

CHAPTER VI.—CRIMINAL PRACTICE.

CRIMES AND PUNISHMENTS.

AN ACT relating to crimes and punishments.

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

SECTION 1. Any person who shall, with intent to cheat, wrong or defraud, place in or upon any mine or mineral claim any ores or specimens of ores not extracted therefrom, or exhibit any ore or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining claim, or any interest therein, or who shall obtain any money or property by any such false pretenses or artifices, shall be deemed guilty of a felony. Felony.

SEC. 2. Any person who shall interfere with or in any manner change samples of ores or bullion produced for sampling, or change or alter samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong or defraud, shall be deemed guilty of a felony.

SEC. 3. Any person who shall, with intent to cheat, wrong or defraud, make or publish a false sample of ore False samples. or bullion, or who shall make or publish or cause to be published a false assay of ore or bullion, shall be deemed guilty of a felony.

SEC. 4. Any person violating any of the provisions of this act shall be deemed guilty of a felony, and upon conviction thereof, shall be fined in any sum not less than fifty nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than five years, or by both such fine and imprisonment. Penalty.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed.

Approved February 27, 1890.

CRIMINAL PROCEEDING BY INFORMATION.

AN ACT to provide for prosecuting public offenses on information.

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

SECTION 1. All public offenses may be prosecuted in the superior courts by information in the following cases: *First*, whenever any person is in custody or on bail on charge of felony or misdemeanor and the court is in session, and the grand jury is not in session, or has been discharged. *Second*, whenever an indictment presented by an [any] grand jury has been quashed, and the grand jury returning the same is not in session, or has been discharged. *Third*, when a cause has been appealed to the supreme court and reversed on account of any defect in the indictment. *Fourth*, whenever a public offense has been committed, and the party charged with the offense is not already under indictment therefor, and the court is in session, and the grand jury is not in session, or has been discharged. *Fifth*, whenever the court is in session or not in session, any competent and reputable person having knowledge of the commission of any misdemeanor not within the exclusive jurisdiction of a justice of the peace, may make an affidavit before any person authorized to administer oaths, setting forth the offense and the person charged in plain and concise language, together with the names of the witnesses, and file the same with the clerk of said superior court, who shall thereupon notify the prosecuting attorney thereof. The prosecuting attorney shall at once prepare and file an information in every

case against the person charged in said affidavit, whether the court is in session or not.

SEC. 2. All informations shall be filed in the court hav- Filed in court.
 ing jurisdiction of the offense specified therein by the prosecuting attorney of the proper county as informant; he shall subscribe his name thereto and endorse thereon the names of the witnesses known to him at the time of Names of wit-
 nesses. filing the same, and at such time before the trial of any case as the court may by rule or otherwise prescribe, he shall endorse thereon the names of such other witnesses as shall then be known to him; and said court shall possess and may exercise the same powers and jurisdiction to hear, try and determine all such prosecutions upon information, to issue writs and process, and do all other acts therein, as it possesses and may exercise in cases of like prosecutions upon indictments.

SEC. 3. All informations shall be verified by the oath Verification, in-
 formation. of the prosecuting attorney, complainant, or some other person, and the offenses charged therein shall be stated with the same fullness and precision in matters of substance as is required in indictments in like cases. Different offenses and different degrees of the same offense may be joined in one information in all cases where the same might by different counts in one indictment, and in all cases a defendant or defendants shall have the same rights as to proceedings therein as he or they would have if prosecuted for the same offense upon an indictment.

SEC. 4. That the provisions of the criminal code of the Territorial code. late territory now in force in this state in relation to prosecutions, crimes and misdemeanors on indictments, and all other provisions of law applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials and punishment, or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner and to the same extent, as near as may be, apply to information and all prosecutions and proceedings thereon.

SEC. 5. Any person who may according to law be com-

mitted to jail, or become recognized, or held to bail with sureties for his appearance in court to answer to any indictment, may in like manner so be committed to jail, or become recognized and held to bail for his appearance to answer to any information or indictment, as the case may be.

SEC. 6. It shall be the duty of the prosecuting attorney of the proper county to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examination, as provided by law, touching the commission of any offense wherein the offender shall be committed to jail, or become recognized or held to bail; and if the prosecuting attorney shall determine in any such case that an information ought not to be filed, he shall make, subscribe and file with the clerk of the court a statement in writing containing his reasons, in fact and in law, for not filing an information in such case, and that such statement shall be filed at and during the session of court at which the offender shall be held for his appearance: *Provided*, That in such case such court may examine such statement, together with the evidence filed in the case, and if upon such examination the court shall not be satisfied with such statement, the prosecuting attorney shall be directed by the court to file the proper information and bring the case to trial.

SEC. 7. Grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any court within this state unless the judge thereof shall so direct by writing under his hand and filed with the clerk of court.

SEC. 8. Whereas, there is no law in this state authorizing the prosecution of public offenses on information in criminal cases, and there is an immediate necessity therefore, an emergency exists, and, therefore, this act shall take effect and be in force from and after its passage and approval by the governor.

Approved January 29, 1890.

TO PREVENT DECEPTION IN DAIRY PRODUCTS.

AN ACT to prevent deception in sales of dairy products, and providing a penalty therefor.

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

SECTION 1. No person or persons shall sell or exchange, Offense defined. or expose for sale or exchange, any unclean, unwholesome or adulterated milk, nor any article of food manufactured therefrom, or of cream from the same.

