

SESSION LAWS

OF THE

STATE OF WASHINGTON

ELEVENTH SESSION

Convened January 11; Adjourned March 11

1909

COMPILED IN CHAPTERS, WITH MARGINAL NOTES

—BY—

SAM H. NICHOLS

Secretary of State

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EXPLANATORY NOTE.

The Eleventh Legislature convened on January 11th, 1909, at 12 o'clock noon (that being the second Monday) and adjourned *sine die* on March 11th, 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 June 8th, 1909, except certain relief bills, appropriation bills and those acts having an emergency clause.

SAM H. NICHOLS,
Secretary of State.

LAWS OF WASHINGTON.

CHAPTER 1.

[S. B. 1.]

APPROPRIATION FOR LEGISLATIVE EXPENSES.

AN ACT appropriating the sum of eighty-five thousand dollars, or so much thereof as may be necessary, for the expenses of the Eleventh Legislature.

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 the sum of eighty-five thousand dollars (\$85,000), or so much thereof as may be necessary to be used for the purpose of paying the expenses of the Eleventh Legislature of the State of Washington.

Appropriation
legislative
expenses
\$85,000.

Passed by the Senate January 11, 1909.

Passed by the House January 11, 1909.

Approved January 12, 1909.

CHAPTER 2.

[S. B. 47.]

SEAL OF INSURANCE DEPARTMENT.

AN ACT prescribing the form of the official seal of the State Insurance Commissioner, and declaring an emergency.

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

SECTION 1. The seal of the State Insurance Commissioner of the State of Washington shall be a vignette of General George Washington, with the words, "Insurance Department, State of Washington," surrounding the vignette.

Seal Insur-
ance Depart-
ment.

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

Emergency.

Passed by the Senate January 20, 1909.

Passed by the House January 21, 1909.

Approved January 29, 1909.

CHAPTER 3.

[S. B. 39.]

APPROPRIATION, INSURANCE DEPARTMENT.

AN ACT making an appropriation for furniture, supplies, clerk hire and sundry expenses for the office of the State Insurance Commissioner.

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

Appropriation
Insurance
Department
\$1,682.50.

SECTION 1. There is hereby appropriated out of the general fund in the State Treasury the sum of one thousand six hundred eighty-nine and 17-100 dollars to be used by the State Insurance Commissioner as follows: In the purchase of furniture and supplies for said office, six hundred eighty-two and 50-100 dollars; in payment of traveling and incidental expenses, postage and extra help, seven hundred and fifty dollars; salary for clerk from January 13, 1909, to April 1, 1909, two hundred fifty-six and 67-100 dollars.

Passed by the Senate January 25, 1909.

Passed by the House January 26, 1909.

Approved January 29, 1909.

CHAPTER 4.

[H. B. 31.]

APPROPRIATION, LEGISLATIVE PRINTING.

AN ACT appropriating the sum of ten thousand dollars, or so much thereof as may be necessary to pay for such printing as may be ordered by the Eleventh Legislature or either branch thereof.

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

Appropriation
Legislative
printing
\$10,000.

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 ten thousand dollars, to pay for such printing as may be ordered by the Eleventh Legislature, or either branch thereof, such printing to

be done under the provisions of an act of the Legislature approved March 11th, 1905.

Passed by the House January 19, 1909.

Passed by the Senate January 20, 1909.

Approved February 3, 1909.

CHAPTER 5.

[H. B. 40.]

APPROPRIATION, A.-Y.-P. EXPOSITION.

AN ACT continuing the appropriation made by an act entitled: An act to provide for an exhibit of the resources, products and advantages of the State of Washington, and the erection of a state building or buildings at the World's Fair of Alaska-Yukon-Pacific Exposition, to be held at Seattle, Washington, 1909, making an appropriation to pay the cost of such exhibit and state building or buildings out of a special fund to be created, and declaring an emergency, approved February 4, 1907, and amend sections 2, 7 and 8 thereof, making an appropriation and declaring an emergency.

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

SECTION 1. That the appropriation made by an act entitled: An act to provide for an exhibit of the resources, products and advantages of the State of Washington and the erection of a state building or buildings at the World's Fair of Alaska-Yukon-Pacific Exposition, to be held at Seattle, Washington, in 1909, making an appropriation to pay the cost of such exhibit and state building or buildings out of a special fund to be created, and declaring an emergency." Approved February 4, 1907, is hereby renewed and continued until the first day of May, 1911, for the objects specified in the foregoing title to said act.

Appropriation
in ch. 5, L.
'07, con-
tinued.

SEC. 2. That section 2 of said act be and the same is hereby amended to read as follows: Sec. 2. Said commissioners so appointed shall serve without salary, but shall be allowed actual necessary expenses incurred in attending meetings of said commission in discharge of the duties of

[A'md. § 2,
ch. 5, p. 9,
L. '07.]

the office, to be paid out of the sum of money hereinafter appropriated, upon vouchers in the manner provided for the disbursement of general appropriations: *Provided, however,* That said commissioners shall appoint one of their number whose duty it shall be to remain in the office of the commission until the expiration of the said Exposition, and the conclusion of the work of said commission, and to have general supervision over the officers and agents employed or appointed by said commission, and to carry out the orders and directions of said commission in the absence of a quorum thereof, and to exercise such further powers and perform such other duties as may from time to time be prescribed by said commission, and he shall receive for said services a salary to be fixed by the commission not to exceed two hundred and twenty-five dollars per month, including expenses, said salary to be paid out of the money hereinafter appropriated.

One commissioner to receive salary.

[Am'd. § 7,
ch. 5, p. 10,
L. '07.]

SEC. 3. That section 7 of said act be amended to read as follows: Sec. 7. To carry out the purposes and provisions of this act, the sum of four hundred thousand dollars (\$400,000.00) or so much thereof as may be necessary, inclusive of any portion thereof heretofore expended pursuant to the authority given by this act, is hereby appropriated out of the special Alaska-Yukon-Pacific Exposition fund. The State Auditor is hereby authorized and directed to issue warrants payable out of the said Alaska-Yukon-Pacific Exposition fund, not exceeding in all the said sum of four hundred thousand dollars (\$400,000.00) upon vouchers showing the items of each disbursement, certified by said executive commissioner, and approved in writing by the president of the commission attested by its secretary, in the manner provided for the disbursement of general appropriations; and the State Treasurer is hereby authorized and directed to pay such warrants, but only out of the surplus, if any, of money which shall come into said special fund in excess of the amount appropriated out of said fund, to be expended by or under direction of the Board of Regents of the University of the State of Wash-

ington. Said warrants shall bear interest at the rate of six per cent. (6%) per annum and be payable in the same manner as provided by law for other state warrants. Interest guaranteed.

SEC. 4. Section 8 of said act is hereby amended to read as follows: Sec. 8. Indebtedness incurred or warrants issued hereunder shall be payable only from the Alaska-Yukon-Pacific Exposition fund, and shall never be nor become general indebtedness against the state: *Provided, however,* That in order to promote the objects of this act, the said State of Washington hereby guarantees the payment of the interest on all warrants issued or to be issued under this act, out of its general fund annually on the first day of May in each year: *And provided further,* That all interest herein advanced by the state shall be repaid to the general fund out of the first moneys thereafter coming into the said Alaska-Yukon-Pacific Exposition fund. [Am'd. § 8, ch. 5, p. 11, L. '07.]
Reimbursement of general fund.

SEC. 5. For the purpose of paying the interest on the warrants as authorized by this act, the sum of fifty thousand (\$50,000) dollars or so much thereof as may be necessary is hereby appropriated out of the general fund.

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

Passed by the House January 20, 1909.

Passed by the Senate January 21, 1909.

Approved February 3, 1909.

CHAPTER 6.

[H. B. 1.]

PROHIBITING RACE TRACK GAMBLING.

AN ACT relating to betting, wagering, pool-selling and book-making upon horse races, or upon the result of any trial or contest of speed or endurance of any animal, declaring the violation thereof a felony, fixing a penalty.

