he has paid full value for the said property, and has seen that the purchase money of the said property has been applied to the payment of such *bona fide* claims as are entitled to liens upon the said property under the provisions of this act, according to the priorities herein established.

Purchaser of liened property presumed to not be innocent third party.

SEC. 17. Any number of persons claiming liens under this act may join in the affidavit in section 14 of this act provided, and may join in the same action, and when separate actions are commenced the court may consolidate them. The court shall also allow as part of the costs the moneys paid for filing, making and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

Number may join.

Manner of  
sale and ap-  
portionment  
of proceeds.

SEC. 18. In each civil action judgment must be rendered in favor of each person having a lien for the amount due to him, and the court or judge thereof shall order any property subject to the lien herein provided for to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court or judge shall apportion the proceeds of such sale to the payment of each judgment, according to the priorities established in this act *pro rata* in its class according to the amount of such judgment.

SEC. 19. The court or judge may order any property subject to a lien as in this act provided to be sold by the sheriff as personal property is sold on execution either before or at the time judgment is rendered, as provided in section next preceding, and the proceeds of such sale must be paid into court to be applied as in said section directed.

Penalty for  
rendering un-  
certain iden-  
tification of  
liened prop-  
erty.

SEC. 20. Any person who shall eloin, injure or destroy, or who shall render difficult, uncertain or impossible of identification any saw logs, spars, piles, shingles or other timber upon which there is a lien as herein provided, without the express consent of the person entitled to such lien, shall be liable to the lien holder for the damages to the amount secured by his lien, and it being shown to the court in the civil action to enforce said lien, it shall be the duty of the court to enter a personal judgment for the amount in such action against the said person, provided he be a party to such action, or the damages may be recovered by a civil action against such person.

SEC. 21. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

Approved March 15, 1893.

## CHAPTER CXXXIII.

[H. B. No. 76.]

## PROCEEDINGS SUPPLEMENTAL TO EXECUTION.

AN ACT relating to proceedings supplemental to execution.

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

SECTION 1. At any time within five years after entry of a judgment for the sum of \$25 or over that amount, and after the issuing of an execution against property, and upon proof by the affidavit of a party or otherwise to the satisfaction of the court or a judge thereof, that any judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by him, to answer concerning the same; and the judge to whom application is made under this act may, if it is made to appear to him by the affidavit of the judgment creditor, his agent or attorney, that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him before the judge granting the order. Upon being brought before the judge he may be ordered to enter into a bond, with sufficient sureties, that he will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof, and will not in the meantime dispose of any portion of his property not exempt from execution. In default of entering into such a bond, he may be committed to prison, there to remain until the close of the examination; except that the judge may direct the sheriff to produce him from time to time, as required in the course of the proceedings.

SEC. 2. A warrant issued as prescribed in the last section may be vacated or modified by the judge making the same, or by the court out of which the execution was issued, upon giving three days' notice to the opposite party.

Bond.

Default.

Warrant may be vacated or modified.

Judge may order examination into amount of personal property subject to execution.

SEC. 3. Upon proof by affidavit or otherwise, to the satisfaction of the judge, that execution has been issued as prescribed by section one of this act, and also that any person or corporation has personal property of the judgment debtor of the value of twenty-five dollars or over, or is indebted to him in said amount, the judge may make an order requiring such person or corporation, or an officer thereof, to appear at a specified time and place before him, or a referee appointed by him, and answer concerning the same.

SEC. 4. An order requiring a person to attend and be examined, made pursuant to any provision of this article, must require him so to attend and be examined either before the judge to whom the order is returnable or before a referee designated therein. Where the examination is taken before a referee, he must certify to the judge to whom the order is returnable all of the evidence and other proceedings taken before him.

During examination party to be under oath.

SEC. 5. Upon an examination made under this act, the answer of the party or witness examined must be under oath. A corporation must attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge or referee may adjourn any proceedings under this act, from time to time, as he thinks proper.

Referee's oath.

SEC. 6. Unless the parties expressly waive the referee's oath, a referee appointed as prescribed in this act must, before entering upon an examination or taking testimony, subscribe and take an oath that he will faithfully and fairly discharge his duty upon the reference, and make a just and true report according to the best of his understanding. The oath must be returned to the judge with the report of the testimony.

SEC. 7. At any time after the commencement of a special proceeding authorized by this act, and before the appointment of a receiver therein, or the extension of a receivership thereto, the judge by whom the order or war-

rant was granted or to whom it is made returnable, may in his discretion upon proof by affidavit to his satisfaction that a person or corporation is indebted to the judgment debtor, and upon such notice given to such person or corporation as he deems just, or without notice make an order permitting the person or corporation to pay the sheriff designated in the order a sum on account of the alleged indebtedness not exceeding the sum which will satisfy the execution. A payment thus made is to the extent thereof a discharge of the indebtedness except as against a transferee from the judgment debtor in good faith, and for a valuable consideration, of whose rights the person or corporation had actual or constructive notice when the payment was made.

SEC. 8. Where it appears from the examination or testimony taken in the special proceedings authorized by this act that the judgment debtor has in his possession or under his control money or other personal property belonging to him, or that one or more articles of personal property capable of manual delivery, his right to the possession whereof is not substantially disputed, are in the possession or under the control of another person, the judge by whom the order or warrant was granted, or to whom it is returnable, may in his discretion, and upon such notice given to such persons as he deems just, or without notice, make an order directing the judgment debtor, or other person, immediately to pay the money or deliver the articles of personal property to a sheriff designated in the order, unless a receiver has been appointed or a receivership has been extended to the special proceedings, and in that case to the receiver.

Judge may order money or property to be delivered to sheriff or receiver.

SEC. 9. If the sheriff to whom money is paid or other property is delivered, pursuant to an order made as prescribed in the last section of this act, does not then hold an execution upon the judgment against the property of the judgment debtor, he has the same rights and power, and is subject to the same duties and liabilities with respect to the money or property, as if the money had been collected or the property had been levied upon by him by virtue of such an execution, except as provided in the next section.

Sheriff, rights, powers, duties, etc.

Receiver.

SEC. 10. After a receiver has been appointed or a receivership has been extended to the special proceedings, the judge must, by order, direct the sheriff to pay the money, or the proceeds of the property, deducting his fees, to the receiver; or if the case so requires to deliver to the receiver the property in his hands. But if it appears to the satisfaction of the judge that an order appointing a receiver or extending a receivership is not necessary, he may, by an order reciting that fact, direct the sheriff to apply the money so paid, or the proceeds of the property so delivered, upon an execution in favor of the judgment creditor issued either before or after the payment or delivery to the sheriff.

SEC. 11. Where money is paid or property is delivered as prescribed in the last four sections and afterwards the special proceeding is discontinued or dismissed, or the judgment is satisfied without resorting to the money or property, or a balance of the money or of the proceeds of the property, or a part of the property remains in the sheriff's or receiver's hands after satisfying the judgment and the costs and expenses of the special proceeding, the judge must make an order directing the sheriff or receiver to pay the money or deliver the property so remaining in his hands to the debtor, or to such other person as appears to be entitled thereto, upon payment of his fees and all other sums legally chargeable against the same.

Return of  
property or  
money to  
debtor.

Injunction.

SEC. 12. The judge by whom the order or warrant was granted or to whom it is returnable may make an injunction order restraining any person or corporation, whether a party or not a party to the special proceeding, from making or suffering any transfer or other disposition of or interference with the property of the judgment debtor or the property or debt concerning which any person is required to attend and be examined, until further direction in the premises. Such an injunction may be made simultaneously with the order or warrant by which the special proceeding is instituted, and upon the same papers or afterwards, upon an affidavit showing sufficient grounds therefor. The judge or court may, as a condition of granting an application to vacate or modify the injunction order

require the applicant to give security in such sum and in such manner as justice requires.

SEC. 13. An injunction order or an order requiring a person to attend and be examined made as prescribed in this act must be served—(1) By delivering to the person to be served a certified copy of the original order and a copy of the affidavit on which it was made. (2) Service upon a corporation is sufficient if made upon an officer, to whom a copy of a summons must be delivered. Where a summons is personally served upon a corporation, unless the officer to be served is specially designated in the order, the order may be served by any person who can serve a summons in an action.

Service of  
injunction or  
an order  
requiring  
attendance.

SEC. 14. The sheriff, when he arrests a judgment debtor by virtue of a warrant issued as prescribed in this act, must deliver to him a copy of the warrant and of the affidavit upon which it was granted.

SEC. 15. A special proceeding instituted as prescribed in this act may be discontinued at any time upon such terms as justice requires, by an order of the judge made upon the application of the judgment creditor. Where the judgment creditor unreasonably delays or neglects to proceed, or where it appears that his judgment has been satisfied, his proceedings may be dismissed upon like terms by a like order made upon the application of the judgment debtor, or of plaintiff in a judgment creditor's action against the debtor, or of a judgment creditor who has instituted either of the special proceeding[s] authorized by this act. Where an order appointing a receiver or extending a receivership has been made in the course of the special proceeding, notice of the application for an order specified in this section must be given in such manner as the judge deems proper, to all persons interested in the receivership as far as they can conveniently be ascertained.

Discontinu-  
ance of special  
proceedings.

SEC. 16. The judge may make an order allowing to the judgment creditor a fixed sum as costs, consisting of his witness fees and referee's fees and other disbursements, and of a sum in addition thereto not exceeding twenty-five dollars, and directing the payment thereof out of any money

Costs.

which has come or may come to the hands of the receiver or of the sheriff within a time specified in the order.

Same.

SEC. 17. Where the judgment debtor or other person against whom the special proceeding is instituted has been examined, and property applicable to the payment of the judgment has not been discovered, the judge may make an order allowing him a like sum as costs, and directing the payment thereof within a time specified in the order by the judgment creditor.

Contempt of court.

SEC. 18. A person who refuses, or without sufficient excuse neglects, to obey an order of a judge or referee made pursuant to any of the provisions of this act, and duly served upon him, or an oral direction given directly to him by a judge or referee in the course of the special proceeding, or to attend before a judge or referee according to the command of a subpœna duly served upon him, may be punished by the judge of the court out of which the execution issued, as for contempt.

Judgment debtor may not be compelled to attend outside of his own county.

SEC. 19. A judgment debtor who resides or does business in the state cannot be compelled to attend pursuant to an order made under the provisions of this act at a place without the county where his residence or place of business is situated. Where the judgment debtor to be examined under this [act] is a corporation the court may cause such corporation to appear and be examined by making like order or orders as are prescribed in this act, directed to any officer or officers thereof.

Witness not excused from answering on ground of convicting himself, etc.

SEC. 20. A party or witness examined in a special proceeding authorized by this act is not excused from answering a question on the ground that his examination will tend to convict him of a commission of a fraud, or to prove that he has been a party to or privy to or knowing of a conveyance, assignment, transfer or other disposition of property for any purpose; or that he or another person claims to be entitled as against the judgment creditor or receiver appointed or to be appointed in the special proceeding to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person

in his behalf. But an answer cannot be used as evidence against the person so answering in a criminal action or criminal proceeding. Answer not to be used as evidence against witness.

SEC. 21. When, in proceedings under this act, personal service of the summons in the action was not made on all of the defendants, a debt due to, or other personal property owned by, one or more of the defendants not summoned jointly with the defendants summoned, or with any of them, may be reached by proceedings under this act.