SEC. 2. No person or persons shall sell, supply or offer for sale or exchange, any oleaginous substance, or any compound of the same, other than that produced from wholesome and unadulterated milk or cream of the same, unless the said oleaginous substance, and the package containing the same, shall be marked so as to plainly establish its Impure article must be labelled. true character and distinguish it from pure and genuine dairy products; and in any public dining or eating-room where imitation dairy product or products are commonly and knowingly used as an article of food, the bill of fare used in such dining or eating-room shall state the fact in the same sized type as is used in printing the body of said bill of fare; or if no bill of fare is used, then in a conspicuous place of said dining or eating-room, easily seen by any one entering said room, shall be posted a notice Notice must be posted. stating the name or names of such imitation dairy products: *Provided*, That the addition of harmless coloring matter to any product manufactured from pure, unadulterated milk, or the cream thereof, shall not come within the provisions of this act: *Provided further*, That milk drawn Impure milk. from cows within fifteen (15) days before and five (5) days after parturition shall be construed to be unclean, impure and unwholesome.

SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of Penalty. not less than fifty dollars (\$50) nor more than two hun-

dred dollars (\$200), or by not less than one month nor more than three months' imprisonment in the county jail, or by both such fine and imprisonment.

Approved January 20, 1890.

FEMALE EMPLOYEES; TO PROTECT THE
HEALTH OF.

AN ACT to better protect the health of female employees.

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

SECTION 1. It shall be the duty of every agent, proprietor, superintendent or employer of female help in stores, offices or schools within the State of Washington to provide for each and every such employee a chair, stool or seat, upon which such female worker or workers shall be allowed to rest when their duties will permit, or when such rest shall or does not interfere with a faithful discharge of their incumbent duties.

SEC. 2. A violation of any of the provisions of section 1 of this act shall be deemed a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall subject the person offending to a fine of not less than ten dollars nor more than fifty dollars.

Penalty.

Approved March 26, 1890.

GAME; PROTECTION OF.

AN ACT for the preservation of large game.

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

SECTION 1. That it shall be unlawful to hunt or chase deer with dogs. Hunting with dogs.

SEC. 2. That it shall be unlawful to hunt deer, mule deer, carribou, elk, mountain sheep or goats for the purpose of securing their hides or horns. For hides and horns.

SEC. 3. That it shall be unlawful to hunt or kill for sale, or offer for sale, any deer, mule deer, carribou, mountain sheep, goats or elk after the first day of January or before the first day of December. Close season.

SEC. 4. Any person or persons violating either of the sections of this act shall be fined, in any court of competent jurisdiction, not less than fifty dollars nor more than two hundred dollars for each offense, and in case of non-payment of said fine, to be imprisoned in the county jail not to exceed thirty days. Penalty.

SEC. 5. That the governor of the state shall have the power to appoint a game warden, who shall serve four years without pay, and he in turn shall, by the advice and consent of the governor, appoint a deputy game warden in each county of the state, whose duties shall be to inquire into all violations and prosecute all violators of this act. Game warden. Deputy.

SEC. 6. Upon the arrest and conviction of any person or persons violating any of the provisions of this act, one-half of the fine shall be paid to the game warden of the county and the other half into the school fund of the county in which the offense may be committed. Division of fines.

Approved February 6, 1890.

FISH; PROTECTION OF.

AN ACT to protect salmon and other food fishes in the State of Washington, and upon all waters upon which this State has jurisdiction and concurrent jurisdiction.

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

SECTION 1. It shall not be lawful to take or fish for salmon in the Columbia river or its tributaries by any means, in any year hereafter, between the first day of March and the tenth day of April, or between the tenth day of August and the tenth day of September; and also, during the weekly close time; that is to say, between the hour of six o'clock P. M. on each and every Saturday and six o'clock in the afternoon of the following Sunday, and any person or persons fishing for or catching salmon in

Offense defined.

violation of this section by catching salmon, or purchasing salmon unlawfully caught, or having in his or their possession any such unlawfully caught salmon, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum not less than fifty dollars nor more than two hundred and fifty dollars.

Penalty.

SEC. 2. It shall be unlawful to catch, kill, or in any manner destroy any salmon on or within one mile below any rack or other obstruction erected across any river or stream for the purpose of obtaining fish for propagation, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum of not less than fifty dollars nor more than two hundred and fifty dollars, and any and all appliances used in the violation of this act, viz.: Boats, nets, traps, wheels, seines or other appliances, shall be subject to execution for the payment of the fine herein imposed.

Fish for propagation protected.

Property subject to execution.

SEC. 3. It shall not be lawful for any person or persons to take or fish for salmon on the waters of Shoalwater bay and the rivers with their tributaries flowing into said bay, and also on the waters of Gray's Harbor and the rivers with their tributaries flowing into said Gray's Harbor,

Shoalwater Bay.

Gray's Harbor and tributaries

from the fifteenth day of November until the fifteenth day of December during any year hereafter, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum not less than fifty dollars nor more than two hundred and fifty dollars. Penalty.

SEC. 4. It shall not be lawful for any person or persons to take or fish for salmon during the months of March, April and May of each year, on the waters of Puget Sound. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum of not less than fifty dollars nor more than two hundred and fifty dollars. Puget Sound. Penalty.

SEC. 5. For the purpose of more clearly defining the provisions of section four of this act, all that portion of the tide waters emptying into the Straits of Fuca, and the bays, inlets, streams and estuaries thereof, shall be known and designated in this act as Puget Sound.

