

# SESSION LAWS

OF THE

# STATE OF WASHINGTON

PASSED AT THE

## EXTRAORDINARY SESSION

Convened June 23, Adjourned August 21

1909

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COMPILED IN CHAPTERS WITH MARGINAL NOTES

— BY —

I. M. HOWELL,  
*Secretary of State*

PUBLISHED BY AUTHORITY

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OLYMPIA, WASH.:  
E. L. BOARDMAN, PUBLIC PRINTER  
1909

## EXPLANATORY NOTE.

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The Extraordinary Session of the Legislature convened on June 23rd, 1909, at the hour of 2:30 o'clock p. m., and adjourned *sine die* on August 21st, 1909, at 12 o'clock midnight. All laws passed by said session and approved by the Governor, or allowed to become laws without his approval, take effect in ninety days after adjournment, or at 12 o'clock midnight on November 19th, 1909, except certain relief bills, appropriation bills and those acts having an emergency clause.

I. M. HOWELL,  
*Secretary of State.*

# LAWS OF WASHINGTON

PASSED AT THE

EXTRAORDINARY SESSION, 1909.

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## CHAPTER 1.

[House Bill No. 2.]

### APPROPRIATION FOR LEGISLATIVE EXPENSES.

AN ACT appropriating the sum of forty thousand dollars (\$40,000.00), or so much thereof as may be necessary, for the expenses of the extraordinary session of the Legislature convened June 23, 1909.

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

SECTION 1. That there be and there is hereby appropriated out of the funds of the State of Washington not otherwise appropriated the sum of forty thousand dollars (\$40,000), or so much thereof as may be necessary, to be used for the purpose of paying the expenses of the extraordinary session of the Legislature of the State of Washington, convened June 23, 1909. Appropriation  
\$40,000.

Passed by the House June 24, 1909.

Passed by the Senate June 25, 1909.

Approved by the Governor June 28, 1909.

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## CHAPTER 2.

[House Bill No. 3.]

### APPROPRIATION FOR LEGISLATIVE PRINTING.

AN ACT appropriating the sum of thirty-five hundred dollars, or so much thereof as may be necessary, to pay for such printing as may be ordered by the extraordinary session of the Legislature, or either branch thereof, convened June 23, 1909, and for the printing of the Journals of the Senate and the House of Representatives of the regular and special sessions of the Legislature of the State of Washington of 1909.

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

SECTION 1. That there be and there is hereby appropriated out of the funds of the State of Washington not Appropriation  
\$3,500.

otherwise appropriated the sum of thirty-five hundred dollars (\$3,500), or so much thereof as may be necessary, to pay for such printing as may be ordered by the extraordinary session of the Legislature of the State of Washington or either branch thereof, convened June 23, 1909, such printing to be done under the provisions of the act of the Legislature, approved March 11th, 1905, and for the printing of the Journals of the Senate and the House of Representatives of the regular and special sessions of the Legislature of the State of Washington of 1909.

Passed by the House June 24, 1909.

Passed by the Senate June 25, 1909.

Approved by the Governor June [July] 2, 1909.

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### CHAPTER 3.

[Senate Bill No. 1.]

#### APPROPRIATION FOR FUNERAL LATE GOV. COSGROVE.

AN ACT making an appropriation for the payment of the funeral expenses of the late Governor of the State of Washington, His Excellency, Governor Samuel G. Cosgrove.

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

Appropriation  
\$484.27.

SECTION 1. There is hereby appropriated out of the general fund in the state treasury the sum of four hundred and eighty-four and 27-100 dollars, to be paid out upon proper vouchers covering the various disbursements for the funeral expenses in connection with the funeral of the late Governor of the State of Washington, His Excellency, Governor Samuel G. Cosgrove, who died in office.

Passed by the Senate June 24, 1909.

Passed by the House June 28, 1909.

Approved by the Governor July 2, 1909.

## CHAPTER 4.

[House Bill No. 10.]

APPROPRIATION FOR EXPENSES OF INVESTIGATING  
COMMITTEE.

AN ACT appropriating the sum of thirty thousand dollars, or so much thereof as may be necessary, for the payment of the expenses of the committee appointed to investigate state offices and departments at the last general session of the Legislature and continued by the special session of the Legislature convened June 23, 1909, and providing the method of payment.

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

SECTION 1. That the sum of thirty thousand (\$30,000) <sup>Appropriation</sup> dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated for the purpose of paying the expenses of the committee appointed at the last general session of the Legislature and continued by the special session of the Legislature convened June 23, 1909, for the purpose of investigating "the affairs, doings and conduct of such state officers and departments of the state government as such committee shall deem proper." <sub>\$30,000.</sub>

SEC. 2. That said sum of thirty thousand dollars (\$30,000) so appropriated shall be paid by the State Treasurer upon warrants drawn by the State Auditor upon vouchers signed by a majority of the members of said investigating committee.

Passed by the House July 1, 1909.

Passed by the Senate July 1, 1909.

Approved by the Governor July 2, 1909.

## CHAPTER 5.

[Senate Bill No. 13.]

## APPROPRIATION FOR PUBLISHING PROPOSED AMENDMENTS TO CONSTITUTION.

AN ACT to appropriate funds to pay the expenses of publishing the proposed amendments to the State Constitution and for the publication of the notice of the result of the canvass of the primary election in 1910.

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

Appropriation  
\$2,400.

SECTION 1. That the sum of twenty-four hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of the general fund of the State of Washington to pay the expenses of publishing the proposed amendments to the State Constitution, as provided in chapters 18 and 181 of the Session Laws of 1909; and also the expense of publishing the notice of the result of the canvass of the primary election to be held in 1910, as provided by section 24, of chapter 209, Laws of 1907.

SEC. 2. The State Auditor is hereby authorized to draw warrants in payment of said publications in favor of the persons entitled thereto upon vouchers approved by the Secretary of State.

Passed by the Senate July 1, 1909.

Passed by the House July 1, 1909.

Approved by the Governor July 2, 1909.

## CHAPTER 6.

[Senate Bill No. 17.]

## APPROPRIATION FOR PRINTING, BUREAU OF INSPECTION.

AN ACT appropriating the sum of two thousand dollars (\$2,000), or so much thereof as may be necessary, to provide for the printing of the Bureau of Inspection and Supervision of Public Offices, as provided in chapter 76 of the Session Laws of 1909.

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

Appropriation  
\$2,000.

SECTION 1. That the sum of two thousand dollars (\$2,000), or so much thereof as may be necessary, be and the

same is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, to provide for the printing of the Bureau of Inspection and Supervision of Public Offices, as provided in chapter 76 of the Session Laws of 1909.

Passed by the Senate July 1, 1909.

Passed by the House July 2, 1909.

Approved by the Governor July 2, 1909.

CHAPTER 7.

[Senate Bill No. 25.]

APPROPRIATION FOR COURT OF IMPEACHMENT.

AN ACT appropriating the sum of forty thousand dollars (\$40,000), or so much thereof as may be necessary, for the purpose of paying the expenses of the impeachment proceedings of John H. Schively, Insurance Commissioner of the State of Washington.

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

SECTION 1. That the sum of forty thousand dollars (\$40,000), or so much thereof as may be necessary, is hereby appropriated out of the general fund of the State of Washington, for the purpose of defraying the expenses of the impeachment proceedings now pending before the Senate of the State of Washington against John H. Schively, Insurance Commissioner of the State of Washington.

Appropriation  
\$40,000.

SEC. 2. The expenses which may be paid from the sum hereinbefore appropriated shall be paid at the rate of five dollars per diem for the members of the Senate while sitting as a court of impeachment, and such sum per diem for each of a board of three managers appointed by the House of Representatives as may be fixed by resolution of said House, and such pay as may be fixed by the Senate for officers and employes appointed by it in connection with such proceeding, and any other expenses of the trial au-

Per diem  
of members.

thorized by law or the rules of the Senate, including the pay per diem and mileage within the State of Washington allowed by law to witnesses summoned to appear before the Senate by either party, said per diem to be the same as allowed to witnesses in the superior courts of this state.

How paid.

SEC. 3. The expenditures provided for in section 2 of this act to be paid upon vouchers approved by the president and secretary of the Senate.

Passed by the Senate July 1, 1909.

Passed by the House July 2, 1909.

Approved by the Governor July 2, 1909.

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## CHAPTER 8.

[Senate Bill No. 5.]

### COMMERCIAL WATERWAYS.

AN ACT relating to the establishment and creation of commercial waterway districts, and the construction and maintenance of a system of commercial waterways, including the straightening, deepening and widening of rivers, watercourses and streams and the protection of the banks thereof, and disposing of the interests of the state in the beds and shores of navigable waters, and to provide for the means of payment thereof, and declaring an emergency.

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

Waterway  
districts.

SECTION 1. Any portion of the county requiring commercial waterways which contains five or more inhabitants and freeholders therein may be organized into a commercial waterway district, and when so organized such district, and the board of commissioners hereinafter provided for, shall have and possess the power herein conferred, or that may be hereafter conferred by law upon such district and board of commissioners, and said district shall be known and designated as commercial waterway district No. — of the county of ———, the State of Washington, and shall have the right to sue and be sued by and in the name of its board of commissioners hereinafter provided for, and shall have perpetual succession, and shall adopt and use a seal.



The commissioners hereinafter provided for, and their successors in office, shall, from the time of the organization of such commercial waterway district, have the power, and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts, employ and appoint such agents, officers and employes as may be required, and prescribe their duties, and perform such other acts as hereinafter provided, or that may hereafter be provided by law.

Powers of  
commission.

SEC. 2. For the purpose of the formation of such waterway district a petition shall be presented to the board of county commissioners of the county in which said proposed commercial waterway district is located, which petition shall set forth the object for the creation of said district; shall designate the boundaries thereof and set forth therein the area of land to be benefited by the proposed commercial waterway system, and shall also contain the names of all freeholders residing within said proposed district, so far as known, and shall contain a brief description of the proposed system of waterways, route over which the same is to be conducted, together with the proposed spurs or branches, if any there may be, and the termini thereof, and set forth the further fact that the establishment of said district and the proposed system of commercial waterways will be of special benefit to the property included therein, and will be conducive to the public health and increase the public revenue. Said petition shall be signed by such a number as own at least a majority of the area of land in the proposed district, and shall pray that the same may be organized under the provisions of this act. Said petitioners shall at the time of the filing of said petition file a bond with such county commissioners, running to the State of Washington, in the penal sum of five hundred dollars, with two or more sureties, to be approved by the board of county commissioners, conditioned that they will pay all costs in case said district, for any reason, shall not be established.

Petition.

Majority of  
owners neces-  
sary to  
petition.

SEC. 3. Said petition shall be presented at a regular or special meeting of the board of county commissioners of

Publication  
of notice of  
petition.

Hearing on.

Changes in  
district.

Additional  
petition.

said county, and shall be published for at least two weeks in two successive issues of some weekly newspaper printed and published in said county, and in case no such newspaper be printed or published in such county, then in some such newspaper of general circulation therein, before the time at which the same is to be presented, together with a notice stating the time of the meeting at which the same shall be presented. When such petition is presented for hearing, the board of county commissioners shall hear the same, or may adjourn said hearing from time to time, not exceeding one month in all; and any person or corporation may appear before said board of county commissioners and make objections to the establishment of said district, or the proposed boundary lines thereof, and upon a final hearing of said board of county commissioners shall make such changes in the proposed boundaries as they may deem to be proper, and shall establish and define such boundaries, and shall ascertain and determine the area of land that will be specially benefited by said proposed system of commercial waterways, the number of freeholders residing within said boundaries of said proposed district, and shall find whether the proposed commercial waterways will be conducive to the public health, welfare and convenience, increase the public revenue, and be of special benefit to the majority of the land included within said boundaries of said proposed district so established by said board of county commissioners: *Provided further*, That any person or persons owning lands within the proposed boundaries and who did not sign said petition, or any person, persons or corporations owning land not included within the proposed boundaries may file a petition with the board of county commissioners asking that the proposed boundaries be extended so as to include other lands described therein; setting forth in said petition the reason therefor, but no person, persons or corporations not owning land included within the boundaries, as originally petitioned for, shall have the right to file such petition unless they ask therein to have their own lands included within the proposed boundaries: *Provided*, Any corporation owning land

included within the boundaries described in the original petition may also petition the board of county commissioners for an extension of the proposed boundaries: *Provided further*, That the boundaries of any commercial waterway district heretofore or hereafter established may be extended by the board of county commissioners to include other lands in said county, upon petition signed by the owners of a majority of the area of said lands in the proposed extension; which said petition for extension shall set forth and contain, with reference to the extension, such matters and things and data so far as applicable, as is provided for in the petition required for presentation to the board of county commissioners for the purpose of the formation of the original waterway district: *Provided further*, That all necessary expenses incident to making such extension, together with the proportionate share of the first cost of any system of commercial waterways existing in the original commercial waterway district at the time of making said extension, shall be levied against and apportioned to the land included in such extension as in this act provided. In such case, the board of county commissioners shall give like notice as provided for in this section of the hearing of the original petition, and the final hearing thereof may in such case be continued from time to time for a period of not exceeding sixty days, and if on final hearing the board of county commissioners deem it advisable and for the best interest of all concerned, they may grant the prayer of said petitioners in whole or in part, and said board of county commissioners of such county shall enter an order on the records of their office setting forth all facts found by them upon the final hearing of said petition, and which may be adduced by them from the evidence heard upon the final hearing thereof.

Boundaries  
extended.

Expense of  
extension.