SEC. 22. A special proceeding under this act instituted before one judge may be continued from time to time before another judge of the same court with like effect as if it had been instituted or commenced before the judge who last heard the same. Continuance.

SEC. 23. This act shall apply to judgments recovered in justice court upon which a transcript has been issued and filed with the clerk of the superior court.

SEC. 24. Proceedings under this act may be instituted before the superior courts of this state or before any judge of said superior courts.

SEC. 25. This act does not authorize the seizure of, or other interference with, any property which is expressly exempt by law from levy and sale by virtue of an execution, or any money, thing in action or other property held in trust for a judgment debtor where the trust has been created by, or the fund so held in trust has proceeded from, a person other than the judgment debtor; or the earnings of the judgment debtor for his personal services rendered within sixty days next before the institution of the special proceeding, where it is made to appear by his oath or otherwise that those earnings are necessary for the use of a family wholly or partly supported by his labor. Property exempt by law.

SEC. 26. Proceedings under this act are special proceedings, and shall be heard by the judge or referee before whom the same are returnable without a jury.

SEC. 27. The fees of referees appointed in proceedings under this act shall be five dollars per day. Fees.

SEC. 28. At any time after making an order requiring the judgment debtor or any other person to attend and be examined, or the issuing of a warrant, as prescribed in this

Appointment  
of receiver.

act, the judge to whom the order or warrant is returnable, or the court out of which the order was issued, may make an order appointing a receiver of the property of the judgment debtor. At least two days' notice of the application for the order appointing a receiver must be given personally to the judgment debtor, unless the judge or court is satisfied that he cannot, with reasonable diligence, be found within the state, in which case the order must recite that fact and may dispense with the notice, or may direct notice to be given in any manner which the judge thinks proper. But where the order to attend and be examined or the warrant has been served upon the judgment debtor, a receiver may be appointed upon the return day thereof, or at the close of the examination, without further notice to him.

Notice of  
application.

SEC. 29. The judge must ascertain, if practicable, by the oath of the judgment debtor or otherwise, whether any other special proceeding authorized by this act is pending against the judgment debtor, or if a receiver has been appointed or application has been made for the appointment of a receiver of the property of the judgment debtor in any other action by a judgment creditor. If either is pending, and a receiver has not been appointed therein, notice of the application for the appointment of a receiver, and of all of the subsequent proceedings respecting the receivership, must be given in such manner as the judge directs to the judgment creditor prosecuting it.

Receivers.

SEC. 30. Only one receiver of the property of the judgment debtor shall be appointed. Where a receiver thereof has already been appointed the judge, instead of making the order prescribed in the last section, must make an order extending the receivership to the special proceedings before him. Such an order gives to the judgment creditor the same rights as if a receiver was appointed upon his application, including the right to apply to the court to control, direct or remove the receiver, or to subordinate the proceedings in or by which the receiver was appointed to those taken under his judgment.

Order appoint-  
ing receiver to  
be filed with  
county clerk.

SEC. 31. An order appointing a receiver or extending a receivership must be filed in the office of the county clerk wherein the judgment roll in the action is filed; or if the

special proceeding is founded upon an execution issued out of a court other than that in which the judgment was rendered, in the office of the clerk of the county wherein the transcript of the judgment is filed.

SEC. 32. The property of the judgment debtor is vested in a receiver, who has duly qualified, from the time of filing the order appointing him or extending his receivership, as the case may be, subject to the following exceptions:

1. Real property is vested in the receiver only from the Exceptions. time when the order, or a certified copy thereof, as the case may be, is filed with the auditor of the county where it is situated.

2. When the judgment debtor, at the time when the order is filed, resides in another county of the state, his personal property is vested in the receiver only from the time when a copy of the order, certified by the auditor in whose office it is recorded, is filed with the auditor of the county where he resides.

SEC. 33. Where the receiver's title to personal property has become vested, as prescribed in the last section, it also extends back by relation, for the benefit of the judgment creditor, in whose behalf the special proceeding was instituted as follows: Receiver's title extends back for benefit of judgment creditor.

1. When an order requiring the judgment debtor to attend and be examined, or a warrant requiring the sheriff to arrest him and bring him before the judge, has been served, before the appointment of the receiver, or the extension of the receivership, the receiver's title extends back so as to include the personal property of the judgment debtor at the time of the service of the order or warrant.

2. Where an order or warrant has not been served as specified in the foregoing subdivision, but an order has been made requiring a person to attend and be examined concerning property belonging or a debt due to the judgment debtor, the receiver's title extends to the personal property belonging to the judgment debtor, which was in the hands or under the control of the person or corporation thus required to attend at the time of the service of the order, and to a debt then due to him from that person or corporation.

3. In every other case where notice of application for the appointment of a receiver was given to the judgment debtor, the receiver's title extends to the personal property of the judgment debtor at the time when the notice was served, either personally or by complying with the requirements or an order prescribing a substitute for personal service.

4. Where the case is within two or more of the foregoing subdivisions of this section, the rule most favorable to the judgment creditor must be adopted. But this section does not affect the title of a purchaser in good faith without notice, and for a valuable consideration; or the payment of a debt in good faith and without notice.

County clerk  
to keep record.

SEC. 34. Each county clerk must keep in his office a book indexed to the names of the judgment debtors, styled "book of orders appointing receivers of judgment debtors." A county clerk in whose office an order or a certified copy of an order is filed, as prescribed in this act, must immediately note thereupon the time of filing it, and as soon as practicable, must record it in the book so kept by him. He must also, upon request, furnish forthwith to any party or person interested, one or more certified copies thereof. For each omission to comply with any provision of this section, a county clerk forfeits to the party aggrieved two hundred and fifty dollars, in addition to all damages sustained by reason of the omission.

SEC. 35. All acts and laws in conflict with the provisions of this act are hereby repealed.

Approved March 15, 1893.

## CHAPTER CXXXIV.

[S. B. No. 147.]

## STATE FAIR.

AN ACT to establish a state fair for the State of Washington, making an appropriation therefor, and declaring an emergency.

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

SECTION 1. That the public good requires there be and hereby is established a state institution by the name of "The State Fair of Washington."

SEC. 2. That it is the object and purpose of this institution to promote and further the advancement of all agricultural, stock-raising, horticultural, mining, mechanical and industrial pursuits in this state, and for the carrying out of this object the management shall provide for an annual fair or exhibition by the institution within two miles of the city of North Yakima, of all the industrial products of this state, commencing on the last Monday of September of each year after the passage of this act and continuing for at least five days thereafter. Objects.

SEC. 3. That the state fair shall be under the management and control of five commissioners, known as the state fair commission, who shall be appointed by the governor of the State of Washington, with the advice and consent of the senate, and shall hold office for four years from the date of their appointment, and until their successors are appointed and qualified: *Provided, however,* That the commissioners first appointed under this act shall continue in office, two members thereof two years each, from and after the date of their appointment, and three members thereof four years each, from and after the date of their appointment, the term of each said commissioners to be determined by the governor of this state on appointing the same. Before entering upon the duties of his office, each and every commissioner shall take and subscribe an oath or affirmation before some person authorized to administer the same, that he will support the constitution of the United States and of the State of Washington, and that he will faithfully and impartially perform the duties of the office of state Commission.

fair commissioner, which oath or affirmation shall be filed in the office of secretary of state. Any commissioner may be removed by the governor for malfeasance or misfeasance in office, after having been served with a copy of charges preferred against him and had reasonable time to reply thereto: *Provided further*, That the first commissioners appointed by the governor under this act shall be appointed within 20 days after the passage of the same.

Organization  
of the com-  
mission.

SEC. 4. Within fifteen days after notice of their appointments, the persons first appointed as state fair commissioners shall qualify as hereinbefore required, and shall meet at North Yakima and organize by the election of one of their number as president for the term of one year, and until the election of his successor. The commission shall also at such meeting elect a secretary and treasurer of their number, who shall before qualifying furnish the said commission with a good and sufficient bond of five thousand (5,000.00) dollars, to be approved by them, and hold office at the discretion of the commission: *Provided always*, That the secretary must, during his term of office, be a resident of the county in which the state fair is located. All meetings of the commission shall be held at the office of the secretary thereof: *Provided*, That before qualifying each of such commissioners shall file in the office of the secretary of state a good and sufficient bond of twenty-five hundred (\$2,500.00) dollars, with not less than two sureties each, to be approved by the governor and secretary of state, conditioned for the faithful performance of their duties as such commissioners.

Powers and  
duties of  
state fair  
commission.

SEC. 5. Immediately after their organization the state fair commission shall take and have full control and management of the state fair as a state institution, and shall have care of its property and be intrusted with the entire direction of its business and financial affairs; shall, in conformity with the provisions of this act, prepare, adopt, publish and enforce all necessary rules for the management of the state fair, its meetings and exhibitions or the guidance of its officers or employés; shall determine the duties, responsibilities, compensation and tenure of office of all officers or other employés, as may be deemed necessary,

and may remove from office any person appointed by it to any office for any inefficiency, neglect of duty or malfeasance in office; shall have power to appoint all necessary marshals to keep order on the grounds and in the buildings of the state fair during all annual exhibitions, and the marshals so appointed shall be vested with the same authority, for such purposes, as executive peace officers are vested by law; shall have power to charge entrance fees, gate money, lease stalls, stands, restaurant sites, give prizes and premiums and do all things which by said commission may be considered proper to conduct in connection with a state fair not otherwise prohibited by law.

SEC. 6. The state fair association shall locate the buildings, track, etc., for state fair purposes upon a tract of land containing not less than one hundred and twenty (120) acres, to be in one solid block, of good soil, with ample water, as level and conveniently located near the railroad shipping point at North Yakima: *Provided*, That said tract of land is donated to the State of Washington by good and sufficient warranty deed, to be approved by the attorney general. The attorney general of the state shall, on demand, examine and approve the title to said lands and pass upon the sufficiency of all conveyances before acceptance of the same by the state fair commission.

Location of  
buildings,  
track, etc.

SEC. 7. The land thus acquired by the state shall be forever set apart for the use and benefit of the state fair of the State of Washington; and immediately thereon the state fair commission shall cause to be constructed all necessary buildings, pavilions, exhibition halls, stalls, stands, a mile speeding track of most approved pattern, driveways, sidewalks and fences, and cause the same to be kept in complete and continual repair: *Provided always*, That no lien or encumbrance of any kind shall ever be created on said premises without the consent of the state: *It being also provided*, That no member of the state fair commission shall ever be personally interested in any purchase made or contract entered into by said commission for the use and benefit of the state fair.

SEC. 8. The regular and called meetings of the state fair commission shall be held at the office of the secretary

Time and place  
of meetings  
of state fair  
commission.

in the city of North Yakima, the regular annual meeting shall be held thereat on the first Monday in April of each year, at which meeting after 1893, the president shall be elected, secretary and treasurer elected and such other business transacted as the interest of the state fair shall require. On the last Monday of October of each year the state fair commission shall prepare and transmit to the governor of the state a full financial statement, signed by the president and treasurer, of all funds received and disbursed, also a report, signed by the president and secretary, of all the assets and liabilities of the state fair, a full and detailed account of all its transactions, statistics and information gained, and for this purpose the commission shall cause the secretary to constantly collect all kinds of information calculated to instruct the agricultural and industrial classes and have the same embodied in this report.