SEC. 6. It shall not be lawful for any pound net, set net, trap, weir, wheel or other fixed appliance for taking fish, to extend more than one-half of the way across the breadth of any stream, channel or slough of any waters mentioned in this act at the time and place of such fishing, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum not less than fifty dollars nor more than two hundred and fifty dollars. Size of nets and traps limited. Penalty.

SEC. 7. It shall not be lawful to cast or pass, or allow to be cast or passed, into any of the rivers and streams of this state into which salmon or trout are wont to be, any lime, gas, coculus indicus, or any other substance deleterious to fish, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined in a sum not less than fifty dollars nor more than two hundred and fifty dollars. Waters must be kept pure.

SEC. 8. Any person or persons now owning or maintaining, or who shall hereafter construct or maintain any dam or other obstruction across any stream in this state which any food fish are wont to ascend, without providing Fishways.

a suitable fishway or ladder for the fish to pass over such obstruction, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, and said dam or obstruction may, in the discretion of the court, be abated as a nuisance.

Penalty.

Nuisance.

SEC. 9. It shall not be lawful for the proprietor of any sawmill in this state, or any employee therein, or any other person, to cast sawdust, planer shavings or other lumber waste made by any lumber manufacturing concern, or suffer or permit such sawdust, shavings or other lumber waste to be thrown or discharged in any manner into the Columbia river and its tributaries, and all other streams and lakes in this state where fish resort to spawn, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than two hundred and fifty dollars.

Sawdust and refuse.

Penalty.

Moneys.

SEC. 10. All the moneys collected under the provisions of this act shall be paid into a fund to be known as a fish commission fund.

"Salmon" defined.

SEC. 11. Whenever the term salmon is used in this act, it shall be construed to include chinook, steelhead, blue-back, silversides and all other species of salmon.

Division of fines.

SEC. 12. One-half of all the moneys collected under the provisions of this act shall be paid to the informer, if there be one, one-quarter to the attorney prosecuting, and the remainder shall be put into a fund to be known as the fish commission fund, and it shall be the duty of the attorney prosecuting, or justice of the peace, to cause to be endorsed upon the back of the indictment or complaint, the name of any person who shall voluntarily make complaint for violation of any of the provisions of this act.

SEC. 13. Payment of any fine and cost imposed under the provisions of this act shall be enforced in the same manner as is now provided by law in other criminal actions.

Jurisdiction of courts.

SEC. 14. Justices of the peace shall have concurrent jurisdiction with the superior court of all offenses mentioned in this act.

SEC. 15. Nothing in this act shall be construed so as to prevent the taking of fish at any time of year, and in any manner, for propagation.

SEC. 16. All acts and parts of acts heretofore passed by the legislative assembly of the Territory of Washington in relation to the subject matter of this act be and the same are hereby repealed.

Approved February 11, 1890.

PRIZE FIGHTING ; TO PROHIBIT.

AN ACT to prohibit prize fighting and sparring matches.

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

SECTION 1. Any person who, within this state, engages in, instigates, aids or encourages, or does any act to further a contention or fight, with or without weapons, between two or more persons, or a fight commonly called a sparring match, in which the combatants are provided with gloves, or who sends or publishes a challenge, or acceptance to a challenge, for such a contention, prize fight, sparring match, with or without gloves, or carries or delivers such a challenge or acceptance, or trains or assists any person or persons in training or preparing for such contention, prize fight or sparring match, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a term of not less than thirty days nor more than one year, and by a fine of not less than fifty dollars nor more than one thousand dollars: *Provided*, That nothing in this section shall be so construed as to interfere with members of private clubs sparring or fencing for exercise among themselves.

Misdemeanor defined.

Penalty.

SEC. 2. Any person who bets, stakes or wagers money

Liability of gamblers.

or other property upon the result of such a fight, encounter or contention, or holds or undertakes to hold money or other property so staked or wagered, to be delivered to or for the benefit of the winner thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a term not less than thirty days nor more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both fine and imprisonment, at the discretion of the court.

Penalty.

Approved March 26, 1890.

FLOATING LOGS AND TIMBER; TO PROTECT THE TITLE OF.

AN ACT to protect the title of the owners of floating logs, timber and lumber, and declaring an emergency.

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

SECTION 1. That every person or co-partnership who shall put any logs or timber into any river, or its branches or tributaries, small lake or its tributaries, bayou, marsh or ditch in this state, for the purpose of rafting or floating the same to any place for manufacture or sale, shall have some mark or marks, previously selected by him or them, impressed in a conspicuous place upon the end or surface of each log or stick of timber so put into any of said waters.

Owner must mark.

SEC. 2. Before any such mark or marks shall be used, it shall be the duty of such person or co-partnership to cause a diagram and written description of the same, certified and signed by the owner or owners thereof, to be recorded in the office of the auditor of each county through which such logs or timber shall be floated for manufacture

Mark must be recorded.

or sale, and also to give notice in writing to each log-running or booming company doing business on any waters on which the logs or timber are floated, of such mark. The diagram and written description to be recorded as aforesaid, must be different from any diagram and description already recorded in said office claimed by any other party. For recording and indexing the diagram and certificate aforesaid, the auditor shall be entitled to demand and receive a fee of twenty-five cents.

SEC. 3. It shall be the duty of any such auditor to re-
Duty and fees of auditor.

cord in a book to be kept for that purpose, all marks and descriptions of marks, furnished to him for that purpose, which are different from any other mark or description there recorded, which book shall be, at all reasonable hours, open to the inspection and examination of any person requiring it; and each of said auditors shall be entitled to receive for his fees, for each mark and description recorded, twenty-five cents, to be paid in advance by the party having the same recorded.