SEC. 4. Upon the entry of the findings of the final hearing of said petition as set forth in the last preceding section, said board of county commissioners of said county, if they find said proposed system of commercial waterways will be of special benefit to the majority of the area of lands included within said boundaries and will be con-

Notice of  
election.

ducive to the public health, welfare and convenience, and will increase public revenue, shall give notice of an election to be held in such proposed commercial waterway district for the purpose of determining whether the same shall be organized under the provisions of this act as a commercial waterway district of the State of Washington, and for the further purpose of choosing at such election three commissioners, who shall be known and designated as "Commercial Waterway Commissioners" for said district proposed to be organized, which said three commissioners shall, upon their election, be the district authorities of said commercial waterway district, and such notice shall describe the boundaries as established by the board of county commissioners on its final hearing of said petition and shall state the name of such proposed commercial waterway district and, approximately, the area of land in said district to be benefited thereby, and the same shall be published for, at least, two weeks prior to such election in a weekly newspaper printed and published within the county within which said district is located, and in case no such newspaper be printed or published in such county, then in such newspaper of general circulation therein for two successive issues thereof, and shall be posted for the same period in at least four public places within the boundaries of said proposed district, which notice shall designate the places within the proposed district where the said election shall be held and require the voters to cast ballots which shall contain the words, "Commercial Waterway District, Yes" or "Commercial Waterway District, No," and also names of the persons voted for commissioners for said commercial waterway district. The board of county commissioners may appoint two judges, one inspector and two clerks for each of said election places and the compensation shall be the same as hereinafter provided for, and shall be a charge upon said district in case the same be established and shall be paid in the same manner as other expenses are paid which are incurred in the establishment and construction of said improvement. In case said district be not established, then all costs and expenses shall be collectable from the

Name of  
district.

Ballots—  
form of.

Elections,  
how con-  
ducted.

bond hereinbefore provided for, and any person having a charge against said district shall have a right of action thereon.

SEC. 5. Said election shall be held on the day designated in such notice and shall be conducted as hereinafter provided for, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county in which such district is located, and shall have resided within the boundaries of said proposed district for a period of not less than ninety days next preceding the date of such election. The board of county commissioners shall on the Monday next succeeding said election count and canvass the votes cast therefor, and if on said canvass and count it appears that the majority of votes cast are for the "Commercial Waterway District, Yes," the board shall immediately enter an order upon its records declaring the proposed territory duly organized as a commercial waterway district, giving to such district a proper number, followed by the name of the county and state, and shall, also, declare the three persons who received the highest number of votes duly elected commercial waterway commissioners of such commercial waterway district. Said board shall cause a copy of the order entered of record duly signed and to be filed in the office of the Secretary of State, and from and after the date of such filing said organization shall be deemed complete, and the members of said board of commissioners so chosen at such election, before entering upon the discharge of their duties shall qualify as county commissioners, are required to qualify and to enter into a bond payable to the State of Washington for the benefit of said district with two or more sureties in the penal sum of not less than one thousand (\$1,000) dollars nor more than five thousand (\$5,000) dollars, conditioned for the faithful performance of their duties as commercial waterway commissioners, to be approved by the board of county commissioners and to be filed with the county clerk of the county in which said district is situated. The said commercial waterway commissioners shall hold office until the next general election at which officers

Voters.

Canvass.

Order estab-  
lishing.Bond of  
commis-  
sioners.

Term of office.

of said commercial waterway district are to be elected and until such further time as their successors are elected and qualified. The members of each successive board of commercial waterway commissioners, whether elected or appointed, shall before entering upon their duties take an oath and enter into a bond, as herein provided, and after being approved by the board of county commissioners shall be filed in the office of the county clerk of the county in which said district is situated.

Oath of commissioners.

Time of election.

SEC. 6. A general election for the election of a board of commercial waterway commissioners for such district shall be held upon the first Tuesday after the first Monday in December of each year thereafter, and the term of office shall begin the second Monday of the following January. Said election shall be held in accordance with the school laws of the State of Washington. No official ballot shall be required at the first or any subsequent election, and the law known as the direct primary law of this state shall have no application to the election held under this act, and the expense thereof shall be defrayed by said district, and the judges, clerks and inspectors of said election shall each receive as compensation for the services rendered at such election the sum of three (\$3) dollars per day: *Provided*, That at least thirty days' notice immediately preceding any such general election shall be given thereof by the board of commissioners of such commercial waterway district by posting the same in four public places within the said district. Said notice shall designate the voting places and contain the names of two electors of said district for each of said voting places as judges of said election, and the name of one elector of said district for each of said voting places as inspector thereof, the same to be chosen by said board of commissioners. Said board of commissioners shall act as a canvassing board to canvass the votes of each election, and they shall meet the day following such election and canvass said votes and declare the result thereof and issue certificates of election.

Primary law not applicable.

Notice of general election.

Canvass of returns.

Eminent domain.

SEC. 7. (a). Any district organized under the provisions of this act shall have the right of eminent domain,

with power by and through its board of commissioners to cause to be condemned and appropriated private property for the use of said organization in the construction and maintenance of a system of commercial waterways, and make just compensation therefor; and the property of private corporations shall be subject to the same rights of eminent domain as private individuals, and the said board of commissioners shall have the right to acquire by purchase all the real property necessary to make the improvements herein provided for.

(b). Said board of commissioners herein provided shall have the right, power and authority to straighten, widen, deepen and improve any and all rivers, watercourses, streams, whether navigable or otherwise, flowing through or located within the boundaries of said commercial district.

To straighten,  
widen or  
deepen.

(c). To construct all needed and auxiliary ditches, canals, flumes, locks, dykes, and all other artificial appliances in the construction of a commercial waterway system, and which may be necessary or advisable to protect the land in any commercial waterway district, from overflow, or to assist and become necessary in the preservation and maintenance of such commercial waterway system.

Canals or  
locks.

(d). In the accomplishment of the foregoing objects, the commissioners of such waterway districts are hereby given the right, power and authority by purchase or the exercise of the power and authority of eminent domain, or otherwise, to acquire all necessary and needed rights-of-way in the straightening, deepening or widening, or otherwise improving of such rivers, watercourses or streams, and such auxiliary ditches, canals, flumes and dykes herein above mentioned, and when so acquired shall have and are hereby given the right, power and authority by and with the consent and approval of the United States government in cases where such consent is necessary, to divert, alter and change the bed or course of or otherwise improve any such river, watercourse or stream aforesaid, or to deepen, widen and straighten the same.

Rights-of-way.

(e). The right, power and authority to acquire the

Lands of  
state.

Rights of  
municipalities.

necessary and needed rights-of-way for any and all purposes created by this act may be acquired by the commissioners of any waterway district over and across upon any land or interest therein of the State of Washington, or any county of this state, and streets, alleys and avenues, or public places of any city, town or municipal corporation of this state: *Provided, however,* That the construction of such commercial waterway or commercial waterways shall not have the effect of impairing any right, power or authority now existing on the part of any city or town to construct in, upon, underneath, above or across such commercial waterway or commercial waterways, sewers, water pipes, mains, the granting of any franchise thereon, or improve by the way of planking, replanking, paving, repaving or any other power, right and authority which, but for this act, such city or town would have in or to such street, avenue, alley or public place, except, however, that such right, power and authority on behalf of such city or town shall not be exercised either by such city or town or by any person or persons, firms or corporations, to whom it might grant any right or franchise which will materially impair the efficiency of said commercial waterway or commercial waterways. The provisions of this section as regards such system of commercial waterway or commercial waterways, to be selected within the boundaries of any incorporated city or town, shall apply to the extension or enlargement of any commercial waterway or commercial waterways already existing upon, over and across any street, avenue, alley or public place of any city or town, as well as the original construction thereof.

State tide  
or shore  
lands go to  
districts.

SEC. 8. All the right, title and interest of the State of Washington in and to so much of the beds and shores of any navigable river, stream, waterway or watercourse located within the boundaries of any commercial waterway district up to and including the line of ordinary high tide in waters where the tide ebbs and flows up to and including the line of ordinary high water within the banks of any navigable rivers and lakes, to the extent that same, under any proceedings to be had under this act, shall



cease to become part of such river, stream, waterway or watercourse by reason of the diversion of such river, stream, waterway or watercourse, under any proceedings had under this act, are hereby given and granted and vested in the respective commercial waterway districts now existing, or hereafter to be formed, and the commissioners of such respective commercial waterway districts are hereby given the right, power and authority to sell such beds and shores in such manner and upon such notice and proceedings as govern, under the existing laws of the state, the board of county commissioners in the sale and disposition of any real estate belonging to the counties of this state. The proceeds of such sales are to be used for the benefit of such commercial waterway districts, and the payment of any expenses connected with the construction of such commercial waterways or maintenance thereof: *Provided, however,* That the commissioners of such commercial waterway district may, in their discretion, exchange such abandoned beds and shores, for other property needed in the straightening, deepening or widening of such rivers, watercourses or streams, and which exchange may be made upon such terms and conditions and in such areas as, in the discretion of such commissioners, they may deem advisable and for the best interests of such commercial waterway district without any notice or other formality or proceedings whatever.

Districts  
may trade  
river beds.

SEC. 9. (a) Whenever the county owns any lands situated within the boundaries of the proposed commercial waterway district, the county auditor, when so directed by the board of county commissioners of the county in which such lands are situated, is hereby authorized to sign the petition praying for the formation of such commercial waterway districts for and on behalf and as the act and deed of such county, and when so signed the same shall be considered in determining the question of majority signature in the area of the land to the petition for a formation of such district.

County may  
petition.

(b). Whenever any city or town owns any land situ-

City may  
petition.

ated within the boundaries of a proposed commercial waterway district, the city comptroller, when so directed by the council of said city or town in which such lands are situated, is hereby authorized to sign the petition praying for the formation of such commercial waterway districts for and on behalf and as the act and deed of such city or town, and when so signed the same shall be considered in determining the question of majority signature in the area of land to the petition for the formation of such district.

State may  
petition.

(c). Whenever the State of Washington owns any land situated within the boundaries of the proposed commercial waterway district the Commissioner of Public Lands of the State of Washington, when so directed by the board of said land commissioners of said state, is hereby authorized to sign the petition praying for the formation of such commercial waterway district for and on behalf and as the act and deed of such state, and when so signed the same shall be considered in determining the question of majority signature in the area of the land to the petition for the formation of such district.

Road district  
may petition.

(d). Whenever any highway, roads or bridges are maintained by the county in which a commercial waterway district may be established, as herein provided, and it shall appear that the construction and maintenance of such commercial waterway system will be beneficial to such highways, roads, and bridges or which will be beneficial to such highways, roads and bridges as may hereafter be constructed or maintained by the county in which such system of commercial waterways is situated, then the board of county commissioners of such county may, and it shall be the duty of such board to appropriate to such commercial waterway district an amount of money sufficient to pay the proportionate share of such county in accordance with the benefits received or to be received; whenever it may appear to the board of county commissioners of any county that any improvements made or to be made in any commercial waterway district under the provisions of this act shall, on account of the health of the people of the county, be beneficial in respect thereto, the board of county commissioners

may make an appropriation of money to such commercial waterway district in such an amount to such board as may seem proper.

(e). Whenever it shall appear to the city or town council of any incorporated city or town, not included or wholly included, within the limits of any commercial waterway district established hereunder, that the construction and maintenance of such commercial waterway system will be of special commercial benefit and will be beneficial to the health of the inhabitants of such incorporated city or town and to the general welfare of the said city or town, then the said city or town council is hereby empowered and authorized to appropriate such amount of money out of the general funds of the said city or town as may to the said city or town council seem proper and just to such commercial waterway system, or the city or town council may for such purpose levy an assessment upon all the property in said city and town subject to taxation by said city or town, which shall not exceed one-half mill for each dollar of property.

Municipality  
may aid.

(f). Public highways, streets and alleys shall not be considered in computing the area of said district.

Streets not  
included in  
area.

SEC. 10. Said board of commercial waterway commissioners hereinbefore provided for shall have the exclusive charge of the construction and maintenance of all commercial waterways or commercial waterway systems which may be constructed within the said district, and shall be the executive officers thereof, with full power to bind said officers. In case of vacancy or vacancies occurring in said board by the death, failure to elect, failure to qualify, resignation or removal of one or more of the members thereof from said district, such vacancy or vacancies shall be filled at once from the freeholders and qualified electors of said district by the judge of the superior court of said county, and said appointee shall serve the unexpired term, or until the next general election or until a successor is elected and qualified: *Provided*, That in counties where there may be more than one superior judge, the judge eldest in age shall make such appointment.

Board to  
construct.

Vacancies—  
judge to  
appoint.

Contents of  
petition.

SEC. 11. Whenever it is desired to prosecute the construction of a system of waterways within said district, by and through its board of commissioners, shall file a petition in the superior court of the county in which said district is located, setting forth therein the route over which the same is to be constructed, with a reasonably accurate description thereof, together with the estimated cost of such proposed improvements, showing therein the names of the owners and occupants thereof, and all persons having any interest therein, so far as is known to the officers filing the petition or appearing from the records in the office of the county auditor, and the maximum amount of benefits to be derived by each tract or parcel of land set forth therein from the construction of said proposed improvement, and that the same will be of special benefit to the property included therein, and will be conducive to the public health, convenience and welfare, and increase the value of all of said property for the purpose of public revenue; said petition shall further set forth a reasonably accurate description of the tracts or parcels of land and property, which shall be taken or damaged, and the names of the owners and occupants thereof, and all persons having any interest therein so far as known to the officers filing the petition, or appearing from the records in the office of the county auditor, and the amount of land necessary to be taken therefor. Said petition shall set forth as defendants therein all the persons or corporations to be benefited by said improvement, and all persons or corporations through whose land the right-of-way is sought to be appropriated, and all persons or corporations having any interest therein as mortgagee or otherwise, appearing on record, and shall set forth that said proposed system of commercial waterways is necessary, and that all lands sought to be appropriated for said right-of-way are necessary to be used as a right-of-way for the construction and maintenance of said improvement.