Appropriation. SEC. 9. For the purpose of carrying out the provisions of this act the sum of ten thousand (\$10,000.00) dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated. All vouchers for the expenditures of money under the provisions of this act must be signed by the president and at least two other members of the state fair commission and attested by the secretary; and the state auditor shall, upon presentation of such voucher[s], draw his warrant upon the state treasurer for the payment of the same, and the state treasurer shall pay such warrant out of any money on hand appropriated for the purposes herein set forth: *Provided*, That every voucher must set forth the purpose for which the money, material or labor represented was used: *It being also provided*, That all moneys remaining in the hands of the treasurer of the commission on the last Monday of October of each year shall be paid into the state treasurer to the credit of the state fair fund to be subsequently drawn out, if required, as hereinbefore provided: *Provided further*, That no part of the money donated by this state shall be used as payment of purses in trial of speed between man or beast.

Vouchers for expenditures.

Report of organization.

SEC. 10. When said state fair commission shall be organized as herein provided, the secretary of the commission shall report such organization to the governor and the audi-

tor of the state. He shall also report to the governor any vacancy that may at any time occur in said commission. The members of the state fair commission shall be repaid their mileage actually paid out whilst actually engaged on the business of the state fair, and no other compensation: *Provided, however,* That the members of said commission shall each, in addition to their expenses, receive four (\$4.00) dollars per day whilst actually engaged in locating and selecting the grounds for the state fair, and in superintending the construction of the buildings and other structures, but not after September 3d in the year 1893; said compensation in every case to be paid in vouchers as hereinbefore provided.

SEC. 11. No expenditure shall be made or indebtedness Limit of expenditure.. contracted by the commissioners in excess of the amount herein appropriated and any indebtedness so contracted shall be void.

SEC. 15. Whereas, an emergency exists, and it is of the Emergency. utmost importance that said commission be forthwith appointed in order that provision be made under the provisions of this act for the state fair on the last Monday of September, 1893, this act shall take effect and be in force from and after its approval by the governor.

Approved March 15, 1893.

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## CHAPTER CXXXV.

[S. B. No. 19.—Session 1891.]

### TO PREVENT THE MAINTENANCE OF ARMED BODIES OF MEN.

AN ACT declaring it unlawful to organize, maintain or employ an armed body of men in this state, and providing punishment therefor.

WHEREAS, the State of Washington has provided for and maintains an efficient military and police force, ample

for the protection of all her citizens in their persons and property: therefore,

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

SECTION 1. That it shall be unlawful for any person, corporation or association of persons, or agents of any person, or member, agent or officer of any corporation or association of persons, to organize, maintain or employ an armed body of men in this state for any purpose whatever; and all parties so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine of not less than one thousand dollars nor more than five thousand dollars, and in a like sum for each day they shall continue to offend after having been once fined, and in addition to such fine such offender, if a person, may be imprisoned in the county jail not exceeding one year, at the discretion of the court. The fines shall be paid into the general fund of the county in which the offense was committed. And all arms, uniforms, accoutrements and any other property of a military character in possession of such person, member, agent, officer, corporation, or armed bodies of men shall be seized by the officer making the arrest under the provisions of this section, [and] be forfeited to the State of Washington.

Passed the senate February 12, 1891.

E. T. WILSON,  
*President pro tem. of the Senate.*

Passed the house of representatives March 3, 1891.

AMOS F. SHAW,  
*Speaker of the House of Representatives.*

[Indorsed.]

SENATE BILL NO. 19, an act declaring it unlawful to organize, maintain or employ an armed body of men in this state, and providing punishment therefor.

IN SENATE.

Made special order for Tuesday, January 24th, 1893, 10 o'clock A. M. Considered January 24th and passed over veto. Ayes 34, nays 0.  
ALLEN WEIR, *Secretary Senate.*

January 25.—Received in house, ordered printed and made special order for February 6th at 10 o'clock.

February 6.—Considered after reading, and passed over governor's veto. Ayes 66, nays 0. T. G. NICKLIN, *Chief Clerk.*

Returned from the house February 7th.

Filed in the office of the secretary of state March 17, 1893.

J. H. PRICE, *Secretary of State.*

CHAPTER CXXXVI.

[H. B. No. 482.]

GENERAL APPROPRIATION.

AN ACT making appropriations for sundry civil expenses of the state government for the fiscal term beginning April 1, 1893, and ending March 31, 1895, and for other purposes.

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

SECTION 1. The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated out of any moneys in the several funds of the state treasury, for the payment of the salaries provided by law for certain officers and employés of the state, and for other purposes hereinafter expressed, for the fiscal term beginning April 1, 1893, and ending March 31, 1895, viz.:

OUT OF THE GENERAL FUND.

For salary of the governor, at \$4,000 per year.....	\$8,000	
For private secretary of governor, at \$1,800 per year,	3,600	
For messenger in governor's office, at \$1,000 per		
year.....	2,000	Vetoed.
For postage, stationery, telegraphing and inci-		
dental expenses of the governor's office, at \$1,000		
per year.....	2,000	
Total for the governor's office.....	\$15,600	
For lieutenant governor's salary, at \$1,000 per year..	\$2,000	
Total for office of lieutenant governor.....	\$2,000	
For salary of secretary of state, at \$2,500 per year..	\$5,000	
For salary of chief clerk of secretary of state, at		
\$1,800 per year.....	3,600	
For salary of recording clerk for secretary of state,		
at \$1,000 per year.....	2,000	
For extra clerical assistance in the office of secre-		
tary of state, to be paid only on certified vouch-		
ers, at \$1,000 per year.....	2,000	Vetoed.
For stenographer in office of secretary of state, at		
\$1,000 per year.....	2,000	
For salary of clerk in insurance department, at		
\$1,800 per year.....	3,600	
For traveling expenses of insurance commissioner,		
at \$400 per year.....	800	
For postage and incidental expenses in office of		
secretary of state, at \$750 per year.....	1,500	

	For distribution of session laws, supreme court reports and journals .....	\$500	
	For furniture in office of secretary of state. ....	500	
	Messenger, \$600 per year. ....	1,200	
	Total for office of secretary of state.....		\$22,700
	For salary of state auditor, at \$2,000 per year.....	\$4,000	
	For salary of deputy state auditor, at \$1,800 per year.....	3,600	
	For clerk in office of state auditor, at \$1,200 per year.....	2,400	
	For bookkeeper in auditor's office, at \$1,200 per year.....	2,400	
Vetoed.	For extra clerical assistance in office of state auditor, to be paid only upon properly certified vouchers, at \$1,000 per year.....	2,000	
	For postage, at \$250 per year.....	500	
	For telegraphing and incidental expenses of office of state auditor, at \$600 per year.....	1,200	
	For furniture for office of state auditor.....	300	
	For expressage and expenses in distributing revenue forms, at \$500 per year.....	1,000	
	Total for office of state auditor.....		\$17,400
	For salary of state treasurer, at \$2,000 per year.....	\$4,000	
	For clerk of state treasurer, at \$1,800 per year.....	3,600	
Vetoed.	For extra clerical assistance in office of state treasurer, to be paid only upon properly certified vouchers .....	500	
	For postage, stationery and incidentals in office of state treasurer, at \$500 per year.....	1,000	
	Total for office of state treasurer .....		\$9,100
	For salary of commissioner of public lands, at \$2,000 per year. ....	\$4,000	
	For salary of chief clerk of commissioner of public lands, at \$1,500 per year.....	3,000	
	For extra clerical assistance in office of commissioner of public lands, to be paid only upon properly certified vouchers.....	4,000	
	For furniture for office of commissioner of public lands.....	300	
	For incidental expenses of commissioner of public lands for two years.....	300	
	For postage for commissioner of public lands, at \$150 per year.....	300	
	For procuring plats and abstracts of entries, etc., from the U. S. land offices and departments.....	1,000	
	For the payment of land office fees in the selection of indemnity, school, and state granted lands....	4,000	
	For examination of work of land cruisers when in doubt as to appraised value of lands reported for selection.....	1,000	

For subdivision of school lands.....	\$10,000	Vetoed.
For a contingent fund to be expended by the attorney general, under the direction of the state land commission, in defending state, school and granted lands in contested cases before the U. S. land offices, and the superior courts of the state, and establishing the non-mineral character of school lands.....	10,000	Vetoed.
For expenses of appraisement and sale of school lands and other state lands.....	25,000	
For advertising sale of tide lands, section 13, laws of '91, relating to such sales.....	500	
Total for the office of commissioner of public lands and state land commission.....	<u>\$63,400</u>	
For salary of attorney general, at \$2,000 per year..	\$4,000	
For assistant attorney general, at \$2,000 per year..	4,000	
For traveling expenses of attorney general, at \$1,000 per year.....	2,000	
For stationery and postage for attorney general's office, at \$100 per year.....	200	
For furniture for attorney general's office.....	500	
For incidental expenses of attorney general's office,	750	
For stenographic work (and printing briefs).....	1,200	
For assistants to protect the interests of the state in cases before the local land offices and superior courts in which the title of the state to any school or granted land is involved or contested, to be paid to such assistants on bills approved by the attorney general.....	5,000	
Total for the office of the attorney general.....	<u>\$17,650</u>	
For expenses of the state board of education, at \$1,000 per year.....	\$2,000	
For salary of superintendent of public instruction, at \$2,500 per year.....	5,000	
For salary of clerk of superintendent of public instruction, at \$500 per year.....	1,000	
For traveling expenses of superintendent of public instruction, at \$500 per year.....	1,000	
For record books and miscellaneous stationery for office of superintendent of public instruction....	200	
For postage and express charges for office of superintendent of public instruction, at \$500 per year	1,000	
For incidental expenses and furniture for office of superintendent of public instruction for two years.....	250	
Total for office of superintendent of public instruction and state board of education.....	<u>\$10,450</u>	

	For salaries of the judges of the supreme court, at \$4,000 each per year .....	\$40,000
	For salary of clerk of supreme court, at \$2,000 per year.....	4,000
	For contingent expenses of the supreme court, at \$4,000 .....	8,000
	For salary of reporter of supreme court, at \$2,000 per year .....	4,000
	Total for supreme court.....	<u>\$56,000</u>
Vetoed.	For salary of state geologist, at \$2,400 per year.....	\$4,800
Vetoed.	For chemicals, at \$250 per year.....	500
Vetoed.	For contingent and traveling expenses of state geologist and mining bureau, at \$1,000 per year, .....	2,000
Vetoed.	For rent of office, at \$300 per year.....	600
	Total for office of state geologist and mining bureau, .....	<u>\$7,900</u>
	For salary of fish commissioner, at \$2,000 per year, .....	\$4,000
	For salaries of deputies, at \$250 each per year .....	1,500
	For traveling and incidental expenses of fish commissioner and deputies, at \$1,250 per year.....	2,500
	Total for office of fish commissioner .....	<u>\$8,000</u>
	For salaries of superior judges, at \$1,500 each per year .....	\$74,000
	For traveling expenses of judges of the superior courts in counties where a judge is judge of more than one county, in traveling between the county seats within his jurisdiction, to be paid upon the certificate of said judges, at \$1,000 per year.....	2,000
	Total for salaries and expenses of superior judges....	<u>\$76,000</u>
	For salary of state librarian, at \$1,500 per year.....	\$3,000
	For salary of assistant librarian, at \$800 per year..	1,600
	For furniture and shelving for library.....	300
	For postage, expressage, cartage and stationery, at \$250 per year.....	500
Vetoed.	For \$20,000 insurance on state library for two years .....	640
	Total for state library.....	<u>\$6,040</u>
	For expenses in transporting insane persons to hospitals for the insane .....	\$15,000
	For expenses in transporting convicts to the state penitentiary.....	25,000
	For transporting juvenile offenders to the reform school..	5,000
	For cost bills in convictions for felony before the superior court, chargeable against the state.....	70,000
	For extradition expenses .....	5,000

For rent of state offices from T. I. McKenny, to include janitor service, water and heating, according to the terms of an act approved March 7, 1891, at \$6,600 per year .....	\$13,200
For lighting state offices, at \$900 per year .....	1,800
For rewards authorized to be paid by the governor in certain cases .....	2,000
For preparing copy, reading proof and indexing house journal .....	300
For preparing copy, reading proof and indexing senate journal .....	300
For salaries of two coal mine inspectors, at \$1,500 each per year .....	6,000
For expenses and instruments for two coal mine inspectors, \$1,000 per year.....	2,000
For salaries and expenses of state board of health, at \$2,500 per year .....	5,000
For maintenance of Western Washington hospital for the insane.....	\$168,960
Oven, kitchen, cold storage and ice house.....	10,000
For painting buildings.....	1,500
For new buildings and furniture .....	65,000

*Provided*, That the money herein appropriated for the construction of new buildings at the Western Washington hospital for insane shall be returned to the general fund of the state treasury from the first proceeds of the sale of lands granted to the state for state charitable, educational, penal and reformatory institutions.