SEC. 4. Any logs or timber having any such recorded
Presumptive ownership.

mark or marks impressed thereon, shall be presumed to belong to the party or parties in whose name said mark or marks shall have been recorded.

SEC. 5. Every person or co-partnership who shall neglect
Penalty of neglect.

to have his or their mark or marks recorded, as required in the second section of this act, shall be debarred from all the benefits arising from the due recording of such mark or marks, and the vendee or assignee of any such logs or timber shall be subject to the same regulations and restrictions.

SEC. 6. If any person shall falsely make, forge or counterfeit such mark and use the same in marking logs or timber, knowing the same to be the mark of another person, and with intent to defraud, shall be guilty of felony, and shall be punished by imprisonment at hard labor in the state prison, not to exceed five years, or by fine of not less than one hundred dollars nor more than two thousand dollars.
Penalty for forgery.

SEC. 7. If any person, corporation or partnership shall wilfully and knowingly, or by gross carelessness, alter or

Penalty for altering.

deface, obliterate or destroy any of such brands or marks héreinbefore provided for, or shall request or order the same to be altered, defaced, obliterated or destroyed, and the same is altered, defaced, obliterated or destroyed in pursuance of said request or order, said person, corporation or partnership so altering, destroying, obliterating or defacing such brands or marks, or requesting or ordering the same to be done, and it appearing the same was done in pursuance of said order or request, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred dollars and not more than five thousand dollars.

Penalty, excepting boom companies.

SEC. 8. That it shall be unlawful for any person or persons, except boom companies who are compelled to catch and hold logs or other timber of value, to take up sawlogs, hewn, sawed or other timber and lumber of value found adrift on any river in this state, or have the same in their possession, that shall be marked with any mark or brand, without permission of the owner or agent thereof: *Provided*, The person claiming such mark or brand shall have had a copy thereof recorded in the county wherein he resides; and any person or persons violating the provisions of this section shall be deemed guilty of a felony, and, on conviction, shall be fined in any sum not exceeding three hundred dollars, or by imprisonment in the penitentiary not to exceed five years.

SEC. 9. This act shall take effect on its approval by the governor, an emergency existing therefor in the necessity for prompt legislation for the protection of the persons engaged in logging or putting timber of value in the waters of this state.

Approved March 28, 1890.

TO PREVENT THE USE OF PUBLIC FUNDS.

AN ACT to prohibit the making of profit out of county, city, town or other public money, or using the same for any purpose not authority[ized] by law, by any officer, his agent, clerk, servant or employee, having the possession or control thereof, and providing punishment therefor.

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

SECTION 1. If any state, county, township, city, town, village, or other officer elected or appointed under the constitution or laws of this state, court commissioner, or any officer of any court, or any clerk, agent, servant or employee of any such officer, shall, in any manner not authorized by law, use any portion of the money entrusted to him for safe keeping in order to make a profit out of the same, or shall use the same for any purpose not authorized by law, he shall be deemed guilty of a felony, and on conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than ten years.

Offense defined.

Penalty.

SEC. 2. In prosecutions for the offenses named in section one hereof, it shall be sufficient to allege generally in the information, or indictment, that any such officer, court commissioner, clerk, agent, servant, or employee has made profit out of the public money in his possession, or under his control, or has used the same for any purpose not authorized by law to a certain value, or amount, without specifying any further particulars in regard thereto, and on the trial evidence may be given of all the facts constituting the offense and defense thereto.

Allegation sufficient for prosecution.

SEC. 3. Whereas, the general good requires that the public money in the possession or control of public officers, their agents or servants, should not be used by them for any purpose except as directed by law; and, whereas, this session promises to be a prolonged one, not limited by law, wherefore, an emergency exists why this act should take effect at once: therefore, this act shall take effect and be in force from and after its passage and approval by the governor.

Approved December 20, 1889.

MEDICINE; TO REGULATE THE PRACTICE OF.

AN ACT to regulate the practice of medicine and surgery in the state of Washington, and to license physicians and surgeons; to punish all persons violating the provisions of this act, and to repeal all laws in conflict therewith, and declaring an emergency.

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

Examining
board.

SECTION 1. The governor of this state shall appoint a board of examiners; to be known as the state medical examining board, consisting of nine members, who shall be learned and skilled in the practice and theory of medicine and surgery, and who shall hold their office for three (3) years and until their successors are appointed and qualified: *Provided*, That the members thereof first appointed under this act shall be divided into three (3) classes, each class to consist of three (3). The first class shall hold office under said appointment for the period of one (1) year, the second class for two (2) years and the third class for three (3) years from the date of their appointment: *It is further provided*, That no member thereof shall be appointed to serve for more than two terms in succession.

Oath of board.

SEC. 2. The members of said medical examining board shall, before entering upon their duties as such members, take and subscribe an oath to support the constitution and laws of the State of Washington and of the United States, and to well and faithfully, and without partiality, perform the duties of such office according to the best of their knowledge and ability; which oaths shall be filed and preserved of record in the office of the secretary of said board. Said medical examining board shall elect a president, secretary and treasurer, and shall have a common seal. The president and secretary shall have the power to administer oaths; said medical examining board shall hold meetings for examination on the first Tuesday of January and July of each year; said meetings shall be held alternately in western and eastern Washington, at such places as the board may designate: *Provided*, That the first meeting be held at Olympia within thirty (30)

Organization
and powers of
board.

days after the appointment and qualification of said board: *And provided*, That the board may call special meetings when, in the opinion of a majority of said board, such special meetings are necessary. Said board shall keep a record of all the proceedings thereof, and also a record or Register. register of all applicants for a license, together with his or her age; the time such applicant shall have spent in the study and practice of medicine and surgery, if they shall have so practiced at all, and the name and location of all institutions granting to such applicants degrees or certificates of lectures in medicine or surgery. Said record or register shall also show whether such applicant was rejected or licensed under this act. Said books and register shall be *prima facie* evidence of all matters therein recorded.