SEC. 12. In the preparation of the facts and data to be inserted in said petition and filed therewith for the purpose of presenting the matter to the said superior court,

or at any other time, the said board of commissioners of said commercial waterway district may employ one or more good and competent engineers, surveyors and draftsmen to assist them in compiling data required to be presented to the court with said petition as hereinbefore provided, and such legal and other assistance as may be necessary, with full power to bind said district for the compensation of such assistance or employes employed by them, and such services shall be taxed as costs in the suit.

Engineers  
to prepare  
data.

SEC. 13. Upon the filing of the petition aforesaid a summons, returnable as summons in other civil actions, shall be issued and served upon the person 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. Notice 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.

Service of  
petition.

SEC. 14. In case the land, real estate, premises or other property sought to be appropriated or damaged is state, school or county land, or other land belonging to a public corporation, the summons and copy of petition shall be served on the auditor of the county in which said 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.

Service on  
auditor.

SEC. 15. Upon the return of said summons, or as soon thereafter as the business of the 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 for the property taken or damaged, but if any defendant or party in interest shall demand, and the court shall deem it proper, separate juries may be impaneled as

Hearing on  
petition.

to the compensation or damages to be paid to any one or more of such defendants or parties in interest.

Jury to <sup>fix</sup> compensation.

SEC. 16. 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 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 a 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 property.

SEC. 17. The court may, upon the motion of such district or of any defendant, direct that said jury (under the charge of any officer of the court and accompanied by such person or persons as may be appointed by the court to point out the property sought to be taken or damaged) shall view the lands and property affected by said improvement.

Building, measure of damages.

SEC. 18. If there be any building standing, in whole or in part, upon any land to be taken, the jury shall add to their finding of the value of the land taken the damages to said building. If the entire building is taken, or if the building is damaged so that it cannot be readjusted to the premises, then the measure of damages shall be the fair market value of the building. If part of the building is taken or damaged and the building can be readjusted or replaced on the part of land remaining, then the measure of damages shall be the cost of readjusting or moving the building, or the part thereof left, together with the depreciation in the market value of said building by reason of said readjustment or moving.

Adverse interests.

SEC. 19. If the land and buildings belong to different parties, or if the title to the property be divided into different interests by lease or otherwise, the damages done to each of such interests may be separately found by the jury on the request of any party. In making such findings, the jury shall first find and set forth in their verdict the total

amount of the damage to said land and buildings and all premises therein, estimating the same as an entire estate and as if the same were the sole property of one owner in fee simple; and they shall then apportion the damages so found among the several parties entitled to the same, in proportion to their several interests and claims and the damages sustained by them respectively, and set forth such apportionment in their verdict. No delay in ascertaining the amount of compensation shall be occasioned by any doubt or contest which may arise as to the ownership of the property, or any part thereof, or as to the extent of the interest of any defendant in the property to be taken or damaged, but in such case the jury shall ascertain the entire compensation or damage that should be paid for the property and the entire interests of all the parties therein, and the court may thereafter 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.

SEC. 20. Upon the return of the verdict the proceedings 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 herein provided.

Proceedings  
for new trial.

SEC. 21. The court shall have power at any time, upon 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

New owners,  
damages.

made for the property (or the damages 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.

Guardians  
*ad litem.*

SEC. 22. When it shall appear from the 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.

No damages,  
no costs.

SEC. 23. 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 all costs which shall be taxed as in other civil cases: *Provided*, That in any case defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages caused by such improvement unless appealed from, and no appeal from the same shall delay proceedings, if such district shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such districts, after making such payment into court, shall be liable to such owner or owners or parties interested 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 contro-

Appeals not  
to delay.



versy. 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 district, 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 or the court, he shall be deemed thereby to have waived conclusively an appeal to the supreme court and final judgment may be rendered in the superior court as in other cases.

Custody of  
moneys on  
appeal.

SEC. 24. The court, upon proof that just compensation so found by the jury, or by the court in case the jury waived, together with the 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 district 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, and thereupon the title to any property so taken shall be vested in fee simple in such district.

Title to pass,  
when.

SEC. 25. In case the damages or amount of compensation for such area, together with the estimated costs of the improvement, amount to more than the maximum amount of benefits which will be derived from said improvement, the court shall dismiss such proceedings and in such case a judgment shall be rendered for the costs of said proceedings against said district, and no further proceedings shall be had or done therein, and upon the payment of the costs said organization shall be dissolved by decree of said court.

Proceedings  
dismissed if  
costs exceed  
improve-  
ments.

SEC. 26. Any person or corporation claiming to be entitled to any money ordered paid by the court, as provided by this act, may apply to the court therefor, and upon bringing evidence satisfactory to the court that he is entitled to the same, the court shall make an order directing the payment of such claim of the proportion of such money as he or it may be found entitled to, but if upon application the court or judge thereof shall decide that the title to the land, real estate or premises specified

Payments.

in the application of such claimant is in such condition as to require than [that] an action be commenced to determine the title of claimants thereto, it shall refuse such order until such action is commenced and the conflicting claimants to such land, real estate or premises be determined according to law.

Transcript.

SEC. 27. Upon the entering of the judgment upon the verdict of the jury, the clerk of said court shall immediately prepare a transcript which shall contain a list of all of the names, persons and corporations benefited by said improvement, and the amount of benefit derived by each respectively, and shall duly certify the same, together with a list of the land benefited by said improvement belonging to each person or corporation, and shall file the same with the auditor of the county, who shall immediately enter the same on the rolls of the taxes, as provided by law, for the entry of the taxes against the land of each of the said persons named in said list, together with the improvements therefor, and the same shall be subject to the same interests and benefits, in case of delinquency, as in cases of general taxes, and shall be collected in the same manner as other taxes, and subject to the same right of redemption, and the land sold for the collection of said taxes shall be subject to the same right of redemption as in the sale of land for general taxes: *Provided*, That said assessments do not become due and payable, except at such time or times and in such amount as may be designated by the board of commissioners for said commercial waterway district, which designation shall be made to the county auditor by said board of commissioners of said commercial waterway by serving a written notice upon the county auditor, designating the time and amount of assessment, said assessment to be in proportion to the benefits to become due and payable, which amount shall fall due at the time of the filling out of general taxes, and the amount so designated shall be added by the auditor to the general taxes of said person or corporation, according to said notice upon the assessment rolls in his said office and collect therewith: *Provided further*, That no one call for

Assessments delinquent.

Assessments, when payable.

assessments by said commissioners shall be in an amount to exceed 25% of the actual amount necessary to pay the costs of the proceedings and the assessment of said district and system of commercial waterways, and the costs of construction of said work. Installments.

SEC. 28. In the event of the dismissal of said proceedings, and the rendition of a judgment against said district as hereinbefore provided, said commercial waterway commissioners shall levy a tax upon all real estate within said district, taking as a basis the last equalized assessment of said real estate for said state and county purposes sufficient to pay said judgment and the cost of levying said tax, and shall cause said tax roll to be filed in the office of the clerk of the superior court, in which judgment was rendered. If said tax is not paid within sixty days after the filing of said tax roll, the court shall, upon the application of any party interested, direct said real estate to be sold in payment of said tax. Said sale to be made in the same manner and by the same officer as is or may be provided by law for the sale of real estate for taxes for general purposes, and the same rate of redemption shall exist as in the sale of real estate for the payment of taxes for general purposes. Tax levy for costs.  
  
Sale for taxes.

SEC. 29. After the filing of said certificates said commissioner of said commercial waterway district shall proceed at once in the construction of said improvements and in carrying on said construction or any extension thereof. They shall have full charge and management thereof and shall have the power to employ such assistance as they may deem necessary, and purchase all materials that they may deem necessary in the construction and carrying on of the work of said improvement, and shall have power to let the whole or any portion of said work to any responsible contractor, and shall in such case enter into all necessary agreements with such contractors that may be necessary in the premises: *Provided*, That in case the whole or any portion of such improvement is let to any contractor, said commissioners shall require such contractor to give a bond in double the amount of the contract price of the whole or Construction of works.  
  
Contracts.  
  
Bond of contractor.

of such portion of said work covered by such contract, with two or more good sureties, to be approved by the board of commissioners of said commercial waterway district running to said district as obligee therein, conditioned for the faithful performance of said contract by said contractor, his executors, administrators or assigns, according to the terms and conditions of said agreement, and shall cause said contractor to enter into a further and additional bond in the same amount with two or more good and sufficient sureties to be approved by said board of commissioners of said commercial waterway district as obligee therein, conditioned that said contractor, his executors, administrators or assigns, or sub-contractor, his executors, administrators or assigns, shall perform the whole or any portion of said work under contract of said original contractor; and shall pay or cause to be paid all just claims of all persons performing labor or rendering service in the construction of said work or furnishing material, merchandise or provision of any kind or character used by said contractor, or sub-contractor, or any employee thereof, in the construction of said improvement: *Provided further*, That no sureties on said last mentioned bond shall be liable thereon unless the persons or corporations performing said labor and furnishing said materials, goods, wares, merchandisé and provisions shall, within ninety days after the completion of such improvement, file their claim duly verified, if the amount is just and true and remains unpaid, with the commissioners of said commercial waterway district.

Bond to cover labor and material claims.

Filing of claims.

Prosecution of work.

SEC. 30. The work on said improvement shall begin without delay, and shall be carried on with all expedition possible, and said board of commissioners of said commercial waterway district, or any contractor thereunder, shall have no power whatever to change the location of the commercial waterways, or the system of improvements or the manner of doing the work therein so as to make any radical changes in such improvement without the written consent of all the land owners to be benefited thereby and the land owners which may be damaged thereby; and in case

any substantial changes in said system, improvement or manner of construction thereof shall be deemed necessary by said board of commissioners at any time during the progress thereof, and if the written consent of such changes cannot be procured from said land owners, then said commissioners for and on behalf of said district shall file a petition in the superior court of the county within which said district is located, setting forth therein the changes which they deem necessary to be made in the plans or manner of the construction of said improvement, and praying therein to be permitted to make such changes, and upon the filing thereof the commissioners shall cause a summons to be served setting forth the prayer of said petition under the seal of said court, which summons shall be served in the same manner as the service of summons in the case of an original petition upon all the land owners or others claiming any lien thereon or interest therein appearing of record in said commercial waterway district, and any or all such parties so served may appear in said cause and submit their objections thereto, and after the time for the appearance of said parties has expired the court shall proceed to hear said petition at once without further delay, and if it appears during the course of such proceedings that the property rights of any of said land owners will be affected by such proposed change in said improvement, then the court after having passed upon all preliminary questions as in the original proceedings, shall cause a jury to be impaneled as in the case of the original proceedings for the establishment of said improvement, and upon the final hearing of said cause the jury shall return a verdict in the amount of damages, if any, sustained by all persons and corporations, the same as upon original petition, by reason of such proposed change; and the amount of compensation to be paid to any persons or corporations therefor, and for any additional right-of-way that may be necessary to be appropriated by reason of such proposed change, and shall readjust the amount of benefits claimed to have been increased or diminished, if any, of said land owners by reason of such proposed

Petition to  
change.

Hearing on  
change of  
plans.

Damages for  
change of  
plans.

change in said improvement, and the proceedings thereunder would be the same as to rendering judgment, appeal therefrom. Payment of compensation and damage and filing the certificate with the auditor as hereinbefore provided for in the proceedings under the original petition and said commissioners shall have the right thereafter to proceed with the construction of said improvement according to the changes made therein.

Payments  
as work  
progresses.

SEC. 31. During the construction of said improvement said commissioners shall have the right to allow payment thereof in installments as the work progresses in proportion to the amount of said work completed: *Provided*, That no allowance or payment shall be made for said work to any contractor or sub-contractor to exceed 75% of the proportionate amount of the work completed by such contractor or such sub-contractor, and 25% of the contract price shall be reserved at all times by said board of commissioners until such work is wholly completed, and shall not be paid upon the completion of said work until ninety days have expired from the presentation of all claims for labor performed and materials, goods, wares, merchandise and provisions furnished or used in the construction of said improvement; and upon the completion of said work and the payment of all claims hereinafter provided for thereon, and the terms and conditions of said contract, said commissioners shall accept said improvement and pay the contract price therefor.

Cost of main-  
tenance.

SEC. 32. The board of commissioners of any commercial waterway district, organized under the provisions of this act, shall on or before the first day of November of each year make an estimate of the cost and maintenance of the commercial waterway system of such district, which estimate shall include the cost of making any necessary repairs that it might become necessary to make in the maintenance of such system. Such estimate shall be for the succeeding year and the amount so estimated shall be certified by the board of commissioners, and the auditor of the county in which said district is located on or before said date, and the amount thereof shall be levied against

Levy for.

and apportioned to the land of said district benefited by said improvement in proportion to the maximum benefit originally assessed, and such amount shall be added to the general taxes against said lands and collected therewith.

SEC. 33. The board of commissioners of said district shall elect one of their number chairman and one secretary, <sup>Officers of board.</sup> and shall keep minutes of all their meetings and may issue warrants of such district in payment of all claims or indebtedness against said district. Such warrants shall be in form and substance the same as county warrants or as near the same as may [be] practical, and shall draw the legal rate of interest from the date of their presentation to the treasurer for payment as hereinafter provided, and shall be signed by the chairman and attested by the secretary of said board: *Provided*, That no warrants shall be issued by said board of commissioners in payment of any indebtedness of such district for less than the face or par value.