For sewerage system.....	5,200
For repairs.....	1,000
Total for Western Washington hospital for insane..	\$251,660

For maintenance of Eastern Washington hospital for the insane.....	\$105,000
For isolated building for laundry at Eastern Washington hospital for insane.....	2,500
Remodeling kitchen and dining-room of Eastern Washington hospital for the insane.....	850
Apparatus for utilizing waste steam at Eastern Washington hospital for the insane.....	400
For the erection of a three story brick building and for furniture, at the Eastern Washington hospital for the insane, to be available May 4, 1894.....	55,000

*Provided*, That the money herein appropriated for the construction of new buildings at the Eastern Washington hospital for insane shall be refunded to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for state charitable, educational, penal and reformatory institutions.

Total for Eastern Washington hospital.....	\$163,750
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For the maintenance of the state penitentiary.....	\$180,000
For new cell wing at penitentiary.....	35,000
For enlarging stockade at penitentiary .....	6,000
For hospital building at penitentiary.....	7,500

*Provided*, That the money herein appropriated for the construction of a new cell wing and hospital at the state penitentiary shall be returned to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for state charitable, educational, penal and reformatory institutions.

For improving water supply at penitentiary.....	2,500
For machinery at jute mill at penitentiary.....	11,000

Total for state penitentiary..... \$242,000

For maintenance of state reform school.....	\$52,000
For purchase of additional land at reform school,	5,000
For erection of buildings and furnishing same at reform school .....	15,000

*Provided*, That the money herein appropriated for the construction of new buildings at the reform school shall be returned to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for state charitable, educational, penal and reformatory institutions.

Total for state reform school..... \$72,000

Maintenance of school for defective youth and feeble minded .....	\$80,000
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Three thousand (\$3,000) dollars of which shall be appropriated for the care and custody of children of feeble mind who are not capable of receiving instruction, to be disbursed under such regulations as may be prescribed by the board of control of this institution.

Vetoed.	For expenses of state board of equalization.....	600
	For maintenance of state board of horticulture.....	10,000
	For expenses of board of regents and maintenance of the state university.....	39,000

Vetoed.	For the maintenance of the Cheney normal school at \$12,500 per year.....	\$25,000
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Vetoed.	For the erection of buildings for the Cheney normal school, to be returned to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for the establishment of state normal schools,	60,000
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Total for Cheney normal school..... \$85,000

For the maintenance of Ellensburg normal school, at \$12,500 per year.....	\$25,000	
For the erection of a building for the Ellensburg normal school, to be returned to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for the establishment of normal schools .....	60,000	
Total for Ellensburg normal school .....	<u>\$85,000</u>	
For the location and maintenance of normal school in Whatcom county.....	\$5,000	Vetoed.
For the erection of a building for the state normal school in Whatcom county, to be returned to the general fund of the state treasury from the first proceeds of the sales of lands granted to the state for the establishment of normal schools.....	30,000	Vetoed.
Total for normal school in Whatcom county.....	<u>\$35,000</u>	
For paying the expense of selling the present site of the state university, for preparing the grounds at the new site, and for the erection of the new buildings of the state university .....	\$150,000	
<i>Provided, That the money hereby appropriated for this purpose shall be returned into the state treasury by the board of university regents from the proceeds of the first sales of the old site of the university, consisting of ten acres in the city of Seattle.</i>		
For the erection of administration buildings for the agricultural college.....	\$50,000	
For agricultural experiment station building at the agricultural college and school of science..	10,000	Vetoed.
For mechanical engineering building at the agricultural college and school of science.....	10,000	
<i>Provided, That the money appropriated for the erection of the foregoing buildings at the agricultural college and school of science shall be returned to the general fund of the treasury from the first proceeds of the sales of lands granted to the state for the establishment of a scientific school.</i>		
For dairy plant at the agricultural college .....	3,000	Vetoed.
For sewerage at the agricultural college .....	1,500	
For completion of buildings at the agricultural college, and deficiency already incurred.....	25,000	
For root house at the agricultural college.....	500	
For expenses of instruction not provided for by national government.....	10,000	Vetoed.
For fuel and contingent expenses, at \$5,000 per year .....	10,000	
Total for the agricultural college and experiment station.....	<u>\$120,000</u>	

For maintenance of the soldiers' home .....	\$30,000
For addition to main building at soldiers' home..	6,000
For erection of hospital at soldiers' home.....	2,500
<i>Provided</i> , That the money herein appropriated for the erection of buildings at the soldiers' home shall be returned to the general fund of the state treasury from the first proceeds of the sales of land granted to the state for state charitable, educational, penal and reformatory institutions.	
For furnishing hospital at the soldiers' home.....	500
For other improvements and furnishings, and contingent expenses for the farm and buildings at the soldiers' home.....	15,000
<b>Total for the soldiers' home.....</b>	<b>\$54,000</b>
For the public printing and binding .....	\$70,000
For insurance state printing and binding stock .....	500

OUT OF THE STATE LIBRARY FUND.

For the purchase of books for the state library, to be paid out of the state library fund, at \$4,000 per year.....	\$8,000
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OUT OF THE MILITARY FUND.

For maintenance of the national guard for the year ending March 31, 1894, to be paid out of the military fund .....	\$40,000
For maintenance of the national guard for the year ending March 31, 1895, to be paid out of the military fund.....	40,000
<b>Total for the national guard.....</b>	<b>\$80,000</b>

OUT OF THE TIDE LAND FUND.

For the maintenance of the local boards of tide land appraisers, to be paid out of the tide land fund, and for survey of tide lands of the first, second and third class, .....	\$40,000
For indexing session laws of the present session of the legislature, to be done by D. E. Bailey, three hundred dollars .....	\$300
For the aid of the Washington State Historical Society, the sum of \$500 for each of the years 1893 and 1894.....	1,000
For the purchase of 1,000 copies of Barton's Legislative Manual .....	1,400

*Provided*, That the secretary of state shall deliver five copies of said book to each of the members of the senate and house of representatives; one copy each to the secretary of the senate and chief clerk of the house; one copy to each of the judges of the supreme court, clerk and reporter of the supreme court, and each of the judges of the superior courts; five copies each to the governor and lieutenant governor; two copies each

to the auditor, secretary of state, treasurer, attorney general, superintendent of public instruction, commissioner of public lands and state printer; one copy each to the members of the board of education; one copy each to the county school superintendents, and ten copies to the state librarian for use in the state library: *Provided further*, That one copy of the said book be sent by the secretary of state to each of the state libraries of the several states and territories of the union, in exchange for books of a similar character now in use in the library of this state, and that one copy be sent to each of the U. S. senators and representatives in congress of this state, and that all of said books remaining in the possession of the secretary of state after such distribution is made, shall be distributed *pro rata* by the secretary of state among the educational institutions and the several boards of trustees and commissions of the state: *Provided further*, That upon delivery of the said one thousand copies to the secretary of state, the said secretary shall notify the state auditor, who shall draw his warrant in favor of Clarence M. Barton, compiler, on the state treasurer for the amount named in section one.

Except as to the items enumerated in the statement hereto appended, this bill is approved this 17th day of March, 1893.

J. H. MCGRAW, *Governor*.

## GOVERNOR'S VETO.

STATE OF WASHINGTON, EXECUTIVE DEPARTMENT,  
OLYMPIA, March 17, 1893.

*Hon. J. H. Price, Secretary of State:*

SIR—I herewith transmit to you, for filing in your office, house bill No. 482, entitled "An act making appropriations for sundry civil expenses of the state government for the fiscal term beginning April 1, 1893, and ending March 31, 1895, and for other purposes," with my approval, excepting the following items:

Page 1, line 17: For messenger in governor's office, at \$1,000 per year, \$2,000.

Page 1, line 31: For extra clerical assistance in the office of secretary of state, to be paid only on certified vouchers, at \$1,000 per year, \$2,000.

Page 2, line 29: For extra clerical assistance in office of state auditor, to be paid only upon properly certified vouchers, at \$1,000 per year, \$2,000.

Page 3, line 13: For extra clerical assistance in the office of state

treasurer, to be paid for only upon properly certified vouchers, \$500.

Page 4, line 14: For subdivision of school lands, \$10,000.

Page 4, line 15: For a contingent fund to be expended by the attorney general, under the direction of the state land commission, in defending state, school and granted lands in cases before the United States land offices, and the superior courts of the state, and establishing the non-mineral character of school lands, \$10,000.

Page 6, line 25: For salary of state geologist, at \$2,400 a year, \$4,800.

Page 6, line 27: For chemicals, at \$250 a year, \$500.

Page 6, line 28: For contingent and traveling expenses of state geologist and mining bureau, at \$1,000 per year, \$2,000.

Page 6, line 30: For rent of office, at \$300 per year, \$600.

Page 7, line 26: For \$20,000 insurance on state library for two years, \$640.

Page 11, line 27: For expenses of state board of equalization, \$600.

Page 11, line 31: For the maintenance of the Cheney normal school, at \$12,500 per year, \$25,000.

Page 11, line 33: For the erection of buildings for the Cheney normal school, \$60,000.

Page 12, line 14: For the location and maintenance of normal school in Whatcom county, \$5,000.

Page 12, line 16: For the erection of a building for the state normal school in Whatcom county, \$30,000.

Page 13, line 2: For agricultural experiment station building at the agricultural college and school of science, \$10,000.

Page 14, line 6: For dairy plant at the agricultural college, \$3,000.

Page 14, line 11: For expenses of instruction not provided for by the national government, \$10,000.

In accordance with art. III, sec. 12 of the constitution of the state I withhold my approval from the above specified items for these reasons:

The assumption of statehood by the Territory of Washington has necessarily involved the adoption of a much more comprehensive and complicated system of government than formerly sufficed. The inevitable consequence has been the expenditure of much more of the public funds for the absolutely imperative needs of the several branches of government.