SEC. 3. Hereafter, every person desiring to commence the practice of medicine and surgery, or either of them, in any of their or its branches in this state, shall make a written application to said board for a license so to do, Application and license. which application shall be supported and accompanied by an affidavit of such applicant setting forth the actual time spent by the applicant in the study of medicine and surgery, and when; whether such study was in an institution of learning, and if so, the name and location thereof; and if not in such institution, where and under whose tutorship such study was prosecuted; the time said applicant shall have been engaged in the actual practice, if at all, of medicine and surgery, or either of them, and where the applicant was located during the time of such practice, and the age of the applicant at the time of making such application, such application and affidavit to be filed and preserved of record in the office of the secretary of said board. Such applicant, at the time and place designated by said board, or at the regular meeting of said board, shall submit to an examination in the following Examination of applicants. branches, to-wit: Anatomy, physiology, chemistry, histology, materia medica, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such

other branches as the board shall deem advisable. Said board shall cause such examination to be both scientific and practical, and of sufficient severity to test the candidate's fitness to practice medicine and surgery; which examination shall be by written or printed, or partly written and partly printed, questions and answers, and the same shall be filed and preserved of record in the office of the secretary of said board. After examination, if the same be satisfactory, said board shall grant a license to such applicant to practice medicine and surgery in the State of Washington; which said license can only be granted by the consent of not less than five members of said board, except as hereinafter provided, and which said license shall be signed by the president and secretary of said board, and attested by the seal thereof. The fee for such examination shall be ten (\$10) dollars, and shall be paid by the applicant to the treasurer of said board toward defraying the expenses thereof; and such board may refuse or revoke a license for unprofessional or dishonorable conduct, subject, however, to the right of such applicant to appeal from the decision of said board refusing or revoking such license as hereinafter provided.

Condition and terms of license.

Fee.

Definition of terms.

SEC. 4. The words "unprofessional or dishonorable conduct," as used in section three (3) of this act, are hereby declared to mean—*First*, the procuring, or aiding or abetting in procuring, a criminal abortion; *second*, the employing of what are popularly known as "cappers" or "steerers;" *third*, the obtaining of any fee on the assurance that a manifestly incurable disease can be permanently cured; *fourth*, the wilfully betraying of a professional secret; *fifth*, all advertising of medical business in which untruthful and improbable statements are made; *sixth*, all advertising of any medicines or of any means whereby the monthly periods of women can be regulated, or the menses re-established if suppressed; *seventh*, conviction of any offense involving moral turpitude; *eighth*, habitual intemperance.

SEC. 5. In any case of the refusal or revocation of a license by said board under the provisions of this act, said board shall file a brief and concise statement of the grounds

Duty of board.

and reasons for such refusal or revocation, in the office of the secretary of said board, which said statement, together with the decision of said board, in writing, shall remain of record in said office. Before a license can be revoked by said board for unprofessional or dishonorable conduct under the provisions of this act, a complaint of some person under oath must be filed in the office of the secretary of said board, charging the acts of unprofessional or dishonorable conduct and facts complained of against the licentiate accused, in ordinary and concise language, and thereupon said board shall cause to be served upon such accused licentiate a written notice and copy of such complaint, which said notice shall contain a statement of the time and place of hearing of the matters and things set forth and charged in such complaint, and said notice shall be so served at least ten days prior to the time of such hearing. Such accused licentiate may appear at such hearing, and defend against the accusations of such complaint, personally and by counsel, and may have the sworn testimony of witnesses taken and present other evidence, in his behalf at such hearing, and said board may receive the arguments of counsel at such hearing.

Rights of defendant.

SEC. 6. In any case of the refusal or revocation of a license by said board under the provisions of this act, the applicant whose application shall be so refused, and the licentiate whose license shall be so revoked by said board, shall have the right to appeal from the decision so refusing or revoking such license within thirty days after the filing of such decision in the office of the secretary of said board, as hereinbefore in this act provided. Such appeal shall be to the superior court in and for the county in which was held the last general meeting of said board, prior to the refusal of such license, in the case of such refusal; and to the superior court in and for the county in which the hearing was had upon which such license was revoked, in case of such revocation. In any case a person desiring to take such appeal shall serve, or cause to be served, upon the secretary of said board a written notice of such appeal, which shall contain a statement of the grounds of such appeal, and shall file in the office of

Right of appeal.