SEC. 34. Upon the establishment of any district under the provisions of this act and the establishment of a system of commercial waterways therein as provided for in this act, the board of commissioners of such commercial waterway district may, upon the petition of a majority of all the land owners owning land within such district to be benefited thereby, issue bonds for the total amount of the cost of construction of said improvement, together with the cost of the establishing thereof, including damages, assessments and compensations made to the land owners for the right-of-way, and the expense and cost of the entire proceedings payable at a time not less than five years nor longer than ten years from the date thereof; and such commissioners may at any time thereafter issue such bonds in the manner and forms herein described for the purpose of funding any outstanding warrants or obligations of such district, and in case of such last named issue all the outstanding warrants shall immediately become due and payable upon receipt of the money by the county treasurer from the sale of said bonds, and upon a call of such outstanding obligations to be issued by him which call shall be <sup>Negotiable bonds.</sup>

made by said treasurer immediately upon receipt of the proceeds from the sale of said bonds by publication for two successive weeks in the county paper authorized to do the county printing, and such warrants and outstanding obligations shall cease to draw interest at the end of thirty days after the date of first publication: *Provided*, That no bonds shall, under the provisions hereof, be sold for less than their par value.

Denomina-  
tion of  
bonds.

SEC. 35. Said bonds shall be numbered from one upward consecutively, and be in denominations of not less than \$100 nor more than \$1,000. They shall bear the date of issue and shall be made payable to the bearer not more than ten years nor less than five years from the date of their issue, and to bear interest at the rate not exceeding 7% per annum, payable annually, with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of commercial waterway commissioners and shall be attested by the secretary of such board, and the seal of said district shall be affixed to each bond, but not to the coupons.

Bonds ex-  
changed for  
warrants.

SEC. 36. Said bonds may be exchanged at not less than par value for an equal amount of the warrants of the district issuing bonds.

Sinking fund.

SEC. 37. Five years before said bonds shall become due, the commercial waterway commissioners of such district issuing them are hereby authorized and required annually to levy assessments sufficient to liquidate said bonds at maturity. Such assessments shall be collected by the county treasurer and kept as a separate fund for the sole purpose of liquidating said bonds in accordance with the provisions of the following section.

Payment.

SEC. 38. It shall be the duty of the treasurer of any county in which there may be a district issuing bonds under the provisions of this chapter whenever he has in hand \$2,000 of the special fund for the payment of said bonds, to advertise in a newspaper doing the county printing for the presentation to him for payment of as many of the bonds issued under the provisions of this act as he may be



able to pay, the funds in his hands to be paid in numerical order of said bonds beginning with Bond No. 1 until all of said bonds are paid: *Provided*, That thirty days after the first publication of said notice of the treasurer calling in any of said bonds by their number shall cease to bear interest, which shall be stated in the notice.

SEC. 39. It shall be the duty of such commercial waterway commissioners annually to levy an assessment sufficient for the payment of the coupons hereinbefore mentioned as they fall due. Said coupons shall be considered for all purposes as warrants drawn upon the funds of the district issuing bonds under the provisions of this act, and when presented to the county treasurer and no funds are in the treasury to pay said coupons, it shall be his duty to endorse said coupons as presented for payment in the same manner as other warrants upon the funds of said district are endorsed and thereafter said coupons shall bear interest at the same rate as other warrants so presented and unpaid.

Interest,  
tax levy.

SEC. 40. Before the bonds are delivered to the purchaser, they shall be presented to the county treasurer, who shall register them in a book kept for that purpose and known as the "Bond Register," in which register he shall enter the number of each bond, the date of issue, the maturity, amount and rate of interest, to whom and when payable, and the proceeds derived from the sale of said bonds shall in all cases be paid by the purchaser thereof to the county treasurer.

Bonds  
registered.

SEC. 41. All warrants issued under the provisions of this act shall be presented by the holders thereof to the county treasurer, who shall endorse thereon the date of presentation for payment, and the additional endorsement thereon in case of non-payment that they are not paid for want of funds, and no warrant shall draw interest under the provisions of this act until it is so presented and endorsed by the county treasurer, and it shall be the duty of such treasurer from time to time, when he has sufficient funds in his hands for that purpose, to advertise in the

Warrants,  
how en-  
dorsed.

Payment.

newspaper doing the county printing for the presentation to him for the payment of as many of the outstanding warrants as he may be able to pay: *Provided*, That thirty days after the first publication of said notice of the treasurer calling in any of said outstanding warrants, said warrants shall cease to bear interest which shall be stated in the notice. Said notice shall be published two weeks consecutively and said warrants shall be called in and paid in the order of their endorsement.

Questions for jury.

SEC. 42. Upon the trial of any questions of issue by a jury under the provisions of this act, the trial court may in its discretion submit all questions to be found by the jury in the form of verdict on all such questions to be found by the jury therein.

Public lands.

SEC. 43. All state, county and school districts, or other lands belonging to other public corporations, shall be subject to the provisions of this act and such corporations, by and through their proper authorities, shall be made parties in all proceedings therein affecting said lands, and shall have the same rights and liable to the same right of eminent domain as private persons, and their lands shall be subject to the right of eminent domain the same as the land of private persons or corporations.

Assessment of public lands.

SEC. 44. In case lands belonging to the state, county and school district, or other public corporations, are benefited by any improvement instituted under the provisions of this act, all benefits shall be assessed against said lands, and the same shall be paid by the proper authorities of such public corporations at the times and in the same manner as assessments are called and paid in case of private persons out of any general fund of such corporation.

Service of process.

SEC. 45. Fees for services of all process necessary to be served under the provisions of this act, shall be the same as for like services in other civil cases or that is and may be provided by law.

SEC. 46. In performing their duties under the provisions of this act, the board of commercial waterway commissioners shall receive such compensation as may be just

and reasonable for all necessary services actually performed not exceeding three dollars per day, to be determined and allowed by the court upon presentation by said commissioners, or either of them, of an itemized statement duly verified by either member or all of said members, if same is just, reasonable, necessary and actually performed, and no part of the same has ever been paid. In case such services are rendered by said board in the establishment and construction of said improvement, the amount thereof allowed by the court shall be deemed to be a part of the cost of the construction and establishment of said improvement, and in case such compensation to be allowed by the court shall be for services rendered by said board in the repair or maintenance of such improvements, such allowance shall be added to the actual cost of maintenance of such system: *Provided*, That any person interested therein may file objection to the allowance ask [asked] for, either in whole or in part; such claim so filed shall not be passed upon or allowed by the court until the expiration of thirty days from the filing thereof. Said board of commissioners, or members thereof, presenting such claims or [for] allowance shall, at the time of filing thereof in the court post notices in at least four public [places] within said district, which notice shall set forth therein the fact that an application for allowance has been filed in said court, giving the date of filing thereof and the amount of allowance applied for and demanded, if any, and all persons having an interest therein shall file objections in said court, if any they have, to the allowance of said claim or any portion thereof within thirty days from the filing of such application for allowance, and the court shall hear said application and the objections thereto, if any be made and filed, and shall in its discretion make such allowance and in such amount as it may deem to be just in the premises, and the same shall be paid as other claims against said district are paid.

Compensation  
of commis-  
sioners.

Notice of  
claim for  
compensation.

SEC. 47. The court may compel the performance of the duties imposed by this act, and may in its discretion on proper application therefor, issue its mandatory injunction for such purpose.

Power of  
court.

Emergency.

SEC. 48. An emergency exists and this act shall take effect immediately.

Passed by the Senate July 1, 1909.

Passed by the House Aug. 13, 1909.

Approved by the Governor Aug. 17, 1909.

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## CHAPTER 9.

[House Bill No. 4.]

### RELATING TO TREASURER OF STATE COLLEGE.

AN ACT relating to the management of the State College of Washington.

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

State Treasurer is treasurer of college.

SECTION 1. The State Treasurer shall hereafter constitute and be the treasurer of all funds belonging to the State College, Experiment Station and School of Science of the State of Washington, known as the State College of Washington. All moneys or funds received from the United States or from any other source whatsoever for the benefit of said State College or from the products or property of said college, or for the use of or belonging to said college shall be paid to and deposited with the State Treasurer; when so deposited the same shall be held as special funds for said college, and are hereby appropriated to the uses and purposes for which the same are received. Upon receipt of any funds belonging to said college by the State Treasurer, he shall issue duplicate receipts therefor and deposit one of such receipts with the State Auditor, who shall keep the accounts of said college as other accounts are kept, and shall draw warrants against said accounts upon the presentation of properly executed vouchers therefor, but no warrant shall be drawn on any such fund for an amount in excess of the amount remaining in such fund.

Receipts of funds.

Vetoed.

SEC. 2. [Vetoed.] All acts or parts of acts providing for the election of a treasurer by the board of regents of

the State College and defining his duties or giving a bond as such are hereby repealed.

Passed by the House June 24, 1909.

Passed by the Senate June 25, 1909.

Approved by the Governor July 3, 1909, except as to section 2, which is vetoed.

(Section two is hereby vetoed. M. E. HAY, Governor. July 3, 1909.)

Returned to the House June 21st, 1909, but the bill failed to pass over the Governor's veto and hence became a law with section two vetoed.

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## CHAPTER 10.

[Senate Bill No. 29.]

### MUNICIPAL DEPOSITORIES.

AN ACT regulating the keeping and deposit of municipal funds and amending section 2 of chapter 103 of the Session Laws of 1905, and declaring an emergency.

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

SECTION 1. That section 2 of chapter 103 of the Session Laws of 1905 be amended to read as follows: Sec. 2. Before any such designation shall become effectual and entitle the treasurer to make deposits in such bank or banks, the bank or banks so designated shall, within ten (10) days after the same is filed with the comptroller, file with the comptroller of such city a contract with said city wherein said bank shall agree to pay not less than one and one-half per centum on the cash daily balances of all municipal funds kept by such treasurer in said bank, while acting as such depository; such payments to be made monthly to said city while said deposit continues in said depository; said contract shall run to said city and be in such form as shall be approved by the mayor and corporation council; and such bank shall also file with the comptroller of such city a surety bond or bonds to such city to the amount of deposits of such city that may be carried

[Am'd. § 2,  
ch. 103, p.  
207, L. '05.]

City depositories.

Security.

in such bank, conditioned for the prompt payment thereof on checks duly drawn by the treasurer; or in lieu thereof shall deposit with the said comptroller good and sufficient municipal bonds or warrants of said city, or school bonds of the school district of said city, or bonds of the county within which such city is situated, or local improvement bonds or warrants or public utility bonds or warrants issued by or under authority of the said city, or state bonds or warrants of the State of Washington, or United States bonds: *Provided, however,* That no such bonds or warrants upon which interest or principal is in default shall be accepted as such security. Such surety bonds or securities shall be in such form as shall be approved by the corporation counsel of such city and the sufficiency of such surety bonds or such securities shall be approved by the mayor and comptroller of such city.

Certificate of security.

When such bonds have been duly approved and filed with the comptroller of said city, he shall immediately certify to the city treasurer the amount of bonds or securities filed by such bank or banks, whereupon the city treasurer shall be authorized to make deposits in such bank up to the amount of surety bonds or securities so filed.

Emergency.

SEC. 2. An emergency exists and this act shall take effect immediately.

Passed by the Senate August 20, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 23, 1909.

## CHAPTER 11.

[Senate Bill No. 27.]

## RELATING TO ROAD MATERIALS.

AN ACT to amend chapter 226, Session Laws 1909, approved March 17, 1909, entitled "An act providing for a field examination of the state, with a view to ascertaining the existence and location of suitable road-making materials, and for the acquisition by the state of quarries of such materials, and the installation at such quarries of suitable rock-crushing machinery and other conveniences for operating said quarries by convict labor or free labor and for the disposition of the output of such quarries, and making an appropriation therefor," by amending sections 2, 6 and 8 thereof, and declaring an emergency.

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

SECTION 1. That section 2 of said act be and the same is hereby amended to read as follows: Sec. 2. Upon receipt of said partial report, together with maps, data, etc., the State Highway Commissioner shall, if there be found to exist materials suitable and in quantities and places sufficient therefor, select four or more sites best adapted for the location and establishment of rock quarries and crushing plants for supplying materials suitable and proper for the construction of highways, and, if found practicable, two or more of which sites shall be selected west of the summit of the Cascade mountains and two or more east thereof.

[Am'd. § 2,  
ch. 226, p.  
811, L. '09,  
Reg. Ses.]

Four or more  
quarries.

SEC. 2. That section 6 of said act be and the same is hereby amended to read as follows: Sec. 6. All convicts maintained at said quarry sites shall, when physically able and so long as there is a demand for the output from such quarry, be kept and employed continuously (except Sundays and legal holidays) in the quarrying, crushing, preparation and handling of rock or other materials for roads or streets. All rock so crushed shall be, upon the request of the State Highway Commissioner, loaded upon the car or vessel and there delivered to said State Highway Commissioner, who shall use the same in the construction or maintenance of state roads or state aid roads: *Provided, however,* That so much of said material as the State High-

[Am'd. § 6,  
ch. 266, p.  
183, L. '09,  
Reg. Ses.]

Materials  
used on state  
roads.