With vast resources, surpassing, in fact, the comprehension of many people of older and more settled states, the people of our new commonwealth, irrespective of politics, have demanded the creation and establishment of state institutions worthy of the undoubtedly great future of the state, and have embodied general provision for many such institutions in the organic law. Through their representatives in the legislature an enthusiastic and aspiring people have asked that special provision shall, at this time, be made for the public institutions, as well as for the extraordinary expense incurred in procuring, setting up and keeping in order the new and expensive machinery of statehood.

In this condition a serious danger may threaten the future of the state, which the executive should endeavor to avert.

The problem before the government of the state for solution now, and for some years to come, I take it, is to reconcile as far as possible the actual and imperative needs of the people, with the actual income of the state, so that neither the present nor the future may be over-burdened with a heavy or unconstitutional burden of taxation or indebtedness, and yet without cheese-paring or unwise economy.

The wisest and most conservative judgment, and the best advice to be had upon this subject, consistent with liberal provision for the demands of the people, lead me to the conclusion that the proper and legal course to be pursued is to bring the legislative appropriations as nearly as possible within the income of the state.

I only regret that, in order to permit the various state institutions to perform their functions, I am compelled to consent to the creation of so large an estimated deficit; but I think it time to say stop to those whose enthusiastic extravagance would discount so largely the future resources of the state.

The laws enacted at the recent session of the legislature provide for an expenditure from the general fund of \$2,302,683.19 during the next two years. The estimated income of the state during the same period will be \$1,668,000. Out of the items of appropriation which I have approved, it is provided that \$304,000 shall be re-paid out of the sale of public lands belonging to the state. This will leave, after deducting the items disapproved, an estimated deficit of \$152,043.19.

Under art. VIII, sec. 1 of the constitution it is provided that the state may, to meet casual deficits or failure in revenues or for expenses not provided for, contract debts, but such debts direct and contingent, singly and in the aggregate, shall not, at any time exceed \$400,000.

To approve of the appropriation bill as it stands would, therefore, to my mind, clearly involve an unconstitutional deficit largely in excess of a just public demand, and would also involve a sale of public lands to an extent which would be contrary to public policy.

After consultation with the heads of the several state departments, whose pressing needs are really in excess of the amounts appropriated, and after full consideration of the most imperative needs of the people, I am, therefore, constrained to withhold my approval of the items specified, although all of them may be worthy and proper subjects for legislative appropriation whenever the income of the state and the provisions of the constitution may warrant their approval.

Respectfully yours, J. H. MCGRAW, *Governor.*

## CHAPTER CXXXVII.

[H. B. No. 245.]

TO PROHIBIT THE APPOINTMENT OF ANY SHERIFF AS  
RECEIVER OR ASSIGNEE.

AN ACT to prohibit the appointment of the sheriff of any county [as] receiver or assignee in cases of insolvency or assignment.

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

SECTION 1. That it shall be unlawful for the judge of any court of record or the creditors of an insolvent debtor to appoint the sheriff of the county receiver or assignee in any case of insolvency or assignment.

SEC. 2. That all acts or parts of acts that are in conflict with this act be and the same are hereby repealed.

Approved March 21, 1893.

## CHAPTER CXXXVIII.

[H. B. No. 292.]

PROVIDING FOR ERECTION OF STATE CAPITOL  
BUILDING.

AN ACT to provide for the location and erection of a capitol building and providing an appropriation therefor, and declaring an emergency.

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

SECTION 1. That for the purpose of erecting and completing a state capitol building for the State of Washington on the site now owned and occupied by the State of Washington for the purpose at the city of Olympia, in said state, there is hereby created a board, to be known as the state capitol commission. Said board shall consist of five members, to be composed of the governor, state auditor and three qualified electors of the state, who shall not be citizens of the city of Olympia, and no two of whom shall be from the same county, [to] be appointed by the gov-

State capitol  
commission.

error by and with the advice and consent of the senate: *Provided*, That not more than three members of said board shall belong to any one political organization. The commissioners so appointed shall hold office till the completion of said building and the acceptance thereof by the state, unless sooner removed for cause, by the governor, and shall give bond with at least two sureties to the State of Washington, in the sum of twenty thousand dollars, conditioned for the faithful performance of the duties imposed by law, to be approved by the governor and filed with the secretary of state, said sureties qualifying in double the penal obligation of said bond. The governor shall be chairman of said board, and shall have power to fill all vacancies until the next session of the senate, when any appointment to fill a vacancy shall be made by and with the advice and consent of the senate. A majority of said board shall constitute a quorum.

Term of office.

Bond.

Governor to fill vacancies.

Quorum.

SEC. 2. It shall be unlawful for any of the said board to be connected, either directly or indirectly, in any manner whatsoever, with any contract or part thereof for the erection of said capitol building, or for any work connected therewith, or for the furnishing of any supplies or material therefor, or to receive any benefit therefrom, or the promise of any benefit therefrom, either by way of commission, rebate, bonus, division of profits or otherwise; and any one of said board who shall violate this provision of this act shall be guilty of a felony, and upon conviction thereof shall be subject to a fine not to exceed one thousand dollars, and imprisonment in the penitentiary not exceeding five years, and shall forfeit his right to, and be removed from his place in said board. It shall be unlawful for said board to employ any person in the supervision or superintendence of the building of said capitol, or in any work connected therewith, who may or shall become in any manner connected, directly or indirectly, with any contract for the erection of said capitol building, or for the furnishing of any supplies or material therefor; and the said board of managers are hereby charged with the rigid enforcement of this provision of this act.

No member of board to be interested in contract.

Unlawful to employ in any work one who is interested in contract.

Salary of commissioners.

SEC. 3. Each of the commissioners appointed by the governor under the provisions of this act shall receive as compensation five dollars (\$5.00) a day for each and every day he is actually engaged in the performance of the duties of his office, together with mileage actually paid out while engaged in the necessary performance of his official duties, said services and expenses to be certified to the state auditor with vouchers therefor, according to the provisions of chapter 126, laws of 1891.

Compensation of secretary.

SEC. 4. Said board is authorized to appoint a secretary and remove him at pleasure. His compensation shall be such sum as the board shall deem reasonable, not exceeding one hundred and twenty-five dollars (\$125.00) per month [for] the time that he is actually employed. He shall qualify by giving a bond to be approved by a judge of a court of record in the sum of five thousand dollars (\$5,000) conditioned for the faithful performance of the duties of his office. He shall keep a true and complete record of the proceedings of the board. He shall make and keep a record of all contracts and obligations entered into by and with the board, or made or delivered to the board. He shall attest all certificates ordered by the board. He shall keep a set of books showing all expenditures on account of said board, all expenditures on account of the capitol building, and showing at all times the financial condition of said board, and of the funds appropriated for and applicable to the purposes of this act and all matters relating thereto. He shall on the first day of January of each year

Bond of secretary.

Duties of secretary.

Annual report.

prepare a financial report for the preceding year, containing an itemized and classified statement of all expenditures, and a list of all vouchers issued, showing to whom and for what purpose they were issued, which reports shall be filed in the office of the auditor of the state and published on the first day of January of each year in two newspapers to be selected by the board, and a copy transmitted by the board to the legislature at its next regular session. All contracts

Publishing of report.

Record of contracts.

made with said board and all bonds required by said board shall be regularly passed upon by the board in session and if adopted and approved by a majority of said board shall be recorded in a book kept for that purpose, and a copy

of such contract shall be made out and certified by the secretary indorsed "approved," with the date of approval, and delivered to the other party to the contract. Until such delivery no contract shall be valid or binding on either party. No party required by said board to give bond shall receive any money from the public treasury, or warrant or certificate therefor, until said bond shall have been recorded as herein required. All such bonds and contracts upon being recorded shall be filed in the office of the auditor of state, by whom they shall be preserved. All other vouchers, statements, files and papers relating to the erection of said building shall be kept and preserved by said secretary. He shall perform such other duties as may be required of him by said board.

SEC. 5. It shall be the duty of said board— (1) To locate said capitol building at the place in the present capitol grounds most sightly and suitable therefor. (2) To secure the submission of plans and designs appropriate to a capitol building of the State of Washington, the reasonable cost of which shall be one million dollars and no more, and from such plans and designs as may be worthy and adequate, to secure the selection of the most desirable plan and design, and to obtain proper architectural designs, plans and specifications and details, in conformity with such plan and design. (3) To secure the erection and completion of said capitol building conforming faithfully to such plan and design.

SEC. 6. In order to procure the submission of adequate and worthy plans and designs, said board may offer and award to architects submitting plans which said board shall deem meritorious, four prizes. To the architect submitting the plan and design which shall be accepted as the plan and design of said capitol building the first prize shall be awarded, which shall consist of his selection as architect of said building, and the acceptance of his plan and design. The second prize shall consist of the sum of fifteen hundred dollars (\$1,500), and shall be awarded to the architect submitting the plan and design deemed second in merit. The third prize shall be the sum of one thousand dollars

Duties of board.

Plans, designs, etc.

First prize.

Second prize.

Third prize.

(§1,000), and shall be awarded to the architect submitting the plan and design deemed third in merit. The fourth prize shall be the sum of five hundred dollars (\$500), and shall be awarded to the architect submitting the plan and design that shall be deemed fourth in merit. No design that the commission shall not deem adequate and worthy shall receive a prize. In case no plan and design is accepted as herein provided, the board shall advertise for the submission of further plans and designs, making no award of prizes till a plan for said capitol building shall be selected. The board shall invite the submission of plans and designs by a published notice setting forth the offer of prizes, and stating the time on or before which plans and designs must be submitted to the board: *Provided*, That the architect being awarded the first prize shall satisfy the commission that he is the author of the design and plan so submitted, and that he is skilled in his profession. That notice shall be published in four daily papers, one each in Seattle, Tacoma, Spokane and Olympia, and in four papers in other localities outside of the State of Washington at least twice a week for five successive weeks, giving at least sixty days' notice after the day of the last publication of the time of said submission. The board in selecting a plan and design for said capitol building shall require the highest degree of architectural beauty and constructive excellence, and [said building] shall be fire proof.

SEC. 7. No construction or material shall be furnished except pursuant to bids advertised for, as herein provided. All lettings of construction or material exceeding in amount the sum of five hundred dollars (\$500) shall be advertised in two daily newspapers of general circulation, for not less than ten days. The bid of the lowest responsible bidder shall be accepted, saving that the board shall have the right to reject all bids. The performance of every contract shall be secured by a bond to the State of Washington, in a sum not less than one quarter of the contract price, secured by two securities, qualifying in double the amount of the bond, each of whom shall be a *bona fide* resident of this state, said

Fourth prize.

Re-advertising for plans.

Publication of notice.

Bids for construction and material.

Bond.

bond to be conditioned for the faithful performance of said contract. Each bid shall be accompanied by a similar bond conditioned for the execution and faithful performance of a contract in accordance with said bid, if the same shall be accepted by the board. All contracts shall reserve the right of the board for good cause shown to annul the contract, without allowance for damages, and allowing only expenses incurred and labor performed, not exceeding the contract price or the proportion that the work done or material furnished thereunder bears to the total amount contracted for. Such a per centum not less than twenty per centum, as the board shall deem proper, shall be reserved from payments on monthly estimates of work done, until such work shall have been completed, inspected and accepted. All material contracted for shall be of the best quality and to the satisfaction of the board, and the directions, plans and specifications of the work executed and carried out by skilled and reputable architects, contractors, artists, mechanics and laborers, likewise to the satisfaction of the board.