such secretary an appeal bond, with good and sufficient surety, to be approved by said secretary, to the State of Washington, conditioned for the speedy prosecution of such appeal, and the payment of such cost as may be adjudged against him upon such appeal. Said secretary shall, within ten (10) days after the service of said notice of appeal, and the filing and approval of said appeal bond, transmit to the clerk of the superior court to which such appeal is taken, a certified copy, under the seal of said board, of the decision of said board, and the grounds thereof, in the case of the refusal of a license; and in addition thereto, a certified copy under such seal of the complaint in the case of the revocation of a license, together with the bond and notice of appeal. The clerk of such court shall thereupon docket such appeal causes, and they shall stand for trial in all respects as ordinary civil actions, and like proceedings be had thereon. Upon such appeal said cause shall be tried *de novo*. Either party may appeal from the judgment of said superior court to the supreme court of the state in like manner as in civil actions within sixty (60) days after the rendition and entry of such judgment in said superior court. If such judgment shall be in favor of the party appealing from the decision of said board, and in case said examining board does not appeal from said judgment within said sixty (60) days, then, and in that case, said board shall, at the end of said sixty (60) days, and immediately upon the expiration thereof, issue to such successful party the usual license to practice medicine and surgery in this state, and in addition thereto, shall re-instate upon the records of said board the name of such successful applicant, in case of the revocation of his license by such board. In case of such appeal to the supreme court by said board, no such license shall be issued nor re-instatement be required until the final determination of said cause, and as hereinafter provided. In case the final decision of the supreme court be against said medical examining board, then and in that case said court shall make such order in the premises as may be necessary, and said board shall act accordingly: *Provided*, That in no case shall an appeal bond be

Duty of secretary of board.

Trial of appeals.

Reinstatement.

required of said board, nor shall any costs be adjudged or taxed against the same.

SEC. 7. The person receiving said license shall file the same, or a copy thereof, with the county clerk in and for the county where he or she resides, and said county clerk shall file said certificate, or copy thereof, and enter a memorandum thereof, giving the date of said license and name of the person to whom the same is issued, and the date of such filing, in a book to be provided and kept for that purpose; and said county clerk shall each year furnish to the secretary of said board a list of all certificates on file in his office, and upon notice to him of the change of location or death of a person so licensed, or of the revocation of the license granted to such person, said county clerk shall enter, at the appropriate place in the record so kept by him, a memorandum of said fact, so that the records kept by said county clerk shall correspond with the records of the board as kept by the secretary thereof. In case a person so licensed shall move into another county of this state, he or she shall procure from the county clerk a certified copy of said license, and file the same with the county clerk in the county to which he or she shall remove. Said county clerk shall file and enter the same with like effect as if the same was the original license.

License must
be filed.

SEC. 8. Any person practicing medicine or surgery within this state without first having obtained the license herein provided for, or contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars, or by imprisonment in the county jail not less than ten nor more than ninety days, or by both such fine and imprisonment. All such fines shall be paid into the state treasury for the use and benefit of the common schools. Any person shall be regarded as practicing within the meaning of this act who shall append the letters "M. D." or "M. B." to his or her name, or for a fee prescribe, direct or recommend for the use of any person any drug or medicine or agency for the treatment, care or relief of any wound,

Penalty for
violation.

fracture or bodily injury, infirmity or disease: *Provided, however,* The act shall not apply to dentists. Justices of the peace and the respective municipal courts shall have jurisdiction of violations of the provisions of this act. It shall be the duty of the respective county or district attorneys to prosecute all violations of this act. In cases of appeals to the superior court, as hereinbefore provided, it shall be the duty of the district attorney of the county wherein such appeal shall be tried, to represent said board upon said appeal, and in all cases of appeal to the supreme court under the provisions of this act, the attorney general shall represent said board upon such appeal.

Dentists exempt.

Jurisdiction.

Rules.

SEC. 9. Said board shall have authority to prescribe and establish all needful rules and regulations to carry into effect the provisions of this act.

Repealing clause.

SEC. 10. Section 2289 of the general laws of Washington Territory of 1881, and section 1, to amend section 2289 of the code of Washington Territory, are hereby repealed. *It is, however, provided,* That all persons licensed under said act, or having complied with the provisions thereof, shall be taken and considered as licensed under this act. And the secretary of the board herein provided for shall enter the names of such persons upon the register so kept by him as licensed physicians and surgeons, upon the written application of such persons.

SEC. 11. Whereas, great embarrassment and inconvenience in relation to the practice of medicine and surgery in this state will arise from delay of time when this act shall take effect; it is, therefore, declared that an emergency exists, and this act shall take effect and be in force in thirty days from and after the date of approval by the governor.

Received by the governor March 28, 1890.

[*Note by the Secretary of State.*—The foregoing act having been presented to the governor of the state for his approval, and not having been filed in the office of the secretary of state within the time prescribed by the constitution of the state, with his objections thereto, has become a law under the provisions of the constitution.]

FENCING OF MINES AND SHAFTS.

AN ACT to secure persons and animals from danger arising from mining.

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

SECTION 1. Any person or persons, company or corporation who shall hereafter dig, sink or excavate, or cause the same to be done, or being the owner or owners, or in the possession, under any lease or contract, of any shaft, excavation or hole, whether used for mining or otherwise, or whether dug, sunk or excavated for the purpose of mining, to obtain water, or for any other purpose, within this state, shall, during the time they may be employed in digging, sinking or excavating, or after they have ceased work upon or abandoned the same, erect, or cause to be erected, good and substantial fences or other safeguards, and keep the same in good repair around such works or shafts sufficient to securely guard against danger to persons and animals from falling into such shafts or excavations.

Duty of mining companies.

SEC. 2. Three persons being residents of the county, and knowing or having reason to believe that the provisions of section one of this act are being or have been violated within such county, may file a notice with any justice of the peace or police judge therein, which notice shall be in writing, and shall state—*First*, the location, as near as may be, of the hole, excavation or shaft. *Second*, that the same is dangerous to persons or animals, and has been left or is being worked contrary to the provisions of this act. *Third*, the name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. *Fourth*, if abandoned and no claimant; and *Fifth*, the estimated cost of fencing or otherwise securing the same against any avoidable accidents.