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

SECTION 1. Any person who receives, records or registers bets, stakes or wagers, or who sells pools, or makes a

book or books, upon any horse race, or upon the result of any trial or contest of speed or power of endurance of any animal, whether such race, trial or contest takes place within or without this state; or any person who receives, registers, records, forwards or transmits, or purports or pretends to receive, register, record, forward or transmit, in any manner whatsoever, any money, checks, credits, or any other representative of value, or any property, thing or consideration of value whatsoever, bet, staked or

Bookmaking. wagered, by or for any other person, upon any such race or result, whether to be bet, staked or wagered within or outside this state; or any person who uses, or has in his possession for use, any book, paper, board, device, apparatus or paraphernalia, for the purpose, actual or pretended, of receiving, recording, registering, forwarding or transmitting any bets, stakes or wagers, or of book-making or pool-selling, upon any such race or result; or any person who keeps, manages, conducts, maintains or occupies any house, room, shop, shed, tenement, tent, booth, building, float or vessel, or any part thereof, or who keeps, manages, conducts, maintains or occupies any place or stand, of any kind, upon any public or private ground, street, park, garden, enclosure or place, for the purpose of receiving, recording, registering, forwarding or transmitting any bets, stakes or wagers, or of selling pools, or of book-making, upon any such race or result; or any person who being the owner, lessee or occupant of any house, room, shop, shed, tenement, tent, booth or building, float or vessel, or part thereof, or of any ground, park, garden, enclosure or place, knowingly permits the same to be used or occupied for any of the purposes herein prohibited, or who knowingly permits to be kept, exhibited or used therein any book, paper, board, device, apparatus or paraphernalia, for the purpose of recording or registering such bets, stakes or wagers, or for the purpose of such pool-selling or book-making; or any person, whether as principal, employer, owner, proprietor, agent, employe or assistant, or as officer, agent or employe of a corporation, who aids,

Places where conducted.

assists or abets, in any manner, any of the said acts or things which are hereby forbidden, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for a period of not less than one, nor more than three, years.

Passed the House January 27, 1909.

Passed the Senate February 3, 1909.

Approved February 11, 1909.

CHAPTER 7.

[S. B. 11.]

RELIEF OF J. F. COLLIER.

AN ACT for the relief of J. F. Collier, Adams county, State of Washington, and making appropriation therefor.

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

SECTION 1. That the sum of three hundred and twenty (320.00) dollars be, and is hereby appropriated out of the state treasury, from any funds not otherwise appropriated, to pay J. F. Collier for the value of improvements on section thirty-six (36), township sixteen (16) north, range thirty-five (35) east of the Willamette meridian, in the county of Adams, State of Washington, heretofore sold by the State of Washington to one Ed Binford, under application No. 4193, the value of which was never refunded to the said J. F. Collier by the State of Washington.

Appropriation
\$320.00.

SEC. 2. The State Auditor is hereby authorized to draw a warrant on the State Treasurer for the said sum in favor of J. F. Collier, and the said Treasurer is hereby directed to pay said warrant out of any funds in the state treasury not otherwise appropriated.

Passed the Senate January 21, 1909.

Passed the House January 28, 1909.

Approved February 11, 1909.

CHAPTER 8.

[S. B. 30.]

RELIEF OF R. E. DARNELL.

AN ACT for the relief of R. E. Darnell and making an appropriation therefor.

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

Appropriation
\$30.

SECTION 1. That the sum of thirty dollars (\$30) be and is hereby appropriated out of the state treasury from any funds not otherwise appropriated, to pay R. E. Darnell for the value of improvements on the north half of the northwest quarter of section thirty-six, township seven, north of range one east W. M., in the county of Cowlitz, State of Washington, heretofore sold by the State of Washington to one L. W. Wyncoop under application number 2698, the value of which was never refunded by the State of Washington to the said R. E. Darnell.

SEC. 2. The State Auditor is hereby authorized to draw a warrant on the State Treasurer for the said sum in favor of said R. E. Darnell, and said Treasurer is hereby directed to pay said warrant out of any funds in the state treasury not otherwise appropriated.

Passed the Senate January 20, 1909.

Passed the House January 26, 1909.

Approved February 11, 1909.

CHAPTER 9.

[S. B. 34.]

APPROPRIATION FOR SECRETARY OF STATE.

AN ACT making an appropriation for the payment of sundry expenses in the office of the Secretary of State.

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

SECTION 1. There is hereby appropriated out of the general fund in the state treasury the sum of three hun-

dred (300) dollars, to be used by the Secretary of State in the same manner as other appropriations for his office, for postage and incidental expenses for the fiscal year ending March 31, 1909. Appropriation
\$300.

Passed the Senate January 20, 1909.

Passed by the House February 1, 1909.

Approved February 11, 1909.

CHAPTER 10.

[H. B. 2.]

ADDITIONAL JUDGE FOR PIERCE COUNTY.

AN ACT providing for four judges of the superior court of the State of Washington in and for Pierce county, providing for an appointment of the additional judge therein, providing for the election of his successor to serve until the second Monday of January, 1913; providing for the election of four judges of said court at the general election in November, 1912, and every four years thereafter; and declaring an emergency.

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

SECTION 1. Hereafter there shall be four judges of the superior court of the State of Washington, in and for Pierce county. Four judges
in Pierce
county.

SEC. 2. The Governor shall, upon the taking effect of this act, appoint one additional judge of said superior court, who shall hold his office from the time of his appointment until his successor is elected and qualified, which said successor shall be elected at the general election in November, 1910, and shall hold his office until the second Monday in January, 1913, and until his successor is elected and qualified. Governor to
appoint one.

SEC. 3. At the general election in November, 1912, there shall be elected four judges of said superior court, whose terms of office shall be four years from and after the second Monday in January, 1913, and until their successors are elected and qualified; and every four years there- Four elected
thereafter.

after there shall be elected at the general state election, four judges of said superior court, whose terms of office shall be four years from the second Monday in January, next succeeding their election, and until their successors are elected and qualified.

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

Passed the House January 22, 1909.

Passed by the Senate January 28, 1909.

Approved February 13, 1909.

CHAPTER 11.

[S. B. 124.]

APPROPRIATION, COMMISSIONER OF PUBLIC LANDS.

AN ACT making appropriation for maintenance of the office of the Commissioner of Public Lands and for the payment of sundry salaries and per diem of officers and for sundry expenses of said office.

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

SECTION 1. There is hereby appropriated out of the general fund in the state treasury the sum of \$17,380.00, to be used by the Commissioner of Public Lands, in the same manner as other appropriations for his office, in paying and defraying the expense of publishing notices of sale of public lands, the per diem and expenses of state land inspectors, the salaries and expenses of clerks employed in said office, postage, incidental and traveling expenses, premiums on bonds, and the costs and expenses of surveying, platting and appraising tide, shore and granted lands and of establishing harbor lines, and to reimburse individuals for advances made for these purposes, for the fiscal year ending March 31st, 1909.

Appropriation
\$17,380.

Passed by the Senate February 2, 1909.

Passed by the House February 8, 1909.

Approved February 13, 1909.

CHAPTER 12.

[S. B. 2.]

ADDITIONAL JUDGE FOR KING COUNTY.

AN ACT providing for seven judges of the superior court of the State of Washington, in and for King county, and fixing the term of office of the additional judge appointed, and providing for the election of a judge at the general election in November, 1910, and providing for the election of seven judges at the general election in November, 1912, and every four years thereafter, and declaring an emergency.

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

SECTION 1. That hereafter there shall be seven judges of the superior court of the State of Washington in and for King county. Seven judges for King county.

SEC. 2. The Governor shall, upon the taking effect of this act, appoint one additional judge for said superior court who shall hold his office from the time of his appointment until his successor is elected and qualified, which said successor shall be elected at the general election in November, 1910. Governor to appoint one.

SEC. 3. That at the general election in November, 1912, there shall be elected seven judges of the superior court of the State of Washington in and for King county, whose term of office shall be four years from the second Monday in January, 1913, and every four years thereafter, there shall be elected, at the succeeding general elections, seven judges of said superior court. Seven to be elected.

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

Passed by the Senate January 27, 1909.

Passed by the House February 9, 1909.

Approved February 16, 1909.

CHAPTER 13.

[S. B. 73.]

SALE OF GRAIN SACKS.

AN ACT to amend chapter 135 of the Session Laws of 1907, relating to the sale and distribution of grain sacks manufactured at the State Penitentiary, and declaring an emergency.

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

[Am'd. § 1,
ch. 135, p.
260, L. '07]

Sacks for
oysters.

SECTION 1. Section 1 of chapter 135 of the Session Laws of 1907 is hereby amended to read as follows: Section 1. All grain sacks manufactured at the State Penitentiary shall be sold directly to the farmers or oyster growers of the State of Washington who are actually engaged in farming or oyster culture, and no sacks shall be sold outside the State of Washington nor to any person not engaged in farming or oyster culture.

