

switched off. The power shall not be switched on while the inclosures are open.

No electric coal cutting machine or electric drilling machine shall be operated in a gaseous portion of a coal mine.

Electric drill prohibited.

The person in charge of a coal cutter or drilling machine shall not leave the machine while it is working, and shall, before leaving see that the current or air is cut off from the machine.

Person in charge.

Passed the House February 18, 1933.

Passed the Senate March 7, 1933.

Approved by the Governor March 17, 1933.

CHAPTER 138.

[H. B. 288.]

CIVIL ACTIONS.

AN ACT relating to new trials in civil actions and to appeals in such actions, and amending section 399 of Remington's Compiled Statutes of Washington, and adding two new sections thereto.

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

SECTION 1. That Remington's Compiled Statutes of Washington, section 399, be amended to read as follows:

Amends
§ 399, Rem.
Comp. Stat.

Section 399. The former verdict or other decision may be vacated and a new trial granted, on the motion of the party aggrieved, for any of the following causes materially affecting the substantial rights of such party:

1. Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial;

Irregularity.

2. Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have

Misconduct.

been induced to assent to any general or special verdict to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

Surprise.

3. Accident or surprise which ordinary prudence could not have guarded against;

Newly discovered evidence.

4. Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

Excessive damages.

5. Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

Error in amount of recovery.

6. Error in the assessment of the amount of recovery, whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

Contrary to law.

7. That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

Error in law.

8. Error in law occurring at the trial and excepted to at the time by the party making the application.

Remission or increase of damages, new trial.

SEC. 2. If the trial court shall, upon a motion for new trial, find the damages awarded by a jury to be so excessive or inadequate as unmistakably to indicate that the amount thereof must have been the result of passion or prejudice, the trial court may order a new trial or may enter an order providing for a new trial unless the party adversely affected shall consent to a reduction or increase of such verdict, and if such party shall file such consent and the opposite party shall thereafter appeal from the judgment entered, the party who shall have filed such consent shall not be bound thereby, but

upon such appeal the supreme court shall, without the necessity of a formal cross-appeal, review *de novo* the action of the trial court in requiring such reduction or increase, and there shall be a presumption that the amount of damages awarded by the verdict of the jury was correct and such amount shall prevail, unless the supreme court shall find from the record that the damages awarded in such verdict by the jury were so excessive or so inadequate as unmistakably to indicate that the amount of the verdict must have been the result of passion or prejudice.

Appeal.

Presumption.

SEC. 3. Ajudication of invalidity of any of the sections of this act, or any part of any section, shall not impair or otherwise affect the validity of any other of said sections or remaining part of any section.

Partial invalidity.

Passed the House March 5, 1933.

Passed the Senate March 8, 1933.

Approved by the Governor March 17, 1933.

CHAPTER 139.

[H. B. 374.]

RENTALS FOR STATE LAND.

AN ACT relating to the collection of rentals for the lease of state lands, providing for extension of time for the payment of rental, amending section 67 of chapter 255 of the Laws of 1927 and declaring that this act shall take effect immediately.

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

SECTION 1. That section 67 of chapter 255 of the Laws of 1927 be amended to read as follows:

Amends § 67, ch. 255, Laws of 1927.

Section 67. The commissioner of public lands shall keep a full and complete record of all leases issued under the provisions of the preceding sec-

Record of leases.