Actions for violations; how begun.

SEC. 3. Upon the filing of the notice, as provided in the preceding section, the justice of the peace or judge of the police court shall issue an order, directed to the sheriff of

the county or to any constable or city marshal therein, directing such officer to serve a notice in manner and form as is prescribed by law for service of summons upon any person or persons or the authorized agent or agents of any company or corporation named in the notice on file, as provided in section two of this act.

Requirement of notice.

SEC. 4. The notice thus served shall require the said persons to appear before the justice or judge issuing the same, at a time to be stated therein, not more than ten nor less than three days from the service of said notice, and show to the satisfaction of the court that the provisions of this act have been complied with; or if he or they fail to appear, judgment will be entered against him or them for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine not exceeding the sum of one hundred dollars for each and every violation of the provisions of this act, which judgments and fines shall be adjudged and collected as provided for by law.

Penalty.

SEC. 5. Suits commenced under the provisions of this act shall be in the name of the State of Washington, and all judgments and fines collected shall be paid into the county treasury for county purposes.

Duty of county commissioners.

SEC. 6. If the notice filed with the justice of the peace, or police judge, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, said justice of the peace, or judge, shall notify the board of county commissioners of the county, or either of them, of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid as other county expenses: *Provided*, That nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole, unless in their discretion, the same may be considered dangerous to persons or animals.

SEC. 7. It shall be unlawful for any person or persons, company or companies, corporation or corporations, to sink or work through any vertical shaft at a greater depth than one hundred and fifty feet, unless the said shaft shall be provided with an iron-bonneted safety cage, to be used in the lowering and hoisting of the employees of such person or persons, company or companies, corporation or corporations. The safety apparatus, whether consisting of eccentrics, springs or other device, shall be securely fastened to the cage, and shall be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk, provided the cable shall break. The iron bonnet aforesaid shall be made of boiler sheet iron of a good quality, of at least three-sixteenths of an inch in thickness, and shall cover the top of said cage in such manner as to afford the greatest protection to life and limb from any matter falling down said shaft.

Protection of employees.

SEC. 8. Any person or persons, company or companies, corporation or corporations, who shall neglect, fail or refuse to comply with the provisions of section seven of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars.

Penalty.

SEC. 9. Nothing contained in this act shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his heirs or administrator or administratrix, or any one else now competent to sue in an action of such character.

Effect of this act.

Approved March 20, 1890.

TRESPASS ON PUBLIC LANDS DEFINED.

AN ACT defining trespass on the public lands of the state, and providing punishment therefor.

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

SECTION 1. Every person who wilfully commits any trespass by cutting down, destroying or injuring any kind of wood or timber, or any tree standing or growing upon the state, school or granted lands, or by carrying away any kind of wood or timber lying on such lands, or by maliciously injuring or severing anything attached thereto or the produce thereof, or by digging, taking or carrying away any earth, soil, stone or mineral therefrom, shall be guilty of larceny.

SEC. 2. Whereas, the best interests of the state are in immediate need of the protection to be afforded by the provisions of this act: therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1890.

TRESPASS; TO DEFINE AND PUNISH.

AN ACT to define and punish trespass.

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

SECTION 1. If any person other than an officer on Offense defined. lawful business shall go or trespass upon any inclosed lands or premises not his own, and shall fail, neglect or refuse to depart therefrom immediately, and remain away until permitted to return, upon the verbal or printed or written notice of the owner or person in the lawful occupa-

tion of said lands or premises, such trespasser shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not less than five nor more than fifty dollars, and shall be committed in default of payment of the fine and costs imposed, to the jail of the county in which the offense is committed, one day for each two dollars of the said fine and costs: *Provided*, That any and all lands and premises enclosed by a lawful fence shall be deemed and considered enclosed lands within the meaning of this section: *And provided further*, That any and all precipices, embankments, streams, lakes or ponds, or other natural obstructions which equally secure them from trespass of any domestic animals, or shall be made so by artificial means, constituting any part of such enclosure shall, for all purposes of this section, be deemed lawful fences. Enclosed lands.

SEC. 2. If any person other than an officer on lawful business shall trespass upon any unenclosed lands or premises not his own by the erection of any house, tent, or by continuing to camp or live thereon, after receipt from the owner or person in the lawful occupation of said lands or premises, of verbal, written or printed notice to vacate such lands or premises, such trespasser shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in section one of this act.

SEC. 3. If any person shall wilfully enter upon the garden, orchard or other improved lands of another, or in his possession, with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetable products there growing and being, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one nor more than six months, or by fine not less than five, nor more than fifty dollars. Injury to trees or product.

SEC. 4. If any person shall wilfully cut down, destroy or injure any tree standing or growing upon any lands of this state, whether known as school lands or otherwise, or shall wilfully take or remove from any such lands any timber or wood previously cut or severed from the same, or shall dig, quarry, take or remove any mineral, earth or stone from such lands, except as provided by law, such Trespass on public lands.

person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

On wild land of another.

SEC. 5. If any person shall wilfully cut down, destroy or injure any standing or growing tree upon the lands of another, or shall wilfully take or remove from any such lands any timber or wood previously cut or severed from the same, or shall wilfully dig, take, quarry or remove from any such lands any mineral, earth or stone, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

On a mining claim.