[Am'd. § 3,
ch. 135, p.
261, L. '07]

Distribution
of sacks.

SEC. 2. Section 3 of said act is hereby amended to read as follows: Sec. 3. At the same time that the Board of Control shall fix the price of said sacks the Board of Control shall apportion all sacks so manufactured among the grain growing counties of the State of Washington, *pro rata*, according to the quantity of grain produced in each of said counties during the current year, as determined by the State Grain Inspector, and it shall be the duty of the State Grain Inspector to ascertain and determine, approximately the yield of grain in each of said counties, for said purpose. Such estimate shall be furnished to the Board of Control on or before December 31st, of each year.

[Am'd. § 4,
ch. 135, p.
261, L. '07]

Notice of
apportionment.

SEC. 3. Section 4 of said act is hereby amended to read as follows: Sec. 4. It shall be the duty of the State Board of Control, immediately following such apportionment, to cause notice to be published in an official newspaper in each of said counties, in which notice of the quantity of grain sacks apportioned to such county, and the price fixed for the sale of same shall be stated, and the manner and time of application shall be set forth.

SEC. 4. Section 5 of said act is hereby amended to read as follows: Sec. 5. Any resident of the State of Washington actually engaged in growing grain within this state may apply for so many of said sacks as he shall require for his individual use, which application shall be made upon blanks prescribed and furnished by the State Board of Control. In making said application he shall state, under oath, the acreage of grain sown by him for that season, the probable aggregate yield therefrom, that the sacks applied for are for his individual use, and such other facts as the Board of Control may require. All such applications for grain sacks must be made and filed with the superintendent of the State Penitentiary prior to the first day of April of each year. In the event that all of the sacks assigned to any one county shall not be applied for, the State Board of Control may sell all sacks not applied for as above to farmers and oyster growers of the State of Washington on such terms and prices, not below cost of production, as may be determined by them.

[Am'd. § 5,
ch. 135, p.
261, L. '07.]

Application
for.

SEC. 5. Section 6 of said act is hereby amended to read as follows: Sec. 6. Upon receiving notice of the acceptance of his application, wholly or in part, the applicant shall forthwith transmit to the superintendent of the State Penitentiary, one-tenth of the purchase price of said sacks and the balance before delivery and not later than September 1st. If payment in full is not made before September 1st the one-tenth paid as above shall be forfeited to the state.

[Am'd. § 6,
ch. 135, p.
262, L. '07.]

Terms of sale.

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

Passed by the Senate February 2, 1909.

Passed by the House, February 10, 1909.

Approved February 17, 1909.

Emergency.

CHAPTER 14.

[H. B. 251.]

COUNTY EXHIBITS AT A.-Y.-P. EXPOSITION.

AN ACT providing for county exhibits and buildings at the Alaska-Yukon-Pacific Exposition, and amending section 1 of chapter 172 of the Session Laws of 1907, and declaring an emergency.

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

SECTION 1. That section 1 of chapter 172 of the Session Laws of 1907, be amended to read as follows: Section 1. That the boards of county commissioners of the several counties in this state are hereby empowered to make exhibits of the products of their respective counties at the Alaska-Yukon-Pacific Exposition, and to erect buildings in which to place said exhibits, and to appropriate money from the county current expense fund to meet the necessary expenses to be incurred in making such exhibits and constructing such buildings: *Provided*, That the total amount thus appropriated shall in no case exceed an amount equal to one-half of one mill on the dollar of taxable property of the county as shown by the assessment roll for the year 1908: *Provided further*, That the appropriation herein provided for shall be in addition to any appropriation heretofore made for any of the purposes herein named under and by virtue of any former act.

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

Passed by the House February 11, 1909.

Passed by the Senate February 18, 1909.

Approved February 23, 1909.

[Am'd. § 1,
ch. 172, p.
397, L. '07]

County levy
for A.-Y.-P.

Emergency.

CHAPTER 15.

[S. B. 18.]

DEPOSITARIES FOR COUNTY FUNDS.

AN ACT amending an act relating to the deposit of public funds in banks by the several county treasurers of this state, and declaring an emergency.

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

SECTION 1. That section 2 of chapter 51 of the Session Laws of 1907, be amended to read as follows: Sec. 2. Before any such designation or designations shall become effectual and entitle the said treasurer to make deposits in such bank or banks, the bank or banks so designated shall within ten days after such designation or designations have been filed, file with the county clerk of such county a surety bond to such county treasurer, properly executed by some reliable surety company qualified under the laws of this state to do business therein, in the maximum amount of deposits designated by said treasurer to be carried in such bank or banks, conditioned for the prompt and faithful payment thereof on checks drawn by such treasurer, which bond must be approved by the chairman of the board of county commissioners, the prosecuting attorney and the county treasurer, or any two of such officers of said county, before being filed with the county clerk, and unless so approved the same shall not be received or filed by the county clerk: *Provided*, That said depositary or depositaries may deposit with the county treasurer good and sufficient municipal, school district, county or state bonds or warrants, United States bonds, first mortgage railroad bonds listed on the New York stock exchange, or local improvement bonds or warrants whose legality have been passed upon favorably by the supreme court, or public utility bonds or warrants issued by or under the authority of any municipality of the state for water, power or light plants or maintenance thereof upon which principal

[Am'd. § 2,
ch. 51, p. 75,
L. '07]

Bond.

Municipal
securities in
lieu of bond.

or interest is not in default at the time of such deposit, the aggregate market value of which shall not be less than the amount required in said deposit, in lieu of the surety bond herein provided for.

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

Passed by the Senate January 26, 1909.

Passed by the House February 10, 1909.

Approved February 23, 1909.

CHAPTER 16.

[S. B. 106.]

MUNICIPALITIES OF OTHER STATES MAY ACQUIRE RIGHTS IN THIS STATE.

AN ACT to empower municipal corporations of other states to acquire title to lands and water rights within the State of Washington by purchase or condemnation for the purpose of securing or protecting their water supply and to prevent the pollution of such water supply and prescribing 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:

Municipality
of other
states.

SECTION 1. That any municipal corporation of any state adjoining the State of Washington may acquire title to any land or water right within the State of Washington, by purchase or condemnation, which lies within any watershed from which said municipal corporation obtains or desires to obtain its water supply.

Pollution of
water.

SEC. 2. That any person who shall place or cause to be placed within any watershed from which any city or municipal corporation of any adjoining state obtains its water supply, any substance which either by itself or in connection with other matter will corrupt, pollute or impair the quality of said water supply, or the owner of any dead animal who shall knowingly leave or cause to be left the carcass or any portion thereof within any such water-

shed in such condition as to in any way corrupt or pollute such water supply, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine in any sum not exceeding five hundred dollars.

SEC. 3. An emergency exists and this act shall take Emergency. effect immediately.

Passed by the Senate February 1, 1909.

Passed by the House February 18, 1909.

Approved February 24, 1909.

CHAPTER 17.

[H. B. 161.]

CREATING GRANT COUNTY.

AN ACT to create the county of Grant subject to the requirements of the State Constitution and the Statutes in respect to the establishment of new counties, and declaring an emergency.

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

SECTION 1. All of that portion of Douglass county, and State of Washington, described as follows, to-wit:

Beginning at the southeast corner of township 17 north, Boundaries. range 30 east of the Willamette Meridian, thence running west on the township line between townships 16 and 17 to the range line between ranges 27 and 28, thence south on said range line to the section line between sections 24 and 25 in township 14 north, range 27 east, thence west on said section line to the mid-channel of the Columbia river; thence up said channel of said river to a point, thence at right angles to the course of said channel to the meander corner of section 13 of township 20 north, range 22 east W. M., and section 18, township 20 north, range 23 east W. M., thence north along the range line between ranges 22 and 23 to the northwest corner of section 18, township 31 north, range 23 east W. M., thence east one mile to the southeast corner sec. 7, tp. 21, rg. 23 E.; north one mile