Surplus  
sold to mu-  
nicipalities.

way Commissioner may not at any time require for use on state roads or state aid roads shall be by said Highway Commissioner disposed of at cost f. o. b. the car, scow or boat at the place of production, to counties, cities or towns within the state in the order of application therefor, excepting in cases where the demands of said counties, cities and towns may be in excess of the supply, in which case the State Highway Commissioner shall apportion, deliver and distribute such material among the several counties, cities and towns applying, in such proportion as in his judgment may seem fair and equitable: *Provided further*, That all materials used by the State Highway Commissioner on any state road shall be paid for out of the appropriation, apportionment or fund for the construction or improvement of the particular road upon which it is used, and all material sold to the State Highway Commissioner or to any county, city, town or other municipality, shall be at the actual cost of production at the place of delivery: *Provided further*, That when the quantity of material on hand is in excess of the amount demanded by the State Highway Commissioner for use upon state roads, or state aid roads, or for disposition to the counties, cities and towns as herein provided, then the same may be disposed of by the State Board of Control at such prices, not less than cost of production, as said board may deem most advantageous for the state, giving prior right of purchase to citizens of the State of Washington before applicants from another state: *And provided further*, That nothing in this act shall be so construed as to prohibit the State Board of Control from employing within said stockades, or at said quarry sites, in the production of said material and in the operation of said quarry, such free labor as the board may deem necessary or proper.

Private  
parties may  
purchase.

[Am'd. § 8,  
ch. 226, p.  
814. L. '09,  
Reg. Ses.]

SEC. 3. That section 8 of said act be and the same is hereby amended to read as follows: Sec. 8. For the purpose of making the field examination and report provided for in section 1, of this act, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary, is hereby appropriated out of any funds in the treasury

Shipping  
facilities.



not otherwise appropriated. For the purpose of acquiring such sites and purchasing and installing such crushing machinery, appliances, tools and cars herein mentioned, there is hereby appropriated the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, out of the state highway fund. For the purpose of building and erecting the necessary stockades and buildings in this act provided for the purpose of confining and housing the convicts, there is hereby appropriated the sum of twenty-four thousand dollars (\$24,000) out of the general fund of the state. All warrants drawn against these appropriations pursuant to the provisions of this act, including interest thereon, shall be paid in the same manner as the state's general fund warrants are paid. Any and all unexpended balances in the above appropriations not necessary for the specific purposes for which such appropriations were made, are hereby authorized to be used for the purpose of maintaining and operating the machinery, quarries and plants established until such time as the proceeds from the sale of products of such quarries shall be sufficient for the operation thereof, and all such funds so used shall be repaid to the respective funds from which used whenever the State Board of Control shall deem sufficient funds have been received from the sale of the products of such quarries over and above the amount required for the operation of such plants. All moneys received from the sale of the products of such quarries as in this act provided shall be paid into the state treasury, and shall be kept in a fund to be known as the Good Roads Fund, and there is hereby appropriated from such fund for the purpose of maintaining such quarries and all the necessary expense in connection therewith, including the repayment to certain funds as above provided and the cost and expense of transporting to and from, keeping and guarding the convicts working therein, for which no other provision is made by law, to be expended on order of the State Board of Control, all sums paid into such Good Roads Fund: *Provided, however,* No warrants shall be issued against the appropriation herein made from such Good

Appropriation  
\$100,000.

Appropriation  
for convict  
camps  
\$24,000.

Warrants,  
how paid.

Unexpended  
balances of  
appropriation,  
how used.

Good Roads  
fund.

Roads Fund for an amount in excess of the amount remaining in such fund at the time of the issuance of the warrant.

Emergency.

SEC. 4. An emergency exists and this act shall take effect immediately.

Passed by the Senate July 2, 1909.

Passed by the House August 19, 1909.

Approved by the Governor August 23, 1909.

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## CHAPTER 12.

[Senate Bill No. 10.]

### RELATING TO GAME.

AN ACT for the protection of game animals and game birds of the State of Washington, defining violations thereof, providing punishment for the same and repealing all other laws in conflict herewith.

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

SECTION 1. Every person who shall, within the State of Washington, at any time between the thirtieth day of November and the thirtieth day of September of the following year, hunt, pursue, take, kill, injure, destroy or possess any deer, mountain goat, mountain sheep or caribou, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided. Every person who shall, within the State of Washington, during the season when it is lawful to kill the same, take or kill more than two deer, or shall kill any spotted fawn, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as hereinafter provided. Every person who shall at any time shoot or kill in any manner a deer when such deer is in any river or lake, or body of salt water, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

SEC. 2. Every person who shall, within the State of Washington, hunt, pursue, take, kill, injure, destroy or possess any grouse, ruffed grouse, Hungarian partridge,

Deer, mountain goat, etc.  
Season from  
Sept. 30 to  
Nov. 30.

Grouse,  
season, Oct.  
1 to Jan. 1.

prairie chicken, sage hen, Chinese, English, golden, Mongolian, silver, black-neck or Japanese pheasant, or any specie of quail or any specie of imported upland game bird, between the first day of January and the first day of October of any year, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as hereinafter provided: *Provided*, That it shall be unlawful for any person to pursue, take or kill in the state any Hungarian partridge prior to the first day of October, 1913: *And provided further*, That in all counties of the State of Washington lying east of the western boundary of the counties of Okanogan, Chelan, Kittitas, Yakima and Klickitat, it shall be unlawful to hunt, pursue, take, kill, injure, destroy or possess any of the game birds mentioned in this section between the fifteenth day of October and the first day of September of the following year, but it shall be lawful to kill same in said counties, when not otherwise specially provided, during the month of September and the first fifteen days of October: *Also provided*, That in the counties of Asotin, Clallam, Clarke, Columbia, Garfield, Douglas, Grant, Lincoln, Whitman, Spokane, Yakima, Kittitas, Ferry, Stevens, Okanogan, Adams, Chelan, Benton, Klickitat, Franklin, Walla Walla, Skagit, Whatcom, Snohomish and Kitsap, it shall be unlawful for any person to pursue, take or kill any partridge or any variety of quail, Chinese ring-neck, golden or English pheasant, before the first day of October, 1912: *And provided further*, That it shall be lawful to kill quail in Snohomish county between the first of October and the first of January: *And provided further*, That in the counties of Okanogan, Stevens, Douglas and Ferry it shall be lawful to kill grouse between the 15th day of August and the first day of January of the following year.

Eastern Washington, Sept. 1 to Oct. 15.

Certain birds exempt until 1912, in certain counties.

Quail in Snohomish county.

Grouse in certain counties, open season from Aug. 15 to Jan. 1.

SEC. 3. Every person who shall, during the season when it is lawful to hunt the same, kill more than five prairie chickens, grouse, partridge, Hungarian partridge, native pheasants, Chinese, English, golden, Mongolian, silver, black-neck or Japanese pheasants, or more than ten quail of any kind in one day, shall be guilty of a mis-

Five birds, limit.

demeanor, and upon conviction thereof shall be punished as hereinafter provided: *Provided*, That no person shall in any one day kill more than five of the game birds mentioned in this section, it being the intention hereof to limit bags of one day to five birds, no matter how many varieties of these protected upland birds are included in the bag: *Provided further*, That ten quail may be killed in one day during the season when it is lawful to hunt the same, but the limit of the upland game birds, if quail are included in the same, for one day, shall never exceed ten upland birds, and the limit of the bag for one week shall never exceed thirty upland birds: *Provided further*, That in all counties of the State of Washington lying east of the western boundary of Okanogan, Chelan, Kittitas, Yakima, and Klickitat, it shall be unlawful to hunt, pursue, kill, injure, destroy or possess any prairie chickens from and after the passage of this act and before the first day of September, 1912: *Provided, however*, That this last mentioned proviso regarding prairie chickens shall not apply to the counties of Okanogan, Chelan, Garfield, Lincoln, Walla Walla, Adams, Douglas, Columbia, Grant, Stevens and Ferry.

Ten quail,  
limit.

Prairie  
chicken ex-  
empt in cer-  
tain counties  
until 1912.

Water fowl,  
season, Oct. 1  
to Feb. 1.

Certain  
counties,  
Sept. 15 to  
Jan. 1.

Ocean beach,  
season,  
March, April  
and May.

SEC. 4. Every person who shall hunt, pursue, take, kill, injure, destroy or possess any swan, goose, brant, mallard duck, canvas-back duck, widgeon, wood-duck, spoon-bill, gray or black duck, sprig-tail, teal or other game duck, whether named or mentioned herein, or any snipe, curlew, plover, rail, surf or shore game bird, between the first day of February and the first day of October of the same year, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided hereinafter: *Provided*, That in the counties of Okanogan, Ferry, Stevens, Douglas, Grant, Lincoln, Spokane, Adams and Whitman it shall be lawful to kill swan, goose, brant, or any specie of game duck and curlew, plover, rail or any specie of snipe or shore game birds, between the 15th day of September and the first day of January only: *Provided further*, That it shall be lawful to kill snipe, plover, rail and shore birds, geese and brant during the months of March,

April and May along the ocean beach, and five miles inland thereof, in Pacific, Chehalis, Clallam, Jefferson and San Juan counties.

SEC. 5. Every person who shall, within the State of Washington, during the season when it is lawful to hunt the same, kill more than twenty snipe, ducks, geese or brants in one day, or fifty in any one week, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided; it being the intention hereof to limit bags for one day to twenty and the limit of bags for one week to fifty of the above mentioned birds, no matter how many varieties of those birds are included in the said bag.

Bag limit of water fowl.

SEC. 6. Every person, company, club, partnership, firm or corporation, boarding-house keeper, hotel keeper, restaurant keeper, market keeper, or cold storage plant, their owners, proprietors, officers, managers, agents or servants, who shall offer for sale or for market or barter for, or exchange, or keep in their possession at any time of the year, any deer, moose, caribou, antelope, mountain sheep or mountain goat, species of any kind of the various kinds of quail or the various kinds of Chinese, English or Mongolian pheasants, grouse, native pheasants, ptarmigan, partridge, Hungarian partridge, prairie chickens, sage hens, or any kind of wild duck, goose, swan, brant, rail, plover or game shore birds, or any portion of the meat of said animals or birds, shall be guilty of a misdemeanor. Possession by the above named persons or corporations of any of the animals or game birds mentioned or named herein, or any of the meat of the same, shall be presumptive evidence that said animals, birds, or the meat of the same was unlawfully taken by the person having possession of the same, and upon conviction thereof shall be punished as hereinafter provided: *Provided*, That any person may have in his possession, or in cold storage, for his own use only, the number and kinds of animals and birds permitted to be taken by this act, during the time the same may be taken, provided the same were taken by the person so having them in his possession, or obtained by gift for his

Unlawful possession.

Hides may  
be sold.

use only, or otherwise taken as provided in the previous section of this act: *Provided further*, That nothing in this act shall be construed to prevent the sale of hides or horns of deer, moose, elk, caribou, mountain sheep or mountain goat species, killed at or within the times when it is lawful to kill the same and which have been killed in a lawful manner.

Offenses.

SEC. 7. The killing of any bird or single animal protected by the laws of the state shall constitute an offense, and each bird or animal so killed shall constitute a separate offense.

Revocation  
of license.

SEC. 8. That the holder of a hunter's license issued in any county, or by the State of Washington, who shall be convicted of violating any of the game laws shall have his license revoked for the balance of the year.

Rewards.

SEC. 9. Every person other than a regular salaried game warden or peace officer entering a complaint that any of the provisions of this act are violated and a conviction is secured thereon, shall be entitled to one-half of the fine imposed and collected by the court in such action: *Provided*, That said reward to the informer shall never exceed the sum of twenty-five dollars.

Penalty.

SEC. 10. Every person violating any of the provisions of this act shall be deemed guilty of a misdemeanor.

[Vetoed.]

\*SEC. 11. That all acts or parts of acts inconsistent with or in conflict with the provisions of this act are hereby repealed: *Provided, however*, That this repeal shall in no way affect the provisions of chapter 54 of the Session Laws of 1909, relating to protecting game on Lake Washington, which act shall remain in full force and effect.

Passed by the Senate July 1, 1909.

Passed by the House August 20, 1909.

Approved by the Governor August 23, 1909.

\*Sec. 11 of this act vetoed by the Governor Aug. 23, 1909.

## CHAPTER 13.

[House Bill No. 9.]

## RELATING TO DRAINAGE.

AN ACT to amend section 19 of chapter 115, an act entitled "An act to provide for the establishment and creation of drainage districts and the construction and maintenance of a system of drainage, and to provide for the means of payment thereof, and declaring an emergency," approved March 20, 1895.

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

SECTION 1. That section 19 of chapter 115, an act entitled "An act to provide for the establishment and creation of drainage districts and the construction and maintenance of a system of drainage, and to provide for the means of payment thereof, and declaring an emergency," approved March 20, 1895, be and the same is hereby amended to read as follows:

[Am'd. § 19,  
ch. 115, p.  
286, L. '95.]

Sec. 19. The work on said improvement shall begin and shall be completed with all expedition possible, and said board of commissioners of such drainage district, or any contractor thereunder, shall have no power whatever to change said route or system of improvement or the manner of doing the work therein so as to make any radical changes in said improvement, without the written consent of all the land owners to be benefited thereby, and the land owners which may be damaged thereby. And in case any substantial changes in said system of improvement or the manner of the construction thereof shall be deemed necessary by said board of commissioners at any time during the progress thereof, and if the written consent to such changes cannot be procured from said land owners, then said commissioners, for and on behalf of said district, shall file a petition in the superior court of the county within which said district is located, setting forth therein the changes which they deem necessary to be made in the plan or manner of the construction of said improvement, and praying therein to be permitted to make such changes, and upon the filing thereof, the commissioners shall cause a summons to be served, setting forth the prayer of said

Route  
changed,  
how.