Reservation  
of right  
to annul  
contract.

SEC. 8. The architect chosen by the board shall receive such compensation for his plan and design as the board shall deem reasonable. He shall be supervising architect of said building, and shall prepare all plans, specifications, drawings and details for said building, and for all contracts for construction or material therefor. He shall see that all material furnished and work done shall be of the best quality, and that all contracts with said board are faithfully performed by the parties so contracting with said board. He shall perform all other duties devolving upon him as such architect, and the supervising architect of said building, and may be removed at the pleasure of said board. Neither said architect nor any of his subordinates or assistants shall be in any way connected with any work done or material furnished for said building, or any contract therefor, or shall have any interest therein, directly or indirectly. He shall furnish a bond to the State of Washington, in the sum of fifty thousand dollars (\$50,000) with two or more sureties, each a resident of this state, and qualifying in twice the amount of said bond, conditioned for the

Compensation  
and duties  
of architect.

Architect's  
bond.

faithful performance by said architect, his assistants and subordinates, of his and their duties as herein prescribed.

Superintendent of capitol building.

SEC. 9. The board shall appoint a specially qualified person to act as superintendent of the construction of said capitol building. It shall be his duty to see that all contracts made with the board are faithfully performed, that all material furnished and work done shall be as required by law or the contract therefor, that all duties imposed upon the architect are faithfully performed by him and his subordinates, and that no provisions of this act are violated. To report to the board any violation of this act or of any contract, or of duty by any architect, contractor or employé of said board, and to do such other duties as may be required of him by the board. Said superintendent shall receive as his compensation such sum as the board shall deem reasonable, not exceeding eight dollars per day, for each and every day he is actually engaged in the performance of his duties. He shall be removable at the pleasure of the board.

SEC. 10. The board shall have and is hereby given power and authority where the kind of material to be used in the construction of the capitol building is not specifically fixed by law to use such material as it may deem best for said building: *Provided*, That the total cost of the erection, completion and furnishing of said capitol building, including steam heating apparatus and all other fixtures, shall not exceed the sum of one million dollars, and the board shall at all times have this object in view, and all plans accepted, and all contracts awarded shall be accepted and awarded only after the board shall be satisfied that the cost of the building when it shall be completed and furnished shall not exceed this amount.

Biennial report to legislature.

SEC. 11. It shall be the duty of said board, pending the construction of said building, to submit to the legislature at each session thereof, including the session following the completion of said building, a full statement of all work done and material furnished, and contracts for the same in the construction of said capitol building, together with a complete statement fully itemized and properly tabulated

of all moneys spent by it, and shall furnish a detailed report of its acts and doings therewith.

SEC. 12. The capitol building shall be built of stone, brick and iron, as far as practicable. All materials to be used in the construction and furnishing of the same shall be procured in the State of Washington: *Provided*, The same are the products of said state and can be procured in said state as cheaply as material of like quality in other localities. Said capitol building shall contain all chambers, rooms, corridors, halls, safes, vaults and other features and appurtenances appropriate to a capitol building. It shall be equipped with the most improved methods of heating, draining and ventilation.

Capitol to be built of stone, brick and iron.

SEC. 13. The board shall divide the expenditure for the erection and completion of said capitol building so that there shall not be expended in any one year an amount in excess of the appropriation for that one year. The entire construction and furnishing of said capitol building shall be completed by the first day of January, 1899: *Provided*, That a sufficient sum to pay for the same shall have been derived from the sale of lands granted for that purpose.

Annual expenditure not to exceed appropriation for that year.

Time for completion of building.

SEC. 14. All disbursements on account of the construction of the capitol building shall be made pursuant to certificates issued by the board. All claims, bills and demands for labor performed, work done or material furnished shall be presented to the board in duplicate, and shall be passed upon by said board only at regular sessions thereof, and after a careful examination of every item named. If found correct they shall audit the same, preserving one duplicate and transmitting the other as audited and allowed to the state auditor, and shall issue a certificate to the effect that services have been rendered or material furnished, and the person therein named is entitled to a warrant on the treasury for the amount therein named. Upon the presentation of said certificate and a duplicate of the vouchers therefor as audited and approved by the board as herein provided, to the state auditor, he shall draw his warrant on the state treasury on the "state capitol building fund" for the amount stated, and to the order of the person named in said certificate: *Provided*,

Manner of making disbursements.

That no certificate shall be issued in excess of the amount appropriated for that year. All certificates issued shall be recorded in a book kept for that purpose.

Capitol building fund.

SEC. 15. In order to carry out the provisions of this act there is hereby created a fund to be known as the "[state] capitol building fund," into which fund shall be paid the proceeds of all moneys derived from the sales of lands granted to the State of Washington for the purpose of erecting public buildings at the state capital, from which fund there is hereby appropriated the sum of two hundred and twenty-five thousand dollars for the fiscal year ending March 31, 1894, and two hundred and seventy-five thousand dollars for the fiscal year ending March 31, 1895: *Provided*, That no appropriation shall be made from any fund except the fund derived from the sale of lands granted for erecting public buildings at the state capital.

Legal adviser.

SEC. 16. The attorney general shall be the legal adviser of the board.

Emergency.

SEC. 17. The state having no suitable building for capitol purposes, and a long interval necessarily elapsing after this act goes into effect before the work of construction on the capitol building can be begun, an emergency is hereby declared to exist, and this act shall take effect from and after its passage and approval by the governor.

Approved March 21, 1893.

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## CHAPTER CXXXIX.

[H. B. No. 295.]

### PUNISHMENT FOR CRIME AGAINST NATURE.

AN ACT to provide for the punishment of the crime against nature, and declaring an emergency.

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

SECTION 1. Every person who shall commit the infamous and detestable crime against nature, either with

mankind or with any beast, shall be deemed guilty of sodomy, and upon conviction thereof shall be punished by imprisonment at hard labor in the state penitentiary for not less than ten nor more than fourteen years.

SEC. 2. Any sexual penetration however slight is sufficient to complete the crime against nature.

SEC. 3. Whereas, there is not now any statute of this state providing for the punishment of the crime against nature, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage.

Received by the governor March 9, 1893.

NOTE BY THE SECRETARY OF STATE.—The foregoing act having been presented to the governor of the state for his approval, and not having been filed in the office of the secretary of state within the time prescribed by the constitution of the state, with his objections thereto, has become a law under the provisions of the constitution.

Filed in the office of the secretary of state March 23, 1893.

J. H. PRICE,  
*Secretary of State.*

## MEMORIALS AND RESOLUTIONS.

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### SENATE MEMORIAL No. 2.

#### IN MEMORIAM OF JAMES GILLESPIE BLAINE.

WHEREAS, In the death of James Gillespie Blaine our nation mourns the loss of a grand, inspiring type of American manhood, and a rare embodiment of our civic virtues and our civic glories; and

WHEREAS, The noblest tribute of a free people to a favorite son is paid to this illustrious citizen, statesman, diplomat, patriot and orator in grief and sorrow that are universal; and

WHEREAS, His superb devotion to his country; his jealous fidelity to the promotion of her welfare at home and to the maintenance of her dignity abroad; his fearless and invulnerable attitude on all questions of public policy which his own convictions answered; his brilliant, dashing and masterful qualities exhibited so often under fire on the floor of congress and in the service of the state, enshrine him in the esteem, affection and admiration of his countrymen; and

WHEREAS, His life from an inconspicuous dawning to the glorious setting we have witnessed, is destined to shine perpetually in history as a striking example of the genius which made and continues to ennoble and to elevate our government: therefore, be it

*Resolved*, That the legislature of Washington, expressing the reverential wishes of the citizens of this commonwealth, hereby place upon the records, for preservation in the archives of the state, this brief review, and inadequate testimonial to the wisdom and courage, the intellectual force and unassuming personality, the superior abilities and commanding character, the luster of mind and lofty

patriotism of the Hon. James Gillespie Blaine: and be it further

*Resolved*, That a copy of this memorial be transmitted to the bereaved family at the national capital.

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#### SENATE CONCURRENT RESOLUTION No. 3.

*Resolved by the Senate, the House concurring*: That a committee, consisting of two senate and three house members, be appointed on joint rules and orders, and that the committee be requested to report as soon as convenient.

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#### SENATE CONCURRENT RESOLUTION No. 4.

WHEREAS, The governor's message and the reports of the state officers and others having charge of the state institutions made to this legislature exhibit the condition of affairs of the state at the end of the third year of the statehood of Washington; and

WHEREAS, Said reports should be preserved in a permanent form as a part of the history of the state; and

WHEREAS, Reciprocal exchange with other states and territories should be observed: therefore, be it

*Resolved by the Senate, the House of Representatives concurring*: That the secretary of state be and is hereby directed to collect sixty copies each of the governor's message and of the several reports of the state officers and state institutions made to the governor or to the legislature at this session, which are already printed, and deliver the same to the state printer, who shall bind the same in con-

venient sized volumes and deliver the same to the state librarian for distribution to the states and territories making a like exchange with this state, reserving at least five volumes for preservation in the state library.

The state printer shall also bind sets of said reports for each member of this legislature who will furnish copies for the purpose.

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SENATE CONCURRENT RESOLUTION No. 6.

*Resolved by the Senate of the State of Washington, the House concurring:* That a committee consisting of three members of the senate and four of the house be appointed, whose duty it shall be to investigate all matters pertaining to the agricultural college and school of science, that will be of benefit to the State of Washington and will aid the senate in determining the proper action to be taken in the matter of appointments for the boards of regents that are now before the senate for confirmation, and that said committee have power to send for persons and papers and to proceed to the town of Pullman, if in the performance of its duties it shall be deemed necessary; and that it shall be its duty to make a report to the legislature touching those matters which it is herein required to investigate.

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SENATE CONCURRENT RESOLUTION No. 7.

WHEREAS, We have learned with profound sorrow of the death of the Hon. James G. Blaine, which occurred at Washington, D. C., early this morning, and recognizing his brilliant statesmanship as a legislator and as a high official

in the council of this nation, as a thorough American, true to the principles of American government, and desiring to show a mark of respect to his memory and to manifest in some manner the high estimate entertained of his distinguished patriotism: therefore, be it

*Resolved by the Senate, the House concurring:* That a committee of three be appointed by the president of the senate and four by the speaker of the house of representatives to draft a suitable memorial, reporting the same for concurrent action.

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#### SENATE JOINT RESOLUTION No. 8.

WHEREAS, It appears from the latest advices that the people of the Hawaiian islands have by a peaceful revolution changed their previously existing form of government from a constitutional monarchy to that of a republic, and have established *pro tempore* a provisional government; and

WHEREAS, It further appearing that a large majority of the people of said islands earnestly desire to be annexed to the United States; and further, that a commission from said provisional government is now visiting this country for the purpose of bringing about such annexation: therefore, be it

*Resolved by the Senate and House of Representatives of the State of Washington:* That we believe such annexation would mutually benefit this country and the said islands, and therefore we earnestly request the honorable the senate and house of representatives of the United States to favorably consider any petition looking to the annexation aforesaid, and that our senators and representatives be and they are hereby requested to use all honorable effort to further and promote such annexation; and be it further

*Resolved,* That a duly certified copy of this preamble and resolutions be forwarded to each of our senators and representatives in congress and one to the honorable the secretary of state of the United States.