to the northwest corner sec. 8, tp. 21, rg. 23 E.; east one mile to the southeast corner sec. 5, tp. 21, rg. 23 E.; north one mile to the northeast corner sec. 5, tp. 21, rg. 23 E.; east one mile to the northeast corner sec. 4, tp. 21, rg. 23 E.; north one mile to the southeast corner sec. 28, tp. 22, rg. 23 E.; east one mile to the southeast corner sec. 27, tp. 22, rg. 23 E.; north two miles to the northeast corner sec. 22, tp. 22, rg. 23 E.; east one mile to the southeast corner sec. 14, tp. 22, rg. 23 E.; north one mile to the southeast corner sec. 11, tp. 22, rg. 23 E.; east one mile to the southeast corner sec. 12, tp. 22, rg. 23 E.; north two miles to the northwest corner sec. 6, tp. 22, N. R. 24 E.; east sixteen miles to the northeast corner sec. 3, tp. 22, N. R. 26 E.; north six miles to the northeast corner sec. 3, tp. 23, N. R. 26 E.; east one mile to the northeast corner sec. 2, tp. 23, N. R. 26 E.; north one mile to the northeast corner sec. 35, tp. 24, N. R. 26 E.; east one mile to the southeast corner sec. 25, tp. 24, N. R. 26 E.; north one mile to the southeast corner sec. 24, tp. 24, N. R. 26 E.; east one mile to the southeast corner sec. 18, tp. 24, N. R. 27 E.; north one mile to the southeast corner sec. 18, tp. 24, N. R. 27 E.; east one mile to the southeast corner sec. 17, tp. 24, N. R. 27 E.; north one mile to the southeast corner sec. 8, tp. 24, N. R. 27 E.; east one mile to the southeast corner sec. 9, tp. 24, N. R. 27 E.; north one mile to the southeast corner sec. 4, tp. 24, N. R. 27 E.; east one mile to the southeast corner sec. 3, tp. 24, rg. 27 E.; north one mile to the northeast corner sec. 3, tp. 24, rg. 27 E.; east three miles to the southeast corner sec. 31, tp. 25, N. R. 28 E.; north one mile to the southeast corner of sec. 30, tp. 25, N. R. 28 E.; east one mile to the southeast corner of sec. 29, tp. 25, N. R. 28 E.; north three miles to the southeast corner of sec. 8, tp. 25, N. R. 28 E.; east one mile to the southeast corner of sec. 9, tp. 25, N. R. 28 E.; north four miles to the southeast corner of sec. 21, tp. 26, N. R. 28 E.; east one mile to the southeast corner of sec. 22, tp. 26, N. R. 28 E.; north one mile to the southeast corner of sec. 15, tp. 26, N. R. 28 E.;

east one mile to the southeast corner of sec. 14, tp. 26, N. R. 28 E.; north two miles to the southeast corner of sec. 2, tp. 26, N. R. 28 E.; east one mile to the southeast corner of sec. 1, tp. 26, N. R. 28 E.; north two miles to the southeast corner of sec. 25, tp. 27, N. R. 28 E.; east one mile to the southeast corner of sec. 30, tp. 27, N. R. 29 E.; north six miles to the southeast corner of sec. 30, tp. 28, N. R. 29 E.; east one mile to the southeast corner of sec. 20, tp. 28, N. R. 29 E.; north one mile to the southeast corner of sec. 20, tp. 28, N. R. 29 E.; east two miles to the southeast corner of sec. 22, tp. 28, N. R. 29 E.; north one mile to the southeast corner of sec. 15, tp. 28, N. R. 29 E.; east one mile to the southeast corner of sec. 14, tp. 28, N. R. 29 E.; north two miles to the southeast corner of sec. 2, tp. 28, N. R. 29 E.; east one mile to the southeast corner of sec. 1, tp. 28, N. R. 29 E.; north one mile to the northeast corner of sec. 1, tp. 28, N. R. 29 E.; thence east along township line between townships 28 and 29 to the mid-channel of the Columbia river; thence up said channel of said river to the point where the Columbia Guide Meridian intersects said channel; thence running south on said Columbia Guide Meridian to the place of beginning, which said described territory shall constitute the county of Grant.

SEC. 2. The county of Grant shall assume and pay to the county of Douglas its proportion of the bonded and warrant indebtedness of Douglas county, in the proportions that the assessed valuation of that part of Grant county, lying within the present boundary of Douglas county, bears to the assessed valuation of the whole of Douglas county. The adjustment of said indebtedness shall be based on the assessment for the year 1908: *Provided*, That in the accounting between the said counties neither county shall be charged with any debt or liability incurred in the purchase of any county property or the purchase of any county building which shall fall within or be retained by the other county. Debts.

County seat. SEC. 3. The county seat of said county is hereby located at the town of Ephrata and shall there remain until the same shall be removed in accordance with the provisions of law.

Class. SEC. 4. Until otherwise classified said county of Grant is hereby designated as belonging to the fifteenth class.

Commissioners. SEC. 5. John Erickson, M. F. McAnnelly and R. W. Heathman all being residents of the herein proposed county of Grant shall be the first board of county commissioners of said Grant county, and they shall hold office until the second Monday in January, 1911, and until their successors are elected and qualified, and shall meet at the county seat of said Grant county within ten days after this act shall take effect, and shall qualify as such county commissioners by filing their oath of office with the judge of the superior court, who shall approve their bonds in the manner provided by law: *Provided, however,* That if any of the above named commissioners shall fail to qualify within the time specified, that the governor shall appoint a *bona fide* resident and qualified elector of said Grant county to fill the vacancy.

Precincts. SEC. 6. Such commissioners shall divide their county into precincts, townships, and districts as provided by the laws then existing, making only such changes as are rendered necessary by the altered condition of the boundaries occasioned by the segregation from the original county.

Old precincts. SEC. 7. In all townships, precincts, school and road districts which retain their old boundaries the present officers thereof shall retain their respective offices in and for such new county until their respective term of office shall expire, or until their successors are elected and qualified, and shall give bonds to Grant county in the same amount and in the same manner as had previously been given to the original county.

County officers. SEC. 8. Except as provided in the preceding section such commissioners shall be authorized and required to appoint all of the county officers of the county organized under the provisions of this act and of which they are com-

missioners, and the officers so appointed shall commence to hold their office immediately upon their appointment and qualification according to law and shall hold their offices until the second Monday in January 1911, or until their successors are elected and qualified.

SEC. 9. Until otherwise provided by law, said county shall be and hereby is attached to the district composed of Douglas county for judicial purposes. Judicial district.

SEC. 10. The board of county commissioners at a regular meeting held within one year from the time they shall qualify as commissioners of the county of Grant, by an order duly entered in the minutes of their proceedings, shall divide Grant county into three commissioners districts in the manner provided by law, and shall designate the boundaries thereof, and at the next general election in said county there shall be elected three commissioners, one from each of said districts; the commissioner from district number one to be elected for four years, and the commissioners from districts number two and three for two years. Commissioners districts.

SEC. 11. For the purpose of representation in the legislature until otherwise provided by law the county of Grant shall be included in the First Senatorial District, and shall constitute the fifty-ninth representative district; and shall be entitled to one representative. Legislative districts.

SEC. 12. Until the county of Grant is organized by the appointment and qualification of its officers, the jurisdiction of the present officers of Douglas county shall remain in full force and effect in those portions of the territory constituting the said county of Grant. Organization.

SEC. 13. Within such time as they shall be transcribed after this act shall have become affective, the county auditor of Douglas county shall certify from the records of said county all records and all papers and documents on file in anywise affecting the title to any estate or property, real or personal situated within the county of Grant, and the county commissioners of Grant county, shall provide at the expense of the county, proper and suitable record books, to which the said records shall be transcribed, and Records.

shall transcribe said records as hereinafter provided, in legible writing, and said record books and papers shall be delivered to the auditor of Grant county, and said records and documents so transcribed shall be accepted and received as evidence in all courts and places as if the same had originally been recorded or filed in the office of the auditor of Grant county.

Superior
court.

SEC. 14. All actions and proceedings which shall be pending in the superior court of Douglas county at the time of taking effect of this act, affecting the title or possession of real estate in Grant county, or in which all the parties are residents of Grant county, shall be transferred to the superior court of Grant county, and all further proceedings had therein shall be in Grant county, the same as if originally commenced in that county. All other proceedings civil or criminal now pending in the superior court of Douglas county, shall be prosecuted to the termination thereof in said county and court.

Court
records.

SEC. 15. All pleadings, process, documents and files in the office of the county clerk of Douglas county affecting pending suits and proceedings shall be transferred as provided in the preceding section, and all records therein transcribed as hereinafter provided, and certified by the county clerk of Douglas county, and transmitted to the county clerk of Grant county after said clerk shall have entered upon the duties of said office.

Transcribing
records.