Supple-  
mentary  
proceedings.

petition, under the seal of said court, which summons shall be served in the same manner as the service of summons in the case of the original petition, upon all the land owners or others claiming any lien or interest therein appearing of record in said district, and any or all of said parties so served may appear in said cause and submit their objections thereto, and after the time for the appearance of all of said parties has expired, the court shall proceed to hear said petition at once without further delay, and if it appears during the course of said proceedings that the property rights of any of said land owners will be affected by such proposed change in said improvements, then the court, after having passed upon all preliminary questions as in the original proceedings may call a jury to be impaneled as in the case of the original proceeding for the establishment of said improvements, and upon the final hearing of said cause, the jury shall return a verdict finding the amount of damages, if any, sustained by all persons and corporations, the same as upon the original petition, by reason of such proposed change, and shall readjust the amount of benefits claimed to have been increased or diminished by any of said land owners by reason of said proposed change in said improvements, and the proceedings thereafter shall be the same as to rendering judgment, appeal therefrom, payment of compensation and damages and filing of the certificate with the auditor, as hereinbefore provided for in the proceedings upon the original petition, and said commissioners shall have a right thereafter to proceed with the construction of said improvements according to the changes made therein.

Passed by the House August 13, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.



## CHAPTER 14.

[House Engrossed Bill No. 17.]

## RELATING TO VIADUCTS.

AN ACT authorizing cities of the first class in the State of Washington which at the government census of 1900 had a population in excess of 80,000, to construct and maintain, upon public streets, and upon the extensions or connections thereof across waterways, rivers, canals or other channels, wherever public necessity may require, bridges, draw-bridges, viaducts, elevated roadways and tunnels, with or without street railways thereon or therein, and providing for the levy and collection of assessments upon property specially benefited thereby, to pay therefor, and declaring an emergency.

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

SECTION 1. That all cities of the first class in the State of Washington which at the government census of 1900 had a population in excess of 80,000, are hereby authorized to construct and maintain upon public streets, and upon the extensions or connections thereof across waterways, rivers, canals or other channels, wherever public necessity may require, bridges, draw-bridges, viaducts, elevated roadways and tunnels, or any combination thereof, together with all necessary approaches thereto, with or without street railway tracks thereon or therein, and to assess or re-assess property, which the city council of such city shall find to be specially benefited thereby, to defray the whole or any part of the cost of such improvement, whether such property to be assessed or re-assessed is adjoining, contiguous or proximate to said improvement or not.

SEC. 2. The city council of such city may establish local improvement districts, the property within which shall be assessed to defray the cost of any such improvement or any part thereof, which district may include the real estate of such portion of such city as the city council thereof deems to be specially benefited by the construction of such improvement. The boundaries of such district shall be established and fixed by ordinance. Prior to the pas-

sage of said ordinance, notice by resolution, shall be given in the usual manner as required by the charter of such city by publication in the official newspaper, giving the hour and place at which the limits of said proposed district will be considered by the council of such city for the purpose of amending, changing or adopting the same, at which time any persons who desire to object to the establishment of the limits, as set out in said resolution, shall be heard. Said hearing may be adjourned from time to time for further consideration if the city council should so desire. After such hearing and consideration the determination by the city council as to the boundaries of the district to be assessed, shall be final and conclusive.

SEC. 3. Such council may prescribe by general ordinance, the mode and manner in which the charge upon property in such local improvement district shall be assessed and determined for the purpose of paying the cost and expense of establishing and constructing such improvement: *Provided, however,* That no assessment shall be levied on any such district, the aggregate of which is a greater sum than 25% of the assessed value of all the real property in such district according to the last equalized assessment thereof for general taxation: *And provided further,* That there shall be, in all cases, an opportunity for a hearing upon objections to the assessment roll by the parties affected thereby, before the council as a board of equalization, which hearing shall be after publication of a reasonable notice thereof, such notice to be published in such manner and for such time as may be prescribed by ordinance. At such hearing, or at legal adjournments thereof, such changes may be made in such assessment roll as the city council may find necessary to make the same just and equitable. Railroad rights-of-way shall be assessed for such benefits as shall inure or accrue to the owners, lessees or operators of the same, resulting or to result from the construction and maintenance of any such improvement, whether such right-of-way lie within the limits of any street or highway or not; such assessment to lie against the franchise rights when such right-of-way is

Limit of  
assessment.

Hearing.

Rights-of-  
way.

within such street or highway. When such assessment roll shall have been finally confirmed by the city council, the charges therein made shall be and become a lien against the property or franchise therein described, paramount to all other liens (except liens for assessments and taxes) upon the property assessed from the time the assessment roll shall be placed in the hands of the collector.

Special tax  
a lien.

SEC. 4. As a part of the original construction of any improvement herein authorized, or afterwards as an alteration or renewal thereof, any such city, notwithstanding any charter provision to the contrary, may, at its own cost, construct, maintain and operate street railway tracks in the roadway thereof, and may provide electric power for the propulsion of cars, and may lease the use of such tracks and power for the operation of street cars or interurban railways; or such city may authorize any operator of the street or interurban railways to construct and furnish such street railway tracks and electric power and use the same for street or interurban purposes, under lease or franchise ordinance: *Provided*, That no such lease or franchise shall be exclusive, but shall at all times reserve the right to such city to permit other lines of street or interurban railway to use such street railway tracks in common with any preceding lessee or grantee, upon equal terms. The rate of lease or use of such street railway tracks for streets or interurban cars shall be as fixed by the legislative authority of such city, but shall not be less than one mill for each passenger carried, or ten cents for each freight car moved over such improvement. The income from such charges, rental and leasing shall be used wholly for the maintenance, repair and betterment of said improvement and the extinguishment of any debt incurred by said city in constructing the same.

City may  
operate  
railways.

SEC. 5. The provisions and remedies provided by this act are and shall be cumulative of existing provisions and remedies, and nothing in this act contained shall be held to repeal any provision of the existing law or of any charter of any city upon the subject matter thereof, but such

This act  
cumulative.

existing law or charter provision shall continue in full force and effect, and it shall be optional with the city authorities to proceed under either such existing law, charter provision or act.

Emergency.

SEC. 6. An emergency exists and this act shall take effect immediately.

Passed by the House August 18, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.

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## CHAPTER 15.

[House Bill No. 21.]

### RELATING TO TEACHERS' INSTITUTES.

AN ACT relating to teachers' institutes and amending section 5, chapter 6, title 3, of chapter 97, Session Laws of 1909.

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

[Am'd. § 5,  
sub. ch. 6,  
title III, ch.  
97, L. '09,  
Reg. Ses. 1

SECTION 1. That section 5, chapter 6, title 3 of an act establishing, providing for the maintenance of, and relating to a general and uniform public school system for the State of Washington, being chapter 97, Session Laws of 1909, approved March 11, 1909, be amended to read as follows: Section 5. Each county superintendent shall determine the time for holding the teachers' institute.

Time of hold-  
ing institute.

Passed by the House August 17, 1909.

Passed by the Senate August 20, 1909.

Approved by the Governor August 23, 1909.

## CHAPTER 16.

[House Bill No. 27.]

## RELATING TO MARRIAGES.

AN ACT regulating marriages and the issuance of marriage licenses, prohibiting marriages in certain cases, providing penalties for the violation of the provisions of this act, and declaring an emergency.

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

SECTION 1. No woman under the age of forty-five years, or man of any age, except he marry a woman over the age of forty-five years, either of whom is a common drunkard, habitual criminal, epileptic, imbecile, feeble-minded person, idiot or insane person, or person who has theretofore been afflicted with hereditary insanity, or who is afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, shall hereafter intermarry or marry any other person within this state. Persons prohibited.

SEC. 2. No clergyman or other officer authorized by law to solemnize marriages within this state shall hereafter knowingly perform a marriage ceremony uniting persons in matrimony either of whom is an epileptic, imbecile, feeble-minded person, common drunkard, idiot, insane person, or person who has theretofore been afflicted with hereditary insanity, habitual criminal, or person afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, unless the female party to such marriage is over the age of forty-five years. Officer not to solemnize, when.

SEC. 3. The county auditor, before a marriage license is issued, upon the payment of a license fee of two dollars, shall require each applicant therefor to make and file in his office upon blanks to be provided by the county for that purpose, an affidavit showing that such applicant is not feeble-minded, an imbecile, epileptic, insane, a common drunkard, or afflicted with pulmonary tuberculosis in its advanced stages: *Provided*, That in addition, the affidavit of the male applicant for such marriage license shall show that such male is not afflicted with any contagious venereal Affidavit.  
Further showing for male.

disease. He shall also require an affidavit of some disinterested credible person showing that neither of said persons is an habitual criminal, and that the female is over the age of eighteen years and the male is over the age of twenty-one years: *Provided*, That if the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female is under the age of eighteen years or the male is under the age of twenty-one years: *Provided*, That no consent shall be given, nor license issued, unless such female be over the age of fifteen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Any one knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this act shall be deemed guilty of perjury and punished as provided by the laws of the State of Washington.

**Witness.**

**Age.**

**Consent of parents, when.**

**False swearing.**

**Penalty.**

**SEC. 4.** Any person knowingly violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in the state penitentiary for a period of not more than three years, or by both such fine and imprisonment.

**Emergency.**

**SEC. 5.** An emergency exists, and this act shall take effect immediately.

Passed by the House August 18, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.

## CHAPTER 17.

[House Bill No. 31.]

## RELATING TO ROADS.

AN ACT amending section 1 of an act approved February 18, 1907, entitled "An act authorizing the county commissioners of any county to acquire and operate quarries of suitable road-building rock and ground containing deposits of suitable road-building gravel, and to purchase rock-crushing machinery and appliances, and declaring an emergency."

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

SECTION 1. The board of county commissioners of any county of this state may, out of the general road and bridge fund, acquire, by gift, purchase or condemnation, quarries of suitable road-building material and land containing deposits of suitable road-building gravel. In the event the county commissioners shall deem it expedient to acquire by condemnation, quarries of suitable road-building material or land containing deposits of suitable road-building gravel as contemplated by this act, then and in such case the proceedings to be taken shall be in accordance with the provisions of title 21, chapter 4, article 3 of Ballinger's Annotated Codes and Statutes of Washington, providing for viewing, laying out, surveying and establishing county roads so far as such provisions shall be applicable: *Provided, however,* That the board of county commissioners of any county, in the name of such county shall have the power to commence proceedings under and pursuant hereto, of its own initiative and without the petition of any free-holders.

Counties may  
acquire  
quarries.

Passed by the House August 19, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.

## CHAPTER 18.

[House Bill No. 35.]

## AMENDING ACT CREATING BUREAU OF INSPECTION.

AN ACT to amend section 9 of an act entitled "An act to create a bureau of inspection and supervision of public offices, and to establish a uniform system of public accounting, auditing and reporting under the administration of the State Auditor," approved March 10, 1909; and declaring an emergency.

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

[Am'd. § 9,  
ch. 76, p. 142,  
L. '09, Reg.  
Ses.]

SECTION 1. That section 9 of an act entitled "An act to create a bureau of inspection and supervision of public offices, and to establish a uniform system of public accounting, auditing and reporting under the administration of the State Auditor," approved March 10, 1909, be and the same is hereby amended to read as follows: Sec. 9. Each and every claim for services performed, supplies furnished or claims of any nature for which compensation is asked, shall be sworn to before an officer authorized to administer oaths; that all public officers are required to take such affidavits without charge: *Provided*, That this section shall not apply to officers or employes drawing annual or monthly salaries, nor to the salaries of legislators, legislative employes, nor to the fees of jurors and witnesses: *And provided further*, That pay rolls for daily wages may be sworn to by the superintendent, foreman or person in charge of the work.

Claims  
sworn to.

Emergency.

SEC. 2. An emergency exists and this act shall take effect immediately.

Passed by the House August 19, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.



## CHAPTER 19.

[House Bill No. 37.]

## RELATING TO CORPORATIONS.

AN ACT to provide for the reinstatement of corporations whose names have been or may be stricken from the records of the office of the Secretary of State, declaring the effect of a failure to secure such reinstatement, and declaring an emergency.

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

SECTION 1. Every corporation whose name has been, or shall hereafter be, stricken from the records of the office of the Secretary of State in pursuance of law for failure to pay its annual license fee for two years is hereby authorized and permitted to apply to the Secretary of State for reinstatement at any time within six months from the approval of this act, or within six months after its name has been stricken from the records of the office of the Secretary of State.

Reinstatement of corporation.

SEC. 2. Any corporation so applying for reinstatement shall at the time of its application pay to the Secretary of State, for the use of the state, all license fees and penalties then due from it and the sum of twenty-five dollars as additional penalty, and upon the making of such application and such payment, it shall be the duty of the Secretary of State to enter upon his records a notation that such corporation is reinstated.

Application for reinstatement.

SEC. 3. Thereafter such corporation shall have and enjoy the same rights and powers as if its name had never been stricken from the records, and all things done by it in the exercise of its corporate powers before such reinstatement are hereby validated and confirmed.

Rights on reinstatement.

SEC. 4. If, however, within the period named within which a corporation may make application to be reinstated such corporation shall not have made such application, the Secretary of State shall enter upon his records a notation that such corporation is dissolved, and it shall thereupon be dissolved and the trustees of such corporation shall hold the title to the property of the corporation for

Laches bars.

the benefit of its stockholders and creditors to be disposed of under appropriate court proceedings.

Limit on use  
of name by  
new corpora-  
tion.

SEC. 5. The name of no corporation which has been stricken from the records of the office of Secretary of State for non-payment of its annual license tax shall be adopted by another corporation until the expiration of the time within which such delinquent corporation is allowed in which to apply for reinstatement, or while such application for reinstatement is pending.

Emergency.