SEC. 6. Any person who shall break or rob in any manner, or who shall attempt to break or rob, any flume, rocker, quartz mill, quartz vein, or lode, bed-rock sluice, sluice-box, or mining claim not his own, or who shall trespass upon such mining claim with the intent to commit a felony, shall, upon conviction thereof, be punished by imprisonment in the penitentiary of this state not less than one nor more than five years, or by fine not less than one hundred dollars nor more than one thousand dollars, or by both such imprisonment and fine, as the court or judge thereof may direct.

On property of the U. S.

SEC. 7. Any malicious, willful, reckless or voluntary injury to, or mutilation of, the grounds, buildings or other property of the United States within this state shall subject the offender or offenders to a fine of not less than twenty dollars, to which may be added, for an aggravated offense, imprisonment not exceeding six months in the county jail or workhouse, to be prosecuted before any court of competent jurisdiction.

Injury to public improvements.

SEC. 8. If any person shall wilfully break down, injure, remove, or destroy, any free or toll bridge, railway, plank road, macadamized road, telegraph posts or wires, or any gate upon any such road, or any lock, or embankment of any canal, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not

less than six months nor more than two years, or by fine not less than fifty nor more than one thousand dollars.

SEC. 9. If any person shall maliciously or wantonly set on fire any prairie or other grounds, other than his own or those of which he is in the lawful possession, or shall wilfully or negligently permit or suffer the fire to pass from his own grounds or premises to the injury of another, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Trespass by fire.

SEC. 10. If any person shall maliciously or wantonly cut down, destroy or injure any bush, shrub, fruit or other tree not his own, standing or growing for fruit, ornament or other useful purpose, or shall wilfully break the glass in or deface any building not his own, or shall wilfully break down or destroy any fence or hedge belonging to or inclosing land not his own, or shall wilfully throw down, or open and leave down, or open any bars, gate or fence or hedge belonging to or inclosing land not his own, or shall maliciously or wantonly sever from the land of another any produce thereof, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than ten dollars nor more than five hundred dollars.

Defacing buildings.

SEC. 11. If any person shall wilfully break down, injure, remove or destroy any monument erected or used for the purpose of designating the boundary of any town, tract or parcel of land, or any tree marked for that purpose, or shall wilfully break down, injure, remove or destroy any mile-stone, board or post, or any guide or finger-board, erected or placed upon any road or highway, or shall wilfully alter or deface the inscription upon any such stone, post or board, or shall wilfully extinguish any lamp, or break, injure, destroy or remove any lamp, lamp-post, sign or sign-post, or any railing or posts erected upon any street, highway, sidewalk, court or passage, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor

Monument or guide board.

more than one year, or by fine not less than ten dollars nor more than five hundred dollars.

Notice.

SEC. 12. Printed or written notices having attached thereto, by authority, the name of the owner or person in lawful occupation of said lands or premises, and requiring all persons to forbear trespassing on said lands or premises, and to depart therefrom, posted in three conspicuous places on said lands or premises, shall be held and deemed to be sufficient *prima facie* evidence of notice, as mentioned in sections one and two of this act.

SEC. 13. Vetoed by the governor.

SEC. 14. Inasmuch as the existing laws of this state relative to trespass are defective and insufficient, this act shall take effect and be in force from and after its approval by the governor.

SEC. 15. All acts or parts of acts in conflict with any of the provisions of this are hereby repealed.

Approved March 15, 1890.

BUILDERS; FOR THE PROTECTION OF.

AN ACT for the protection of builders, and declaring an emergency.

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

SECTION 1. That any person, firm or corporation contracting with another to supply labor or material for any purpose whatever, who shall fraudulently represent that the labor or material supplied has been paid for, and shall, upon such fraudulent representation, collect the price thereof, shall be deemed guilty of a felony, and upon conviction thereof, shall be fined in any sum not exceeding one thousand dollars, or imprisonment in the penitentiary for any term not exceeding two years, or both.

SEC. 2. Whereas, there is immediate necessity for the

relief of builders: therefore, an emergency is declared to exist, and that this act shall be in force after its passage and approval by the governor.

Approved February 27, 1890.

RECEIVERS OF STOLEN PROPERTY.

AN ACT to amend sections 849 and 850 of the Code of Washington, concerning crimes and punishments.

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

SECTION 1. Sections 849 and 850 of the code of Washington, concerning crimes and punishments, are hereby amended to read as follows: Section 849. Every person Offense defined who shall buy, receive or aid in the concealment of stolen property, money or goods, knowing the same to have been stolen, or who shall bring, or aid in bringing, into this state from any other state or territory of the United States, or from any foreign country, any such stolen property, money or goods, knowing the same to have been stolen, shall, upon conviction thereof, be imprisoned in the Penalty. penitentiary not more than four years nor less than one year, or be imprisoned in the county jail not more than two years nor less than one month, and shall be fined not exceeding five hundred dollars nor less than one hundred dollars. Section 850. In any prosecution for the offense of buying, receiving or aiding in the concealment of stolen property, money or goods known to have been stolen, or for bringing or aiding in bringing into this state any such property, money or goods known to have been stolen, it shall not be necessary to aver, nor on the trial thereof to prove, that the person who stole such property has been convicted, nor that the larceny of such property, nor that any conspiracy or agreement between the defendant and

any other person or persons concerning the stealing, buying, receiving, concealing or bringing of such stolen property was committed or entered into within the jurisdiction of the court trying the case.

Approved March 26, 1890.