SEC. 16. All records, documents, and papers of record, on file in the office of the county clerk, county auditor and all other officers of Douglas county, in anywise affecting the title or possession of real estate or other property in Grant county, and required to be transcribed, shall be transcribed and transmitted to the county clerk, county auditor, or other officer of Grant county by such person or persons as may be employed by the county of Grant for such purpose under the certificate of the county clerk, county auditor, and other officers of Douglas county, and said record and documents when so transcribed and trans-

ferred shall be received as evidence in all courts and places as originally recorded and filed, in the county of Grant.

SEC. 17. All records of Douglas county required by this act to be transcribed shall be transcribed by a person, to be employed by the county commissioners of Grant county as follows, to-wit: Said transcribing shall be done by a person or persons under contract, who shall receive said contract after bids for said work shall have been advertised and the contract given to the best bidder, all records so transcribed shall be certified by the officer of the respective offices from which said record shall be transcribed, under the seal of his office, in the manner following, to-wit: Each book of transcribed records shall be certified to be a correct transcript of the records of Douglas county, contained therein, and each officer so certifying shall finally certify to the completeness of all records as transcribed from his office. All original volumes of all records of the assessment rolls of Douglas county which include only property in the territory comprising the new county of Grant shall be transmitted to the county of Grant.

Records
transcribed
by contract.

SEC. 18. An emergency exists and this act shall take effect immediately. Emergency.

Passed by the House February 9, 1909.

Passed by the Senate February 15, 1909.

Approved February 24, 1909.

CHAPTER 18.

[H. B. 59.]

EQUAL SUFFRAGE, CONSTITUTIONAL AMENDMENT
PROPOSED.

AN ACT to amend article six (VI) of the Constitution of the State of Washington relating to the qualification of voters within the state.

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

SECTION 1. That at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1910, there shall be submitted to the qualified electors of this state for their adoption and approval an amendment to article six (VI) of the Constitution of the State of Washington, and it is hereby proposed that said article six (VI) be amended, by striking from said article six (VI) all of sections one (1) and (2) and inserting in lieu thereof the following, to be known as section one (1): Section 1. All persons of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all elections: They shall be citizens of the United States; they shall have lived in the state one year, and in the county ninety days, and in the city, town, ward or precinct thirty days immediately preceding the election at which they offer to vote; they shall be able to read and speak the English language: *Provided*, That Indians not taxed shall never be allowed the elective franchise: *And further provided*, That this amendment shall not affect the rights of franchise of any person who is now a qualified elector of this state. The legislative authority shall enact laws defining the manner of ascertaining the qualifications of voters as to their ability to read and speak the English language, and providing for punishment of persons voting or registering in violation of the provision of this section. There

Elector.

shall be no denial of the elective franchise at any election Sex.
on account of sex.

SEC. 2. The Secretary of State shall cause the amend- Publication.
ment proposed in section one (1) of this act to be pub-
lished for three months next preceding the said election
therein described in some weekly newspaper in every county
wherein a newspaper is published throughout the state.

SEC. 3. There shall be printed on all ballots provided Ballots.
for the said election the words: "For the proposed amend-
ment of article six (VI) of the Constitution relating to the
qualifications of voters within this state"; "Against the
proposed amendment to article six (VI) of the Constitu-
tion, relating to the qualifications of voters within this
state."

SEC. 4. If it shall appear from the ballots cast at the Proclamation.
said election that a majority of the qualified electors vot-
ing upon the question of the adoption of the said amend-
ment have voted in favor of the same, the Governor shall
make proclamation of the same in the manner provided
by law and the said amendment shall be held to have been
adopted and to have been a part of the Constitution from
the time of such proclamation.

Passed by the House January 29, 1909.

Passed by the Senate February 23, 1909.

Approved February 25, 1909.

CHAPTER 19.

[S. B. 77.]

APPROPRIATION, SUPERINTENDENT OF PUBLIC INSTRUCTION.

AN ACT making an appropriation for the payment of sundry expenses in the office of the Superintendent of Public Instruction.

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

Appropriation
\$300.

SECTION 1. There is hereby appropriated out of the general fund in the state treasury the sum of three hundred (\$300) dollars, to be used by the Superintendent of Public Instruction in the same manner as other appropriations for his office, for postage and incidental expenses for the fiscal year ending March 31, 1909.

Passed by the Senate January 27, 1909.

Passed by the House February 18, 1909.

Approved February 26, 1909.

CHAPTER 20.

[S. B. 99.]

APPROPRIATION FOR RAILROAD COMMISSION.

AN ACT for the appropriation of money to defray the expenses of the department of the Railroad Commission of the State of Washington, for the fiscal year ending March 31st, 1909.

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

Appropriation
\$2,000.

SECTION 1. That there be and is hereby appropriated out of the general fund in the state treasury, the sum of \$2,000.00, or so much thereof as may be necessary, to defray the expenses of the State Railroad Commission for the balance of the fiscal period ending March 31st, 1909.

Passed by the Senate February 1, 1909.

Passed by the House February 18, 1909.

Approved February 26, 1909.

CHAPTER 21.

[H. B. 112.]

APPROPRIATION FOR PUBLISHING PROPOSED CONSTITUTIONAL AMENDMENTS.

AN ACT making an appropriation for the payment of the publication of the notices required to be given by section 2, of chapter 67, section 2, of chapter 69, and section 24, of chapter 209, of the Laws of 1907.

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

SECTION 1. There is hereby appropriated out of the general fund the sum of three thousand, four hundred thirty-three and fifty one-hundredths dollars (\$3,433.50), for the payment of publishing the notices required by section 2, of chapter 67, section 2, of chapter 69, and section 24, of chapter 209, of the Laws of 1907, relating to the submission to the electors of the state of the amendments to the constitution and the publication of the result of the canvass of the primary election. The State Auditor is hereby authorized to draw warrants in favor of the persons entitled thereto upon vouchers approved by the Secretary of State.

Appropriation
\$3,433.50.

Passed by the House January 26, 1909.

Passed by the Senate February 24, 1909.

Approved February 26, 1909.

CHAPTER 22.

[S. B. 52.]

TIME OF MEETING OF PRESIDENTIAL ELECTORS.

AN ACT to amend section 1330 of Ballinger's Annotated Codes and Statutes of the State of Washington, relating to the meeting of presidential electors.

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

[Am'd. §1330,
Bal.]

SECTION 1. That section 1330 of Ballinger's Annotated Codes and Statutes of the State of Washington, be amended to read as follows: Sec. 1330. The electors of the President and Vice President shall convene at the seat of government on the day fixed by Federal statute, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill, by *viva voce* and plurality of votes, such vacancy; and when all of the electors shall appear, or the vacancies, if any, shall have been filled as above provided, such shall constitute the college of electors of the State of Washington, and shall proceed to perform the duties required of them by the constitution and laws of the United States.

Time of
meeting.

Passed by the Senate February 1, 1909.

Passed by the House February 18, 1909.

Approved February 26, 1909.

CHAPTER 23.

[S. B. 276.]

RELATING TO TAKING OF FOOD FISHES.

AN ACT relating to the taking of food fishes, providing a penalty for the violation thereof, amending section 3 of chapter 247 of the Session Laws of 1907, and declaring an emergency.

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

SECTION 1. That section 3 of chapter 247 of the Session Laws of 1907, be amended to read as follows: Section 3. It shall be unlawful to take or fish for salmon in the waters of Grays Harbor or its tributaries from the 15th day of March to the 15th day of April, and from the 25th day of November to the 25th day of December in each year. And also it shall hereafter be unlawful to take or fish for salmon in any of the following named tributaries of Grays Harbor from the 15th day of August to the 15th day of November in each year above the points hereinafter described, to-wit: It shall be unlawful to take or fish for salmon in the Chehalis river above a point one-half mile below the mouth of the Wynooche river; it shall be unlawful to take or fish for salmon above a point one-half mile above the mouth of the Humptulips river; it shall be unlawful to take or fish for salmon above a point one-half mile above the mouth of the Elk river; it shall be unlawful to take or fish for salmon above a point one-half mile above the mouth of the Johns river. The Fish Commissioner is hereby empowered to indicate the points above which fishing may not be done as provided hereinbefore, by driving piles at the points in said streams above designated, which shall mark the points above which said fishing shall not be done. It shall be unlawful to take or fish for salmon in the waters of Willapa Harbor or its tributaries from the 15th day of March to the 15th day of April, and from the 25th day of November to the 25th day of December in each year. And, also, it shall be unlawful to take or fish for salmon in any of the following tributaries of Willapa

[Am'd. § 3,
ch. 247, p.
683, L. '07]

Chehalis
river.