SEC. 6. An emergency exists and this act shall take effect immediately.

Passed by the House August 19, 1909.

Passed by the Senate August 19, 1909.

Approved by the Governor August 23, 1909.

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## CHAPTER 20.

[House Bill No. 52.]

### RELATING TO STATE CAPITOL.

AN ACT relating to the powers of the State Capitol Commission and making an appropriation therefor.

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

Commission  
may acquire  
certain  
property.

SECTION 1. The state capitol commission shall have power in the name of the state to acquire by gift, donation, purchase, or condemnation for capitol building purposes any or all that property situate and lying north and west of the "old capitol site," west of Water street and extending to the Northern Pacific right-of-way on the north and the bay or tidewater on the west, the same being blocks one (1), two (2), three (3) and four (4) of Capitol addition to Olympia. All costs in so acquiring such property shall be paid out of the capitol building fund and said commission is authorized to pay the same as a part of the expenses connected with the construction of the capitol building, as provided in chapter 69, Laws 1909, approved March [8], 1909.

SEC. 2. There is hereby appropriated out of the general fund of the state the sum of sixteen thousand dollars (\$16,000.00) or so much thereof as may be necessary, to complete the cruising of the Capitol building lands, as provided in said chapter 69 of Laws 1909, approved March 8, 1909: *Provided*, That said sum shall be a charge against the capitol building fund and shall be repaid to the general fund as provided in said act.

Appropriation  
for cruising  
\$16,000.

Passed by the House August 20, 1909.

Passed by the Senate August 20, 1909.

Approved by the Governor August 23, 1909.

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## CHAPTER 21.

[House Bill No. 57.]

### APPROPRIATION FOR PRINTING.

AN ACT making an appropriation for printing the journals of, and the laws passed by this Extraordinary Session of the Legislature and proceedings of the Court of Impeachment.

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

SECTION 1. There is hereby appropriated out of the general fund of the state for the purpose of printing the journals of, and laws passed by, the extraordinary session of the Eleventh legislature, and for printing the proceedings of the court of impeachment, the sum of ten thousand (\$10,000.00) dollars, or so much thereof as may be necessary.

Appropriation  
for printing  
\$10,000.

Passed by the House August 21, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 23, 1909.

CHAPTER 22.

[House Bill No. 45.]

CREATING OFFICE OF ASSISTANT STATE AUDITOR.

AN ACT providing for the appointment and qualification of an Assistant State Auditor, making an appropriation therefor.

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

Assistant State Auditor.

Authority of.

Bond.

Salary.

Appropriation \$3,800.

SECTION 1. The State Auditor may appoint an assistant State Auditor, who shall have power to perform any act or duty which may be performed by the State Auditor as such, and in case of a vacancy in the office of State Auditor, he shall perform the duties of said office till the vacancy is filled as provided by law. Such assistant shall subscribe to and file the oath of office provided by law for other state officers before entering upon the performance of his duties. The State Auditor shall be liable under his official bond for all the official acts of the assistant State Auditor, and may revoke such appointment at his pleasure and may require such assistant to furnish a bond in such sum as said Auditor may determine, which bond shall be made, approved and filed as other state officials' bonds, and such assistant Auditor shall be primarily liable on such bond for any malfeasance or misfeasance in his office; in case action shall be brought against the State Auditor for the official acts of the assistant State Auditor, said State Auditor shall be subrogated to the rights of the state on the bond of the assistant State Auditor, and may maintain actions thereon. The salary of the assistant state auditor shall be twenty-four hundred (\$2,400.00) dollars per year.

SEC. 2. For the purpose of paying the salary of an assistant State Auditor for the fiscal period ending April 1, 1911, there is hereby appropriated out of the general fund of the state, the sum of three thousand, eight hundred (\$3,800.00) dollars.

Passed by the House August 20, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 23, 1909.

CHAPTER 23.

[Senate Bill No. 33.]

PROHIBITING INDECENT PRACTICES.

AN ACT to prohibit indecent practices, drunkenness and boisterous conduct and fixing a penalty for the violation thereof.

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

SECTION 1. Any person who shall use in the presence of any person any indecent or vulgar language, or who shall appear upon any public road or street or in any or upon any public place or conveyance in any indecent, drunken or maudlin condition or boisterous manner shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

Indecent or  
drunken  
conduct.

Passed by the Senate August 20, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 28, 1909.

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CHAPTER 24.

[Senate Bill No. 34.]

APPROPRIATION FOR VETERANS' HOME.

AN ACT making an appropriation for the maintenance of the Washington Veterans' Home.

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

SECTION 1. That there is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of fifty thousand dollars (\$50,000), or so much thereof as may be necessary, for the maintenance of the Washington Veterans' Home for the fiscal term beginning April 1, 1909, and ending March 31, 1911.

Appropriation  
\$50,000.

Passed by the Senate August 21, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 25.

[House Bill No. 33.]

PROVIDING FOR THE FILLING OF VACANCIES IN  
CONGRESS.

AN ACT providing for the filling of vacancies in the office of  
Representative in congress.

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

SECTION 1. That whenever any vacancy exists in the office of Representative in Congress from this state, or from any congressional district thereof by death, resignation, disability or failure to qualify, of persons elected to such office, and there shall be a necessity for the filling of such vacancy, or threatened vacancy, for the term or the remainder of the unexpired term, the Governor shall issue a writ of election to fill such vacancy, which writ shall fix the time of such election not less than twenty-five (25) days after the issuance thereof, and such writ shall also fix a day not less than fifteen (15) days after the issuance of the writ, and not less than ten (10) days before the special election called therein, for the holding of a special primary for the purpose of nominating candidates to be voted for at such special election.

Writ of  
election.

SEC. 2. The writ shall name the district in, and the term or part of term for which the vacancy exists, or is about to exist, and the Governor shall immediately notify each County Auditor within such district of the issuance of such writ, and each such Auditor shall publish notices of such special election and such special primary in accordance with such writ, by publishing such notices at least once in the county official paper, if there be one, and if there be no county official paper, then in some other paper of general circulation in the county, and also by posting such notices in each precinct in his county: *Provided, however,* That when the time named in such writ for the holding of such special primary is not more than fifteen (15) days before the time fixed for the holding of the special election, the notices of such official election shall be

Notice of  
elections.

combined in and be made a part of the notices of such special primary: *And provided further*, That the time for either such special election or such special primary may be held at the same time as holding the corresponding regular elections and when either such special election or such special primary is so held, the writ shall so provide that for such election names of the candidates for such congressional office may be placed on the regular ballots and voted for as other candidates at such election.

SEC. 3. Whenever either such special election or special primary shall be held at the same time as the regular corresponding election, the registration of voters for such Voters.

general election, in precincts where registration is required, shall be sufficient for such special election or special primary, and the officers of the election shall be the same, and the election shall be merged with and become a part of the regular election. Whenever the writ of election shall

fix a different date for either such special election or such special primary, the election officers of the last preceding corresponding election shall be taken to be the election officers for such special election or such special primary, as the case may be, and the registration for the last general election in precincts where registration is required, shall be deemed a sufficient registration for such special election or such special primary: *Provided, however*, Any

person having registered since such last general election, and otherwise qualified may vote, but no person shall be allowed to vote at such special election or special primary, who shall have registered within three (3) days of the election at which he offers to vote. Officers of election.

Canvass of votes at any such special primary shall be made in each county within five (5) days after such primary, and returns sent immediately to the Secretary of State, where the returns from all the counties shall be canvassed and the candidate of each party shall be determined in the same manner as now provided by law, and the names thereof shall be certified at once to the several county auditors in the district. No name shall be printed on the primary ballots that shall not Canvass of votes.

have been filed with the Secretary of State at least ten (10) days before the special primary.

Laws  
applicable.

SEC. 4. The general election laws and the laws relating to primary elections shall apply to the special elections herein provided for, in so far as the same are not inconsistent with this act and shall be construed with and made a part of this act for the purpose of carrying out the spirit and intent thereof.

Passed by the House Aug. 20, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 26.

[House Bill No. 51.]

### RELATING TO THE BOUNDARIES OF CERTAIN LEGISLATIVE DISTRICTS.

AN ACT relating to the boundaries of the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth senatorial districts, and the thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth representative districts in Pierce county, State of Washington.

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

Twenty-fifth  
senatorial  
and thirty-  
fifth repre-  
sentative  
districts.

SECTION 1. The following precincts in the county of Pierce, to-wit: Alderton, Brecken; Buckley, first and second precinct; Burnett, Carbonado, Deringer, Earl, Edgewood, Fairfax, Kapowsin, Lake Tapps, Larchmont, Melmont, Milton, Midland, McMillan, Orting; Puyallup, first, second and third wards; Reservation, Rhodes Lake, Soldiers' Home, South Orting, South Prairie, Sumner, Wilkeson, first and eighth precincts of the fourth ward in the city of Tacoma, shall constitute the twenty-fifth senatorial district and the thirty-fifth representative district.

Twenty-sixth  
senatorial  
and thirty-  
sixth repre-  
sentative  
districts.

SEC. 2. The following precincts in the county of Pierce, to-wit: Alder, Anderson Island, Artondale, Elbe, Fox Island, Gig Harbor, Hillhurst, Holz, Lake Bay, Lake City, Lakeview, Long Branch, McNeils Island, McKenna, Minter, Muck, Nisqually, Ohop, Purdy, Rosedale, Roy, Silver



Lake, Smelter, Spanaway, Steilacoom, Tanwax, Vaughan, and the following precincts and wards in the city of Tacoma: First, second, third, fourth, fifth, sixth and seventh precincts of the first ward; the first, tenth and eleventh precincts of the second ward, and the first, second and third precincts of the eighth ward, shall constitute the twenty-sixth senatorial district and the thirty-sixth representative district.

SEC. 3. The following precincts in the city of Tacoma, in the county of Pierce, to-wit: The second, third, fourth, fifth, sixth, seventh, eighth and ninth precincts of the second ward; the twelfth, thirteenth and fourteenth precincts of the third ward; and the first and fifth precincts of the seventh ward, shall constitute the twenty-seventh senatorial district and the thirty-seventh representative district.

Twenty-seventh senatorial and thirty-seventh representative districts.

SEC. 4. The following precincts of the city of Tacoma, in the county of Pierce, to-wit: The first, second, third, fourth, fifth, sixth and seventh precincts of the third ward; the second, third, fourth, fifth, sixth, seventh, ninth, tenth, eleventh and twelfth precincts of the fourth ward, shall constitute the twenty-eighth senatorial district and the thirty-eighth representative district.

Twenty-eighth senatorial and thirty-eighth representative districts.

SEC. 5. The following precincts in the county of Pierce, to-wit: Fern Hill, Hunt's Prairie, Parkland, and the following precincts in the city of Tacoma: Eighth, ninth, tenth and eleventh precincts of the third ward; first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh precincts of the fifth ward; and the first, second, third, fourth, fifth and sixth precincts of the sixth ward; and the second, third and fourth precincts of the seventh ward, shall constitute the twenty-ninth senatorial district and the thirty-ninth representative district.

Twenty-ninth senatorial and thirty-ninth representative districts.

Passed by the House August 21, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 27.

[House Bill No. 58.]

## RELATING TO SALE OF INTOXICATING LIQUORS.

AN ACT to amend sections 193 and 437 of an act entitled "An act relating to crimes and punishments and the rights and custody of persons accused or convicted of crime, and repealing certain acts," being sections 193 and 437 of chapter 249 of the Session Laws of the regular session of the legislature of 1909, and declaring an emergency.

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

SECTION 1. That section 193 of an act entitled "An act relating to crimes and punishments and the rights and custody of persons accused or convicted of crime, and repealing certain acts," being section 193 of chapter 249 of the Session Laws of the regular session of the legislature of 1909, be amended to read as follows: "Section 193. Every person who—1. Shall admit to or allow to remain in any drinking saloon, dance house, public pool or billiard hall, concert saloon, or in any place, except a restaurant or dining room, where intoxicating liquors are sold or given away, or in any place of entertainment injurious to health or morals owned, kept or managed by him, in whole or in part, any person under the age of twenty-one years, or any female person, whether as employe, visitor or patron; or in any of the places hereinbefore enumerated shall sell or give, or permit to be sold or given, any intoxicating liquor to any such minor or female person; or,

Female or  
minor pro-  
hibited,  
where.

2. Shall suffer or permit any such person to play any game of skill or chance in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignation, or in any place where opium, or any preparation thereof, is smoked, or where any narcotic drug is used, any person under the age of twenty-one years; or,

Gambling  
prohibited.

3. Shall sell, or give, or permit to be sold, or given to any person under the age of twenty-one years any intoxi-

Liquor or  
tobacco to  
minor.

cating liquor, cigar, cigarette, cigarette paper or wrapper, or tobacco in any form; or,

4. Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver, pistol, or toy pistol; shall be guilty of a gross misdemeanor.

Revolvers or  
toy pistols.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another."

SEC. 2. That section 437 of said act be amended to read as follows: "Section 437. Every person, being the owner or manager of, or an employe in any drinking saloon, drinking cellar or public dance hall or music hall where intoxicating liquors are sold or kept for sale, who shall knowingly permit to enter such saloon, cellar or hall, or give employment to, or sell or give any intoxicating liquor to, any person previously convicted, whether in this state or elsewhere, of a crime of which fraud or the intent to defraud is an element, or of petit larceny, or of any crime which under the laws of this state would amount to a felony, or who shall sell or give any intoxicating liquor to any person known or adjudged to be a common drunkard, or to any person in an intoxicated condition, shall be guilty of a misdemeanor."