## SENATE CONCURRENT RESOLUTION No. 10.

*Resolved by the Senate, the House concurring:* That two members of the senate committee on state prison, to be named by the president, and three members of the house committee on penitentiary and reform school, to be named by the speaker, be and they are hereby authorized to visit the state penitentiary, and that they be, at the proper time, granted leave of absence for that purpose.

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## SENATE CONCURRENT RESOLUTION No. 11.

*Resolved by the Senate, the House concurring:* That two members of the senate committee on state insane, to be named by the president, and three members of the house committee on hospital for insane and school for defective youth, to be named by the speaker, be and they are hereby authorized to visit the state hospitals for the insane, and that they be, at the proper time, granted leave of absence for that purpose.

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## SENATE CONCURRENT RESOLUTION No. 15.

WHEREAS, Grave and serious charges have been made against the executive committee of the world's fair commission of the State of Washington, charging among other things that the members and officers of said executive committee have wasted and extravagantly used the funds appropriated and placed in the hands of said commission, and

have misappropriated a part of said funds: now, therefore, be it

*Resolved*, That the world's fair committee of the senate and house be and the said committees hereby are authorized and empowered to make a thorough investigation of said charges; and said committees are hereby authorized and empowered to send for persons whose testimony will be necessary and useful for said examination and to have produced before said committees any papers necessary to aid the committees in said investigation; and the speaker of the house is hereby authorized to issue and sign all subpoenas necessary and proper in the premises without other and further application to the senate or house. Said committees are further authorized and empowered to formulate rules and regulations to govern its proceedings during such investigation: *Provided*, The joint rules thereof are not full enough to carry into effect the ends desired by this resolution.

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#### HOUSE MEMORIAL No. 1.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the house of representatives and senate of the State of Washington in legislative session assembled most respectfully represent:

WHEREAS, The question of the transportation of cerealia and other products of the farm, mines and pastoral pursuits and fruit culture of all that section of our state east of the Cascade range is paramount to all other questions; and

WHEREAS, The Columbia and Snake rivers are navigable for many miles in the interior, and could be navigable to the Pacific ocean but for minor obstructions from the southeastern part of the state on Snake river and the northeastern portion of the state on the Columbia river

and the very serious obstructions at The Dalles of the Columbia: therefore, be it

*Resolved*, That your memorialists would urge that your honorable bodies favor such legislation as will, in your judgment, hasten the opening of said rivers to navigation, and especially the construction of a boat railway or portage at The Dalles, which will greatly lessen the rates of transportation of the products of our state to the markets of the world, as well as to facilitate the exchange of the products of the different sections of our commonwealth at much less expense to our citizens; and be it further

*Resolved*, That your memorialists humbly urge and demand of our senators and representatives in the national senate and house of representatives to press this matter before our national legislature, and urge upon it the necessity of immediate legislation that will afford the long prayed for relief sought, and that a copy of this memorial be sent to each of our senators and representatives in congress and to the president of the senate and speaker of the house; and thus will your memorialists ever pray.

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#### HOUSE MEMORIAL No. 2.

*To the Honorable Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the legislature of the State of Washington, most respectfully represent that—

WHEREAS, Within the past year the public health of the United States was greatly endangered by the transmission from foreign countries of infectious and malignant diseases; and

WHEREAS, The business interests of the country in such times are greatly disturbed, and great damage is occasioned to the financial welfare of the nation; and

WHEREAS, At the present time there is no adequate

provision in laws of congress providing for the protection of the country against the impending danger occasioned by the transmission of such diseases:

Therefore, your memorialists do most earnestly petition your honorable body to as speedily as practicable pass the bill now pending before your honorable body known as the national quarantine bill, or that your honorable body enact such other legislation as will meet the emergency.

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### HOUSE MEMORIAL No. 3.

*To the Senate and House of Representatives of the United States in Congress Assembled:*

Your petitioners, the legislature of the State of Washington, in regular session assembled, respectfully represent that as the entire western coast of this state north of Gray's Harbor is without harbor facilities, and that an immense amount of most valuable land is located in the northwestern portion of this state and is settled upon by a large number of people who have no means of ingress or egress except by a narrow government trail over the Olympic mountains, and your petitioners would further represent that there is at the mouth of the Quillayute river a harbor that with a small outlay of money by the general government would provide a sufficient harbor for the accommodation of the people and the safety of the sea-faring craft along the coast, and thereby be of benefit to the general public, and we would further represent that the Ozette river is a navigable stream, and that by the clearing away of the debris which now obstructs navigation the benefits accruing therefrom would be general and of inestimable value.

Therefore we, your memorialists, would respectfully urge that immediate action be taken and that a sufficient amount be included in the next river and harbor appropri-

ation bill for the purpose of making the surveys and improvements necessary to open the said harbor and river, and for which we, your memorialists, will ever pray.

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HOUSE MEMORIAL No. 5.

*To the Honorable Senate and House of Representatives in Congress assembled:*

Your memorialist, the legislature of the State of Washington, most respectfully prays for the establishment by law of an additional lighthouse district, to consist of a part of the present thirteenth lighthouse district, so that the new district shall embrace all the aids to navigation on the straits of Juan de Fuca, Puget Sound, Washington Sound, and all the adjacent and tributary waters thereto, and also all Alaskan waters.

Your memorialist further prays for the enactment of a law which shall provide for the transfer of the new steam tender, *Columbine*, for lighthouse service, in the additional lighthouse district herein prayed to be established, for the reasons hereinafter stated.

The thirteenth lighthouse district as at present constituted is by far the largest of any in the United States. It embraces the entire west coast of Oregon and Washington, with all of its bays, harbors, inlets and estuaries, including the Columbia river and its tributary waters, the straits of Juan de Fuca, Puget Sound, Washington Sound and its adjacent and tributary waters and all of the Alaskan waters.

According to the official list of lights and fog signals prepared and issued by the lighthouse board, and corrected up to the first day of January, 1892, there were at that time ninety-eight lights and fog signals maintained and operated by the government in the thirteenth lighthouse district outside of all lights and fog signals in

Alaskan waters, as against forty one lights and fog signals in the twelfth lighthouse district, comprising the waters of the State of California. According to a similar list of beacons and buoys prepared by the same authority and corrected up to the 31st day of December, 1891, there were at that time three hundred and ninety-two beacons and buoys placed and maintained in the waters of Oregon and Washington alone, as against two hundred and nine in the twelfth lighthouse district. Thus it seems that there are in the thirteenth lighthouse district, excluding the aids to navigation in Alaskan waters, more than twice the number of lights and fog signals maintained and cared for than in the twelfth district.

The creation of the additional district herein prayed for would leave, according to said official list, forty-three lights and fog signals and two hundred and sixty-one beacons and buoys in the thirteenth district, and forty-five lights and fog signals and one hundred and thirty-one beacons and buoys in the new district, outside of Alaska, concerning which your memorialist has no exact official information.

The extraordinary development and growth in the commerce and shipping interests of the ports of Puget Sound and Alaska for the last few years, and the probable continuance of the same in the future, will necessitate continuously the establishment of new aids to navigation, and it is readily apparent that the enormous extent of coast lines now under the supervisory control of the inspector of the thirteenth district will not enable that officer, with the means and appliances at his command, to provide efficiently for the light house service under his immediate jurisdiction.

During the fiscal year 1892 sixteen United States government vessels were plying in Alaskan waters, which number included five naval vessels, three revenue cutters and three coast and geodetic survey steamers and their tenders, and also three British men-of-war for the enforcement of the *modus vivendi*. According to the report of the collector at Sitka there were fifty-five vessels registered within the district of Alaska. The records of the same officer show the entrance of one hundred and one vessels, with a net

tonnage of fifty-three thousand seven hundred and nineteen tons, and the clearance of eighty-six vessels, with a net tonnage of forty-five thousand two hundred and seventy-three tons. These figures represent ports of entrance only, and do not include all the cargoes brought into and carried out of the territory. The value of the exports from the district of Alaska during the fiscal year 1892 was \$7,759,064, and the value of the imports during the same year was \$2,164,238, leaving an excess in value of exports the sum of \$5,594,826.

Alaska has a coast line of four thousand seven hundred and fifty statute miles, being eight hundred and thirty-five miles greater than the combined general sea coast line of the United States on the Atlantic ocean and the Gulf of Mexico.

The additional lighthouse district herein petitioned for, will have a larger coast line than all the eastern lighthouse districts on both the Atlantic and Gulf coasts combined.

The station of the lighthouse tenders of the present thirteenth district is established at Astoria, on the Columbia river, in the State of Oregon, which point would be entirely central and suitable for the thirteenth district, if the additional district herein prayed for is established, but with the present boundaries is altogether too remote for the aids to navigation in these waters, to receive the prompt care and attention contemplated and required by the laws and regulations governing the lighthouse establishment.

The steam tender *Columbine*, hereinbefore referred to, is now ready for service and was constructed by the authority of the act of congress making appropriations for sundry expenses for the fiscal year ending June 30, 1891, which said act appropriated the sum of \$95,000 for a new steam tender for "construction and repair duty on the thirteenth lighthouse district."

Your memorialist is advised that said tender under the said provisions of said act of congress is available only for "construction and repair duty" in charge of the lighthouse engineer and not for general lighthouse service, and that it requires an act of congress authorizing her transfer

to the latter service, and subject to the control of the inspector.

Your memorialist is further advised that the services of said tender are not required "for construction or repair duty," but can be more advantageously employed in the general lighthouse service, and that the engineer of the district has so reported to the lighthouse board.

Your memorialist is further advised that the shipping interests in this district has suffered, and the efficiency of the general service has been impaired by frequent delays caused by the lighthouse tender "Manzanita" being "bar bound" owing to the stress of weather in ports and estuaries on the coast of Oregon and Washington.

After a full examination of this subject, and in obedience to the expressed wishes of the people of this state, who are interested in commerce and shipping, your memorialist expresses its earnest conviction that every consideration of justice to the demands of the shipping interest calls for the speedy establishment of the additional lighthouse district herein petitioned for.

And, as in duty bound, your petitioner will ever pray, etc.

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#### HOUSE MEMORIAL No. 6.

For the coast defenses of the State of Washington.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the house of representatives and senate of the State of Washington, in legislative session assembled, most respectfully represent:

WHEREAS, The whole sea coast of this state from the Columbia river to its connection with the foreign territory of British Columbia is in an utterly defenseless state, and open at any time to the attacks of an enemy who could

approach from the ocean and enter the ports of Willapa and Gray's Harbor on the Pacific coast, and more especially by the way of Fuca Strait and Puget Sound; and

WHEREAS, From Cape Flattery at the entrance of the straits of Fuca to Olympia, the capital of the state, a distance of some two hundred miles, are numerous cities of importance; Olympia, the capital, Tacoma, Seattle, New Whatcom, Everett, Port Townsend, Port Angeles, Port Crescent and Clallam Bay, all of whose inhabitants and property have no protection from foreign invasion; and

WHEREAS, Your memorialists further represent that the United States have valuable interests on Puget Sound, the navy yard and dry dock at Port Orchard, the public buildings on McNeil's Island, the new public building at Port Townsend, and marine hospital property, and the quarantine station at Port Discovery, all of which are entirely without protection. A single gunboat from any foreign power which might assume a belligerent attitude, could destroy not only all the government property, but every city and mill site on Puget Sound, and levy a contribution upon the inhabitants: therefore, be it

*Resolved*, That in view of these facts, which are well known to the authorities in Washington and patent to every citizen of this state, your memorialists most respectfully request your honorable body to take some action in the premises, and urge upon congress the necessity of speedy action so that the defenses of Puget Sound and our entire coast may be commenced forthwith at such points and in such manner as the wisdom of congress may determine, and be continued until the coasts and the frontier of the State of Washington are properly protected from the assaults of enemies; and, as in duty bound, your memorialists will ever pray.