Elk river.

Willapa
Harbor.

Columbia
river.Closed
season.

Snake river.

Hook and
line.

Harbor above tide-water in said rivers: North river, Willapa river, and Nasel river. Nothing in this act shall be construed to prevent fishing with hook and line, commonly termed angling, in any of the above rivers. It shall be unlawful to take or fish for salmon or sturgeon in the Columbia river or its tributaries or in any of the waters or sloughs thereof west of the north and south line between sections 14 and 15 in township 15, east of the Willamette meridian, or within three miles outside of the mouth of said Columbia river, by any means whatever in any year between 12 o'clock meridian on the 1st day of March, and 12 o'clock meridian on the 1st day of May, and between 12 o'clock meridian on the 25th day of August and 12 o'clock meridian on the 10th day of September, and between 6 o'clock p. m. on Saturday of each week and 6 o'clock p. m. on the Sunday following from the 1st day of May to the 25th day of August, both inclusive, of any year. And it shall be unlawful to take or fish for salmon in the Columbia river or any of its tributaries easterly of the north and south line between sections 14 and 15 in township 15, east of the Willamette meridian, by any means whatever in any year between 12 o'clock meridian on the 15th day of March and 12 o'clock meridian on the 1st day of June or between 12 o'clock meridian on the 25th day of August and 12 o'clock meridian on the 10th day of September, except the Snake river. And it shall be unlawful to take or fish for salmon in the Snake river, or any of its tributaries, by any means whatever, in any year between 12 o'clock meridian on the 1st day of March and 12 o'clock meridian on the 1st day of June, or between 12 o'clock meridian on the 1st day of August and 12 o'clock meridian on the 15th day of September. And it shall be unlawful to take or fish for salmon by any means whatever, except with hook and line, commonly termed angling, in the Kalama river, Lewis river, Wind river, Little White Salmon river, Wenatchee river, Methow river, Little Spokane river, and Colville river, and in the mouths thereof, and in the Columbia river within one mile below the mouth

of the above named rivers: *Provided*, No traps shall be located on or within three miles below the mouth of the Lewis river. It shall be unlawful at any time to take any ^{Traps.} fish with a net, trap or other device than hook and line in Chambers creek in the county of Pierce, or within two hundred and fifty yards of the mouth of said creek, and the mouth of said creek shall be construed to mean the junction where the fresh and salt waters meet at low tide. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof for each and every offense be subject to a fine of not less than fifty dollars nor more than one thousand dollars, or may be imprisoned in the county jail not less than ten days nor more than one year, or may be both fined and imprisoned.

SEC. 2. An emergency exists and this act shall take ^{Emergency.} effect immediately.

Passed by the Senate February 24, 1909.

Passed by the House February 24, 1909.

Approved February 26, 1909.

CHAPTER 24.

[S. B. 198.]

RELATING TO SUPREME COURT.

AN ACT increasing the number of judges of the Supreme Court of the State of Washington, providing for the court *en banc* and for separate departments of such court, for the holding of terms thereof, for the method of hearing and determining causes therein, authorizing the making of rules; and declaring an emergency.

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

SECTION 1. The Supreme Court, from and after the ^{Nine judges.} taking effect of this act, shall consist of nine judges.

SEC. 2. Upon the taking effect of this act, the Governor ^{Governor to appoint two.} shall appoint the two additional judges herein provided

for, who shall hold office until the second Monday in January, 1911. At the next succeeding general election after the passage of this act there shall also be elected two judges, in addition to those provided by existing law, to hold office for the full term of six years commencing with the second Monday in January, 1911, and likewise every six years thereafter two judges shall be elected, in addition to those provided for by existing law.

Departments. SEC. 3. There shall be two departments of the Supreme Court, denominated respectively Department One and Department Two. The Chief Justice shall assign four of the associate judges to each department and such assignment may be changed by him from time to time: *Provided*, That the associate judges shall be competent to sit in either department and may interchange with one another by agreement among themselves, or if no such agreement be made, as ordered by the Chief Justice. The Chief Justice may sit in either department and shall preside when so sitting, but the judges assigned to each department shall select one of their number as presiding judge. Each of the departments shall have the power to hear and determine causes, and all questions arising therein, subject to the provisions in relation to the court *en banc*. The presence of three judges shall be necessary to transact any business in either of the departments, except such as may be done at chambers, but one or more of the judges may from time to time adjourn to the same effect as if all were present, and a concurrence of three judges shall be necessary to pronounce a decision in each department: *Provided*, That if three do not concur, the cause shall be reheard in the same department or transmitted to the other department, or to the court *en banc*.

en banc.

Chief Justice to apportion business. SEC. 4. The Chief Justice shall from time to time apportion the business to the departments, and may, in his discretion, before a decision is pronounced, order any cause pending before the court to be heard and determined by the court *en banc*. When a cause has been allotted to one of the departments and a decision pronounced therein, the

Chief Justice, together with any two associate judges, may order such cause to be heard and decided by the court *en banc*. Any four judges may, either before or after decision by a department, order a cause to be heard *en banc*.

The decision of a department, except in cases otherwise ordered as hereinafter provided, shall not become final until thirty days after the filing thereof, during which period a petition for rehearing, or for a hearing *en banc*, may be filed, the filing of either of which, except as hereinafter otherwise provided, shall have the effect of suspending such decision until the same shall have been disposed of. If no such petition be filed the decision of a department shall become final thirty days from the date of its filing, unless during such thirty-day period an order for a hearing *en banc* shall have been made: *Provided*, That if for any cause the Chief Justice or a majority of the department rendering any decision shall be of the opinion that such decision should go into effect prior to thirty days after its filing, it shall go into effect, and a judgment issue thereon, any time after its filing and prior to such thirty-day period, upon being in writing approved by the Chief Justice and any two associate judges who took no part in rendering such decision. The effect of granting a petition for a rehearing, or of ordering a cause once decided by department to be heard *en banc*, shall be to vacate and set aside the decision. Whenever a decision shall become final, as herein provided, a judgment shall issue thereon.

Causes may
be ordered
before court
en banc.

SEC. 5. The Chief Justice, or any four judges, may convene the court *en banc* at any time, and the Chief Justice shall be the presiding judge of the court when so convened. The presence of five judges shall be necessary to transact any business, and a concurrence of five judges present at the argument shall be necessary to pronounce a decision in the court *en banc*: *Provided*, That if five of the judges so present do not concur in a decision, then reargument shall be ordered and all the judges qualified to sit in the cause shall hear the argument, but to render a decision a concurrence of five judges shall be necessary;

Court
en banc.

Quorum.

and every decision of the court *en banc* shall be final except in cases in which no previous decision has been rendered in one of the departments, and in such cases the decision of the court *en banc* shall become final thirty days after its filing, unless during such period a petition for rehearing be filed. The filing of such petition within such period shall have the effect of suspending the decision until disposed of by the concurrence of five judges: *Provided*, That if for any cause five judges shall be of the opinion that such decision should go into effect prior to thirty days after its filing, it shall go into effect any time after its filing and prior to such thirty-day period upon being in writing approved by six judges of such court. Whenever a decision shall become final as herein provided, a judgment shall issue thereon.

Acting chief
justice.

SEC. 6. In cases of the absence of the Chief Justice, or his inability to act, the judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall perform the duties and exercise the powers of the Chief Justice during such absence or inability to act. In case there shall be two or more judges having in like manner the same short term, the other judges of the Supreme Court shall determine which of them shall perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

Court open,
when.

SEC. 7. The Supreme Court shall always be open for the transaction of business except on non-judicial days. It shall hold regular sessions for the hearing of causes *en banc*, and in each of its departments, at the capital of the state at the respective times now provided by law for holding terms of the Supreme Court. Special sessions at the same place may be held at such other times as may be prescribed by the judges of such court.

Rules.

SEC. 8. The Supreme Court may from time to time institute such rules of practice and prescribe such forms of process to be used in such court and in the court *en banc* and each of its departments, and for the keeping of the dockets, records and proceedings, and for the regulation of

such court, including the court *en banc* and in departments, as may be deemed most conducive to the due administration of justice.

SEC. 9. Until the organization of the court into separate departments shall have been consummated, and the transaction of business commenced in one or both of such departments, all causes and matters theretofore submitted to the court shall be disposed of by the court independent of the provisions of this act pertaining to such court *en banc* and in departments. Present cases.

SEC. 10. An emergency is declared to exist, and this act shall take effect immediately. Emergency.