[Am'd. § 437,  
ch. 249, p.  
1029, L. '09,  
Reg. Ses.]

Selling in-  
toxicating  
liquors to  
convicts or  
drunkards.

SEC. 3. An emergency exists and this act shall take effect on October 1, 1909.

Emergency.

Passed by the House August 20, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 28.

[House Bill No. 59.]

## APPROPRIATION FOR NATIONAL GUARD.

AN ACT appropriating the sum of thirty-six thousand six hundred and eighty dollars, from the military fund, for maintenance of the National Guard.

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

SECTION 1. That there be and is hereby appropriated out of the military fund the sum of thirty-six thousand six hundred and eighty dollars, for maintenance of the National Guard of Washington.

Appropriation  
\$36,000.

Passed by the House August 20, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 29.

[House Bill No. 60.]

## FOR RELIEF OF INDIAN WAR VETERANS.

AN ACT for the relief of the Indian War veterans of the wars of 1855 and 1856.

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

SECTION 1. That there be and hereby is appropriated out of the general funds in the treasury of the State of Washington the sum of ten thousand dollars (\$10,000), or so much thereof as shall be necessary, to pay the veterans of the Indian wars of 1855 and 1856, who served under and by virtue of the directions of the officers of Washington territory, for their said service, under the conditions and upon the terms hereinafter provided.

Appropriation  
\$10,000.

Allowances.

SEC. 2. That each non-commissioned officer and private who served the Territory of Washington in the Indian wars of 1855 and 1856 shall be entitled for such service [to] the sum of \$2.00 per day for himself, and all commissioned officers shall receive such sum as was paid to officers of the same rank of the army of the United State at said time: *Provided*, That any amount paid on account thereof by the United States shall be deducted therefrom.

SEC. 3. The claim for such services, verified by the claimant, shall be presented to the Adjutant General, who shall, without additional cost to the state, examine and pass upon the same, and may require additional and corroborative evidence in support thereof; and he shall prepare, certify and file with the State Auditor proper vouchers showing the amount payable to the claimant under the provisions of this act. Thereupon the State Auditor shall issue his warrant for the amount found due to the claimant: *Provided*, That nothing in this act shall be construed to authorize the payment of any claim to any heir or beneficiary of the claimant for services during the Indian wars.

Claims. how  
proved.

SEC. 4. This act, so far as the same relates to the pay of volunteers, shall be construed so as to apply to all who have been in the service of the Territory of Washington, now State of Washington, during said Indian wars of 1855 and 1856, and it shall extend to the services of the regiment of the Washington militia while the same was in actual service during said wars.

Militia  
included.

SEC. 5. *Whereas*, The Territory of Washington, by the Governor thereof, acting under and by virtue of an act of the territorial legislature, called into service the said veterans; and

Explanation.

*Whereas*, The said men so called into service, and who did serve the territory were promised compensation for their said services, as above set forth, but have never been paid by the said territory nor the State of Washington, for said services, it is but meet that tardy justice should be done, and

*Whereas*, Chapter 238 of the Session Laws of 1909 appropriated twenty thousand dollars (\$20,000) for relief of said veterans, which has been found to be inadequate and that it will require ten thousand (\$10,000) additional to pay all of the claims now presented to the Adjutant General.

Passed by the House August 21, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## CHAPTER 30.

[Senate Bill No. 24.]

## RELATING TO LIENS.

AN ACT relating to materialmen's liens, and the enforcement thereof, and declaring an emergency.

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

[Vetoed.] \*SECTION 1. [Vetoed.] Every person furnishing material or supplies to be used in the construction, alteration or repair on any mining claim, building, wharf, steamer, vessel, boat, bridge, ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power, or any other building, or any other structure, or mining claim, or stone quarry, shall, at or before the time such material or supplies are delivered to any person or contractor, deliver or mail to the owner, agent of the owner, if the owner be a non-resident of the State of Washington and have an agent therein, or reputed owner of the property on, upon, or about which said material or supplies are to be used, a notice, in writing, stating in substance and effect, that materials and supplies have been delivered or ordered, as the case may be, for use therein or thereon, and a lien may be claimed therefor.

[Vetoed.] \*SEC. 2. [Vetoed.] It shall not be necessary, under the terms of this act, for the person furnishing materials, or supplies, to give the owner a notice each time a delivery is made, but the notice provided for in section 1 of this act shall be given at or before the time of the first delivery.

[Vetoed.] \*SEC. 3. [Vetoed.] The notice provided for in section 1 of this act shall be delivered or mailed to the owner, agent of the owner, if said owner be a non-resident of this state and have an agent therein, or reputed owner of the property on, upon, or about which said materials or supplies are to be used, at his last known postoffice address: *Provided, however,* That if the address of the owner, agent

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\*Sections 1, 2, 3 and 4 disapproved by the Governor August 28, 1909.

of the owner, or reputed owner is not known, or cannot, by the exercise of reasonable diligence be ascertained, then the notice shall be mailed to the owner, agent of the owner, or reputed owner, directed to a postoffice nearest the place where the materials and supplies are to be used.

\*SEC. 4. [Vetoed.] No lien shall be enforced unless [Vetoed.] the provisions of this act have been substantially complied with.

SEC. 5. Chapter 45, found on pages 71 and 72 of Laws 1909, be and the same is hereby repealed. Ch. 45, p. 71, L. '09, Reg. Ses., repealed.

SEC. 6. An emergency exists, and this act shall take effect immediately. Emergency.

Passed by the Senate July 2, 1909.

Passed by the House August 13, 1909.

Approved by the Governor, as to sections five and six, (the balance are vetoed) August 28, 1909.





## MEMORIALS AND RESOLUTIONS.

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### HOUSE CONCURRENT RESOLUTION No. 14.

*Resolved by the House of Representatives, the Senate concurring,* That Leo. O. Meigs, Walter W. Sparks and Lester P. Edge act as the board of managers on the impeachment proceedings now pending against John H. Schively in the state Senate, with power to act throughout the entire proceedings irrespective of the adjournment of the extraordinary session of the legislature convened Wednesday, June 23, 1909.

Passed by the House August 17, 1909.

Passed by the Senate August 17, 1909.

Approved by the Governor August 28, 1909.

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### HOUSE CONCURRENT RESOLUTION No. 16.

*Resolved by the House, the Senate concurring,* That the president of the Senate appoint two members and the speaker of the House three members as a joint committee to notify the Governor that this extraordinary session of the legislature of 1909 is about to adjourn *sine die*, and that the Senate do continue in session as a court of impeachment.

Passed by the House August 21, 1909.

Passed by the Senate August 21, 1909.

Approved by the Governor August 28, 1909.

## SENATE JOINT MEMORIAL No. 2.

*To the Congress of the United States:*

The Eleventh legislature of the State of Washington in special session convened, respectfully memorialize your honorable bodies as follows:

The Lummi Indian reservation, located in Whatcom county, Washington, is a large, fertile tract of land, but at present a comparative waste by reason that but few Indians live on such reservation; that what few Indians do live on said reservation are self-sustaining, living on and caring for their own farms; that Bellingham bay is a large and important port on Puget Sound; and said reservation is near the city of Bellingham, a city of over thirty thousand (30,000) people, and growing rapidly; that the country around said Bellingham bay is retarded by reason of these large undeveloped and unused portions of said reservation; that the state and county are unable to build roads over and through this territory by reason that the same is under control of the United States; that the public good would be best subserved by the opening of said reservation to settlement.

Wherefore we would respectfully urge:

That the Indians on said reservation be given allotments and the remainder of said reservation be thrown open to settlement.

Passed by the Senate August 20, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 28, 1909.

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SENATE JOINT MEMORIAL No. 3.

*To the Honorable Secretary of the Interior of the United States:*

Your memorialists, the Eleventh legislature of the State of Washington, in special session assembled, would respectfully represent to you that within the Washington Na-

tional Forest Reserve in Whatcom county, State of Washington, is situated Mt. Baker, a beautiful perpetual snow-capped mountain, rising almost from sea level to an altitude of 10,827 feet, and slightly to the southwest are the Sisters or twin peaks of slightly less altitude than that of Mt. Baker; that these mountains are not excelled in beauty and grandeur—nor the territory immediately adjacent thereto—by any other section of mountain, stream, forest, glacier, cataract or other natural scenery; that said section abounds in game of both the stream and the forest; that the territory adjacent to these mountains is within easy access, and but a short distance from populous and growing cities and towns; that this area, abounding in natural grandeur, should be forever set apart and maintained and its pleasure-giving, educational and recreative value preserved for the use of the whole people.

Therefore, we urge that you cause a survey or examination be made of Mt. Baker and the Sister peaks and the territory adjacent thereto with a view of establishing or causing to be established thereof a national park and game preserve.

Thus your memorialists will ever pray.

Passed by the Senate August 21, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 28, 1909.

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#### SENATE CONCURRENT RESOLUTION No. 11.

*Be it resolved by the Senate, the House concurring,* That the Secretary of the State be and he is hereby authorized and instructed to forward a copy of House bill No. 27, relating to marriages, to each county auditor of the State of Washington immediately upon receipt of the bill signed by the Governor.

Passed by the Senate August 20, 1909.

Passed by the House August 21, 1909.

Approved by the Governor August 28, 1909.

## HOUSE CONCURRENT RESOLUTION No. 4.

WHEREAS, The Alaska-Yukon-Pacific Exposition commission of the State of Washington is representing this state at the Alaska-Yukon-Pacific Exposition, where visiting states and visiting nations are also represented; and,

WHEREAS, In their official capacity as representatives of the State of Washington they are invited to partake of the hospitality of other states and nations represented at the exposition in the way of receptions, banquets, etc.; and,

WHEREAS, There is some doubt as to whether the law under which this commission operates provides only for an expenditure of money for the purpose of exhibiting the resources and advantages of the State of Washington, and whether it contemplates the return by this state of such courtesies as are extended by visiting states and nations; now, therefore, be it

*Resolved by the House, the Senate concurring,* That the Alaska-Yukon-Pacific Exposition commission of the State of Washington be authorized and allowed to appropriate from its funds an amount not to exceed ten thousand dollars, sufficient to properly return the courtesies which have been extended to this state, thereby exhibiting the hospitality characteristic of this commonwealth.

Passed by the House June 28, 1909.

Passed by the Senate June 30, 1909.

## SENATE CONCURRENT RESOLUTION No. 4.

*Be it resolved by the Senate, the House concurring,* That the special committee appointed at the last general session of the legislature for the purpose of investigating state offices and institutions is hereby authorized to continue said investigation, and to report their findings to the Governor not later than April 1st, 1910.

Said findings shall be made public within fifteen days after the report of said committee to the Governor.

Passed by the Senate June 25, 1909.

Passed by the House July 1, 1909.

Approved by the Governor July 2, 1909.

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## SENATE CONCURRENT RESOLUTION No. 7.

*Be it resolved by the Legislature of the State of Washington, the House and the Senate concurring,* That the consent of both houses is hereby given that when the House and Senate take a recess that either may at any time hereafter during the extra session take a recess to meet on Wednesday, August 11, 1909, at 2 p. m.

Passed by the Senate July 1, 1909.

Passed by the House July 1, 1909.

Approved by the Governor July 2, 1909.

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## SENATE JOINT MEMORIAL No. 1.

*To the Honorable Secretary of the Interior:*

WHEREAS, Much of the land in the southern part of the Columbia River Forest Reserve, in Skamania and Klickitat counties, Washington, is suitable for agricultural purposes, and it has been demonstrated that the said land will produce any crop that can be grown in the State of Washington; and

WHEREAS, The southern part of said reserve is near the Columbia river and a great portion of it has been burned

over, so that the clearing of the land will in nowise affect the conservation of moisture;

Therefore, we, your memorialists, respectfully pray that a re-examination be had of the lands in the southern row of townships of said reserve, to the end that the same, or any portion thereof, if found better suited to agricultural use than for forest reserve purposes, be restored by executive order to settlement at the earliest convenient date.

Passed by the Senate July 2, 1909.

Passed by the House July 2, 1909.

Approved by the Governor July 2, 1909.

#### SENATE CONCURRENT RESOLUTION No. 8.

*Be it resolved by the Senate, the House concurring,* That the legislative investigation committee, provided for in Senate concurrent resolution No. 4, be and they are hereby authorized to hold sessions of the committee and examinations in any place in the State of Washington where, in the judgment of the committee, it may be necessary so to do.

Passed by the Senate July 1, 1909.

Passed by the House July 2, 1909.

Approved by the Governor July 2, 1909.

#### SENATE CONCURRENT RESOLUTION No. 10.

*Resolved by the Senate, House concurring,* That Senator H. O. Fishback be and is hereby allowed ten dollars per diem and expenses for all time given in connection with investigating committee work.

Passed by the Senate August 20, 1909.

Passed by the House August 20, 1909.

Approved by the Governor August 23, 1909.

## AUTHENTICATION.

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OFFICE OF THE SECRETARY OF STATE,  
STATE OF WASHINGTON.

I, I. M. HOWELL, Secretary of State of the State of Washington, and custodian of the seal of said state, do hereby certify that I have carefully compared the foregoing published laws, memorials and resolutions, passed by the Legislature of the State of Washington, at its Extraordinary Session, from June 23rd. to August 24th, inclusive, in 1909, with the original enrolled laws, memorials and resolutions now on file in this office, and find the same to be full, true and correct copies of said originals, with the exception of such corrections in orthography and use of words as indicated by the use of brackets, thus [ ], in each case, as provided by law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed hereto the seal of the State of Washington.

[SEAL] Done at Olympia, this 5th. day of October, A. D.  
1909.

I. M. HOWELL,  
*Secretary of State.*





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