## HOUSE MEMORIAL No. 7.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the legislature of the State of Washington, respectfully represent:

That the peace, prosperity, progress and weal of the United States are menaced by the great influx of pauper emigration from foreign nations, and should be entirely prohibited:

Therefore, we most respectfully and earnestly petition your honorable bodies to enact a law making it hereafter obligatory on all emigrants from foreign nations to bring with them certificates of good moral character, given by the proper officers of the countries from which they come, and money enough to sustain themselves and their families for a period of one year from the time of landing, be citizens of the United States for seven years, and able to read and write and well conversant with the constitution of the United States before naturalization.

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## HOUSE JOINT MEMORIAL No. 9.

*To the Honorable Senate and House of Representatives of the United States:*

Your memorialists respectfully represent that, whereas, the title of the State of Washington to a portion of the school lands held in reservation for the common schools of the state has been questioned: therefore, your memorialists respectfully urge upon your honorable body the enactment of the following law:

AN ACT to confirm to the State of Washington the title to certain lands reserved for the purposes of common schools.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SECTION 1. That all lands selected by the county commissioners of the several counties of the Territory of Washington prior to the admission of said territory as a state, and reserved from sale or other disposition by the department of the interior as indemnity or lieu lands for deficiencies in sections sixteen and thirty-six in each township in said territory, may and the same hereby are authorized and directed to be by the secretary of the interior confirmed to said State of Washington, upon application being made therefor by the proper persons authorized by the laws of the State of Washington, and when said lands shall have been applied for and confirmed by the said secretary of the interior to the said state, the title of said lands shall thereby be vested in the said State of Washington.

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HOUSE CONCURRENT RESOLUTION No. 1.

*Resolved by the House, the Senate concurring:* That the state printer be ordered to print five thousand (5,000) copies of the message of Governor Elisha P. Ferry and inaugural address of Governor John H. McGraw, and that both be included in one and the same pamphlet.

## HOUSE CONCURRENT RESOLUTION No. 3.

WHEREAS, There is now pending before the national congress a measure known as the Sherman Nicaraguan Canal Bill, having for its object a union of the Pacific and Atlantic oceans by a ship canal across the states of Nicaragua and Costa Rica in Central America; and

WHEREAS, The construction of said canal is demanded through motives of commercial profit and national defense, and that its early completion is a matter of great desire and concern to the people of Washington; and

WHEREAS, The said enterprise is to be an American canal: now, therefore, be it

*Resolved by the House of Representatives, the Senate concurring:* That the legislature of Washington hereby approves the said bill, and desires that our representatives in congress exert their influence for its early passage, and that a copy of this resolution be forwarded to said representatives.

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## HOUSE CONCURRENT RESOLUTION No. 4.

*Resolved by the House of Representatives, the Senate concurring:* That a special joint committee of five, consisting of three from the house and two from the senate, be appointed by the speaker of the house and president of the senate, for the purpose of conferring with a like committee appointed by the legislature of the State of Oregon, to devise and report to both houses of this legislature such a joint bill in the interests of the fishing industry on the waters of the Columbia river and its tributaries, as may be deemed by such joint committees to be in the interests of said industry.

## HOUSE CONCURRENT RESOLUTION No. 5.

WHEREAS, The present method of electing a United States senator is expensive and unsatisfactory and we believe the will of the people can best be ascertained by a direct vote of the people: therefore, be it

*Resolved*, That the house of representatives, the senate concurring, do by memorial respectfully and earnestly urge the congress of the United States to make provisions for submitting a constitutional amendment providing for the election of United States senators by the vote of the people; and be it

*Resolved*, That the president of the United States, the president of the senate and the speaker of the house of representatives be sent one official copy each of these resolutions; and be it further

*Resolved*, That one copy be sent to each of our senators and representatives in congress and they be requested to use their influence to secure the object set forth in these resolutions.

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HOUSE CONCURRENT RESOLUTION No. 10.

AUTHORIZING the governor of the State of Washington to receive and receipt for moneys due said state from the general government of the United States on account of the payment of the direct tax.

WHEREAS, By an act of congress approved March 2, 1891, entitled "An act to credit and pay to the several states and territories and the District of Columbia all moneys collected under the direct tax levied by the act of congress, approved August 5, 1861," a sum of money was appropriated to the several states for the purposes set forth in said act; and

WHEREAS, Said act contained the following provisions,

to wit: "But no money shall be paid to any state or territory until the legislature thereof shall have accepted by resolution the sum herein appropriated, and the trusts imposed, in full satisfaction of all claims against the United States on account of the levy and collection of said tax, and shall have authorized the governor to receive said money for the use and purposes aforesaid:" now, therefore, be it

*Resolved by the House of Representatives, the Senate concurring:* That the legislature of the State of Washington hereby accepts the amount found to be due said state under the provisions of this act, and the trusts and conditions imposed in and by said act, in full satisfaction of all claims which the State of Washington may have against the United States on account of the levy and collection of said tax; and be it further

*Resolved,* That the governor of the State of Washington be and he is hereby authorized to receive and receipt in full for said money, in accordance with the foregoing resolution.

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#### HOUSE CONCURRENT RESOLUTION No. 17.

ASKING that proper provision be made by congress to require that road engineering be taught in all agricultural colleges receiving support from the national government.

WHEREAS, It is desired by the people of this state that all efforts should be put forth to improve the public highways and roads of this country: therefore, be it

*Resolved by the House of Representatives, the Senate concurring:* That the senators and representatives representing the State of Washington in congress, be and they are hereby requested to urge that proper provision be made to establish in every agricultural college receiving support from the federal government a department of instruction devoted to road engineering so that there may be most

speedily disseminated throughout the nation an accurate and scientific knowledge of the most improved methods of road construction.

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#### HOUSE CONCURRENT RESOLUTION No. 18.

WHEREAS, By an act of congress certain lands in the vicinity and including Mount Rainier have been set aside as a public park and the lands embraced therein reserved from entry and appropriation; and

WHEREAS, Many persons, citizens of the United States, have gone onto lands included in the reservation above mentioned and have developed valuable mines of the precious metals and have expended large sums of money and large amounts of labor in developing said mines and in building roads thereto, intending to operate, develop and to acquire the same under the mineral land laws of the United States; and

WHEREAS, Certain citizens of the United States have settled upon land within said reservation valuable for agriculture, have made permanent and valuable improvements thereon, intending to enter the same under the land laws of the United States for the purpose of making homes for themselves and families, and have expended large sums of money and labor in the building of roads thereto; and

WHEREAS, No provision is made in the act setting apart and reserving said land as a public park for the protection of said miners and settlers; and

WHEREAS, If no reservation is made in favor of said settlers and miners, great hardships will have been done said settlers and miners in depriving them of their homes and mines and the fruits of their labor and of their investments and improvements: therefore, be it

*Resolved by the House of Representatives of the State of Washington, the Senate concurring therein:* That our sen-

ators be and they are hereby instructed and our representatives are requested to use all honorable means to secure such legislation by the congress of the United States as will protect the *bona fide* settlers in their claims and the miners in the possession of their mines within the limits known as the Pacific Park Reservation.

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#### HOUSE CONCURRENT RESOLUTION No. 19.

WHEREAS, The employment of alien laborers on government work is detrimental to the best interests of our state and country at large; and

WHEREAS, We believe that the benefits of government should go to those who must bear the burden; and

WHEREAS, The employment of aliens at reduced rates of wages is an incentive to contractors to evade the contract labor law: therefore, be it

*Resolved by the House of Representatives, the Senate concurring:* That we respectfully urge upon congress by memorial the necessity of the prompt passage of a law prohibiting the employment upon any works of the United States of any person or persons other than citizens of the United States or those who have filed their intentions to become such; and be it

*Resolved,* That a copy of this resolution be forwarded to each of our representatives and senators in congress.

## HOUSE CONCURRENT RESOLUTION No. 21.

*Be it Resolved by the House of Representatives of the State of Washington, the Senate concurring:*

That permission is hereby given for the introduction in the house of representatives of a bill entitled, "An act making appropriations for sundry civil expenses of the state government," for the fiscal term beginning April 1st, 1893, and ending March 31st, 1895, and for other purposes.

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## HOUSE CONCURRENT RESOLUTION No. 22.

WHEREAS, The veto of the governor stating his objections to house bill 332, relating to second appeals to the supreme court in criminal cases, reached the house in which the bill originated one day after the constitutional limit; and

WHEREAS, Said objections of the governor are well taken: therefore, be it

*Resolved by the House, the Senate concurring:* That permission is hereby granted for the introduction of a bill repealing the said act, being house bill No. 332.

## HOUSE CONCURRENT RESOLUTION No. 23.

CONCURRENT resolution authorizing and directing the consideration of a bill not introduced ten days before the final adjournment of the legislature.

WHEREAS, House bill No. 332, passed by both branches of this legislature, and now on file in the office of the secretary of state as a law of this state, is by many deemed an inexpedient and inadvisable law, and liable to be resorted to to delay and prevent the administration of justice in cases hereafter arising and coming within its purview; and

WHEREAS, It is deemed expedient to repeal said act and enact in its stead a law that shall apply only to cases of the character covered by said act that have arisen before the passage thereof: therefore, be it

*Resolved by the House, the Senate concurring:* That the consideration of such act repealing the existing law designated as house bill No. 332, and providing that the provisions of said house bill No. 332 apply only to cases arising before the passage, be and the same is hereby directed and authorized notwithstanding the present session of this legislature expires by constitutional limitation within less than ten days after the introduction of the proposed bill.



## AUTHENTICATION.

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STATE OF WASHINGTON, }  
OFFICE OF SECRETARY OF STATE, }  
OLYMPIA, April 5, 1893. }

I, J. H. Price, secretary of state of the State of Washington, and custodian of the seal of said state, do hereby certify that the laws, memorials and resolutions hereinbefore published are true and correct copies of the originals on file in my office, with the exception of corrections of certain obvious errors in orthography and use of words, which corrections have in each case been indicated by brackets, thus [], as provided by law.

In witness whereof, I have hereunto set my hand and affixed the seal of the State of Washington, the day and year aforesaid.

[SEAL.]

J. H. PRICE,  
*Secretary of State.*



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6	An act to provide for voting on a constitutional amendment at the general election to be held in November, 1894, relative to the investment of the permanent school fund.—Approved February 6, 1893.	9
7	An act to enable cities and towns to validate certain warrants and other obligations and evidences of indebtedness on the part of such cities and towns issued by the corporate authorities thereof in excess of their legal authority, and declaring an emergency to exist.—Approved February 6, 1893.	10
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