Passed by the Senate February 10, 1909.

Passed by the House February 24, 1909.

Approved February 26, 1909.

CHAPTER 25.

[H. B. 102.]

RELATING TO STATE ROADS.

AN ACT to amend section two of an act of the Legislature of the State of Washington, entitled "An act providing for the establishment, construction and maintenance of state roads and making appropriations for state roads heretofore established," approved March 13th, 1907.

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

SECTION 1. That section two, of an act of the Legislature of the State of Washington, entitled "An act providing for the establishment, construction and maintenance of state roads, and making appropriations for state roads heretofore established," approved March 13th, 1907, be and the same is hereby amended to read as follows:

[Am'd. § 2,
ch. 151, p.
309, L. '07]

Sec. 2. No road shall hereafter be established as a state road until the same shall have been examined and if necessary surveyed, and shall have been found to be feasible and of public utility, and all facts concerning its feasibility and State road,
how
established.

utility have been reported to the State Legislature by the State Highway Commissioner.

Passed by the House February 1, 1909.

Passed by the Senate February 23, 1909.

Approved February 26, 1909.

CHAPTER 26.

[S. B. 29.]

LOCAL IMPROVEMENTS.

AN ACT relating to the collection of assessments for local improvements and amending section 1, of chapter 70, of the Session Laws of 1907, and declaring an emergency.

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

[Am'd. § 1.
ch. 70, p. 114,
L. '07]

SECTION 1. That section 1 of chapter 70 of the Session Laws of 1907 be and the same is hereby amended to read as follows: Section 1. That section 943 of Ballinger's Annotated Codes and Statutes of Washington, relating to assessments for local improvements, be amended to read as follows: Sec. 943. The city council is hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, alleys, avenues, highways and public places of such city. The expense or cost of improving and repairing, straightening or widening streets, sidewalks, alleys, squares or other public highways and places within the city, removing obstructions therefrom, grading, planking, paving, macadamizing, graveling and curbing the same and planting, setting out and cultivating of shade trees therein, and constructing gutters, culverts and sidewalks therein, shall be assessed as follows: The city council shall before grading, paving or other improvement of any street or alley, the cost of which is to be levied and assessed upon the property benefited, first pass a resolution or ordinance declaring its intention to make such improvement and stating in such resolution or ordinance the name of the street or alley to

Special
Assessments.

Resolution.

be improved, the points between which the said improvement is to be made, and the estimate of the cost of the same, and the cost of the same is to be assessed against the property (and included in the assessment district herein provided) and shall fix a time not less than ten days in which protests against such proposed improvement may be filed in the office of the city clerk. It shall be the duty of such clerk to cause such resolution to be published in the official newspaper of the city in at least two consecutive issues before the time fixed in such resolution for filing such protest, and affidavit of such publication shall be filed on or before the time fixed for such filing. If protests against the proposed improvement by the owners of more than two-thirds of the front feet of lots and lands abutting on such proposed improvement and included in the assessment district therein proposed be filed on or before the date fixed for such filing, the council shall not proceed further with the work unless six members of said council shall vote to proceed with such work. If no such protest is filed, or if such protest is filed and six councilmen shall vote to proceed with such work, the council shall at its next regular meeting proceed to consider the same, and shall then or at a subsequent time proceed to enact an ordinance for such improvement. By the provisions of such ordinance a local improvement district shall be established to be called "Local Improvement District No.," which shall include all the property fronting on the street to be improved between the points named in such resolution, to the distance back from such street, if platted in blocks, to the center of the blocks; if platted in lots, only to the center of each lot, and if not platted, to the distance of one hundred and twenty feet. Such ordinance shall provide that such improvement shall be made, and that the cost and expense thereof shall be taxed and assessed upon all the property in such local improvement district, which cost shall be assessed in proportion to the benefits derived by said improvement: *Provided*, That the city council may expend from the general fund for such purposes such sums as in

Notice.

Protests.

General fund.

their judgment may be fair and equitable in consideration of benefits accruing to the general public by reason of such improvements. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossing or crossings at corners or intersections of streets, and the expenses of establishing, building and repairing bridges in such city or any part thereof, may, at the option of the city council, be paid by such city, or may be assessed against the property in said improvement district, as the city council shall have provided in its resolution or ordinance declaring its intention to make such improvement; the expenses incurred in making and repairing sewers in any street, shall be paid by special assessment levied against the property benefited thereby. In all the streets constituting the water front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water front, or to such property of the city bounded thereon, shall be paid for by such city, but no contract for any such work shall be given except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvement mentioned in this section is done or made on one side of the center lines of such streets, avenues or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands or lots, the amount of said expenses or costs shall become a lien upon said lands or lots, which shall take precedence of all other liens except the lien of general taxes. Whenever the assessment on any such land or lots for the payment of the expenses or costs of such work shall become delinquent, the city treasurer of the city in which said lands or lots are situated shall certify the same to the county treasurer, who shall forthwith enter the amount of said assessment, together with any costs, penalties and in-

Water front
streets.

Assessments
delinquent.

County
treasurer to
collect.

terest thereon, on the general tax rolls of the county against the respective lands or lots affected, which amounts shall thereafter draw interest at the rate of fifteen per cent. per annum. The amounts assessed against any lands or lots for the expenses or cost of work as herein provided shall be collected in the same manner and by the same officers as general county and state taxes are collected, and said amounts shall be included in any certificate of delinquency that may be issued upon said lots or lands. In any suit for the foreclosure of such certificates of delinquency, if the court shall be satisfied that the work has been done or the material furnished which according to the true meaning and intent of this act would be properly chargeable upon any lot or land in said local improvement district, the judgment shall include such proportion of the value of such work or materials as would be chargeable against such lots or land, notwithstanding any informalities, irregularities or defects in any of the proceedings of such municipal corporation or its officers. The county treasurer shall account for and pay over to the city treasurer quarterly all moneys collected by him on account of said delinquent assessments, together with the interest thereon. In case any certificate of delinquency which includes any delinquent local assessment of a city of the third class shall be issued to the county, and the same shall be thereafter foreclosed, and the lots or lands described in said certificate of delinquency shall be sold, the county treasurer shall account for and pay over to the city treasurer the amount of such delinquent assessment and interest thereon up to the time of said sale: *Provided*, That if any lots or lands against which any delinquent local assessment has been entered on the county tax rolls shall be forfeited to the county for want of a bidder or bidders at the sale for delinquent taxes, and the said lots or lands shall thereafter be sold by the county, the proceeds of said sale shall first be applied to the payment of all general state and county taxes, with penalties, interest and costs of sale, and thereafter to the payment of the amount due to the city for

Irregularities,
not to
invalidate.

County to
pay city.

such delinquent local assessment, together with interest, and the surplus, if any shall remain, after the payment of the amounts due to the city, shall be covered into the county treasury.

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

Passed by the Senate January 28, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 27.

[S. B. 93.]

INSURANCE RECIPROCITY WITH OTHER STATES.

AN ACT to establish retaliation and reciprocation between this state and others of the United States as regards insurance companies of such respective states.

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

Insurance
reciprocity.

SECTION 1. When, by the laws of any other state, any taxes, fines, penalties, licenses, fees, deposits of money or securities, or other obligations or prohibitions are or would be imposed upon insurance companies of this state, or their agents, greater or more severe or unfavorable than are required by the laws of this state, then the same obligations and prohibitions of whatever kind and extent shall, in like manner for like purposes, be imposed upon all insurance companies of such state, and their agents, doing business or seeking to do business in this state.

Nations
included.

Insurance companies of other nations shall, under this section, be held as of the states where they have elected to make their general United States deposits and established their principal United States agencies.

Passed by the Senate February 11, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 28.

[S. B. 157.]

NAMING CHEMISTS TO ANALYZE FOODS.

AN ACT relating to the adulteration of foods, drinks and drugs, and amending section 9 of chapter 211, of the Session Laws of 1907.

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

SECTION 1. Section 9 of chapter 211, Session Laws of 1907, is hereby amended to read as follows: Section 9. It shall be the duty of the chemist of the State Agricultural Experiment Station and the dean of the school of pharmacy of the University of Washington, or either of them, to analyze any and all substances that the Dairy and Food Commissioner may send to them, and report to the commissioner, without unnecessary delay, the result of any analysis so made, and when called upon by the said commissioner, the said chemist shall assist in the prosecution of violations of the law by giving testimony as an expert or otherwise.

[Am'd. § 9,
ch. 21, p. 483,
L. '07]

Chemist.

Passed by the Senate February 4, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 29.

[S. B. 172.]

CREATING OFFICE OF HOTEL INSPECTOR.

AN ACT relating to hotels, inns and public lodging houses, creating the office of State Hotel Inspector, and providing penalties for the violation thereof, and making an appropriation therefor.

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

SECTION 1. Every building or structure kept, used or maintained as, or advertised as, or held out to the public to be an inn, hotel, or public lodging house or place where

Hotel
defined.

sleeping accommodations are furnished for hire to transient guests, whether with or without meals in which ten (10) or more rooms are used for the accommodation of such guests shall for the purpose of this act be defined to be a hotel and whenever the word hotel shall occur in this act it shall be construed to mean every such structure as is described in this section.

SEC. 2. Every hotel that is more than two stories high shall be provided with a hall on each floor extending from one outside wall in such manner that every room upon such floor shall open upon such hall or a cross hall connected therewith; there shall be equipped at the end of such hall an iron fire escape on the outside of the building, connected on each floor above the first with at least one opening, which shall be well fastened and secured, with landings not less than six feet in length and three feet in width, guarded by an iron railing not less than three feet in height. Such landings shall be connected by iron stairs not less than two feet wide and with steps of not less than six inches tread, placed at an angle of not more than forty-five degrees and protected by a well secured hand rail on both sides and reaching to within eight feet of the ground. Such fire escape shall be sufficient if a perpendicular iron ladder shall be used instead of the stairs provided such iron ladder is placed at the extreme outside of the platforms and at least three feet away from the wall of the building and provided said ladder is equipped with round iron rounds not more than fifteen inches apart: *Provided*, That a compliance with the ordinances of any city of the first class by any hotel situated therein shall be deemed a sufficient compliance with the foregoing provisions of this section. The way of egress to such fire escapes shall at all times be kept free and clear of all obstructions of any and every nature. Storm windows and storm doors shall be considered an obstruction for the purposes of this act unless there shall be a glass therein at least twenty-four by thirty-six inches in size and such way of egress shall at all times be kept unlocked unless the

Fire escapes.

Landings.

City ordinance.

Obstructions.

window or door opening on said fire-escape shall contain a glass of at least twenty-four by thirty-six inches in size, and no bars shall be placed across any of the openings filled by such glass. There shall be posted and maintained in a conspicuous place in each hall and in each guests' room, except the halls and rooms on the ground floor of such hotel, a printed notice in characters not less than two inches high calling attention to and directing the way to such fire escape. Notices.

SEC. 3. Every hotel which is two stories in height or which is not provided with such fire escapes as are described in section 2 hereof shall provide in every outside bed room or sleeping apartment on any floor where the window of such room is more than twelve feet above the ground a manila rope at least five-eighths of an inch in diameter and of sufficient length to reach the ground, with knots or loops not more than fifteen inches apart, and of sufficient strength to sustain a weight and strain of at least five hundred pounds. Such rope shall be securely fastened to the joist or studding of the building as near the window as practicable and shall be kept coiled and in plain sight at all times, nor shall such rope be covered by curtains or other obstructions. Every such hotel shall provide and maintain in a conspicuous place in every bedroom or sleeping apartment above the ground floor a printed notice calling attention to such rope and giving directions for its use. Rope escapes.

SEC. 4. Each and every hotel shall be provided with at least one efficient chemical fire extinguisher for every twenty-five hundred square feet or less of floor area, which extinguisher or extinguishers shall be placed in a convenient location in a public hallway outside of the sleeping rooms, and in all public rooms, and shall always be in condition for use; or, in lieu thereof, such hotel shall be equipped with a standpipe at least one and one-fourth inches in diameter, with hose connection and hose of sufficient length always attached in the hallway on each floor, which standpipe shall be supplied with a sufficient pressure of water at all times. Chemical fire extinguisher.

Gong. SEC. 5. Each and every hotel shall be provided with a gong at least nine inches in diameter on each floor, which shall be placed in the hallway in such a position that it will be easy of access and so that its ringing can be heard in every room, and means for ringing such gongs shall be provided which may be operated from the office, or from the location of any such gongs, and which shall be sufficient to keep all of said gongs ringing continuously for at least three minutes after being started.

Length of bedding. SEC. 6. All beds for the accommodation of guests in any hotel shall be provided with a sufficient supply of clean bedding and with clean sheets at least eighty-one inches wide and ninety inches long. All beds shall be provided with clean sheets as often as the same shall be assigned to different persons.

Ashes. SEC. 7. No ashes from any hotel shall be dumped or kept in or adjacent thereto, or in any outhouse connected with any hotel unless the same shall be placed in a tight metal container, with a tight metal lid kept thereon.

Towels. SEC. 8. Each and every hotel having a public washroom shall keep therein at all times a sufficient supply of clean towels, in a place in sight at all times and easy of access to guests.

Contagious diseases. SEC. 9. Whenever any room in any hotel shall have been occupied by any person having a contagious or infectious disease, the said room shall be thoroughly fumigated and all bedding therein thoroughly disinfected before said room shall be occupied by any other person, but in any event such room shall not be let to any person for at least forty-eight hours after such fumigation or disinfection.

Sanitation. SEC. 10. Every hotel shall be well drained, constructed, and plumbed according to sanitary rules to be established by the state board of health and shall be kept clean and in a sanitary condition and free from effluvia arising from any sewer, drain, privy or other source within the control of the owner, manager, agent or other person in charge; and shall be provided with water closets or privies properly

screened for the separate use of males and females, which water closets or privies shall be disinfected as often as may be necessary to keep them at all times in a sanitary condition.

SEC. 11. Every owner, manager, agent, or person in charge of a hotel who shall fail to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or shall be imprisoned in the county jail for not less than ten days nor more than three months or both, and every day that such hotel is carried on in violation of this act shall constitute a separate offense. Penalty.

SEC. 12. For the purpose of carrying into effect the provisions of this act the Governor, by and with the approval of the Senate, shall appoint an inspector of hotels, who shall hold office for four years and until his successor is appointed and qualified; but the Governor may remove such inspector and appoint another in his place whenever he shall deem it necessary for the public good. Said inspector shall receive an annual salary of eighteen hundred dollars together with his necessary traveling expenses, payable monthly. He shall give bond to the state in the penal sum of five thousand dollars conditioned for the faithful performance of his official duties, to be approved by the Secretary of State. Hotel inspector.

SEC. 13. Such inspector may appoint, and at pleasure remove, one deputy inspector for each congressional district, who shall assist under his direction in performing within his district the duties imposed by this act. They shall each give bond to the state in the sum of two thousand dollars with like conditions as that of the inspector, to be approved by the Secretary of State. They shall receive such compensation, not exceeding one hundred and twenty-five dollars per month and their necessary traveling expenses to be paid according to law, as the inspector may prescribe. Deputy inspector.

Duties of
inspector.

SEC. 14. It shall be the duty of the inspector and his deputies to see that all of the provisions of this act are complied with, and said inspector, or the deputy for the district, shall personally inspect once in each year, every hotel as defined by this act. Said inspector and his deputies are hereby granted police power to enter any hotel at reasonable hours to determine whether the provisions of this act are being complied with. The inspector shall keep a complete set of books for public use and inspection, showing the conditions of each hotel so inspected, together with the name or names of the owners, proprietors and managers thereof, and showing its sanitary condition, the number and condition of its fire escapes and any other information for the betterment of the public service.

Certificate of
inspection.

SEC. 15. If the inspector shall find after examination of any hotel that this law has been fully complied with and the inspection fee has been paid to the inspector, he shall issue a certificate to that effect to the person operating the same, and said certificate shall be kept posted up in a conspicuous place in said inspected building.

False certificate,
penalty.

SEC. 16. Any inspector who shall wilfully certify falsely regarding any building inspected by him, and who shall issue a certificate to any person operating any hotel when such person has not complied with the provisions of this act, shall, on conviction thereof, be fined not less than fifty dollars, nor to exceed five hundred dollars, and may be imprisoned not to exceed one year in the county jail, or both, at the discretion of the court, and upon conviction shall be forever disqualified to hold said office.

Refusing to
permit inspection,
penalty.

SEC. 17. Any owner, manager, agent or person in charge of a hotel who shall obstruct or hinder an inspector in the proper discharge of his duties under this act, or who shall refuse or neglect to pay the fee for inspection prescribed herein shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars (\$10.00) nor more than one hundred (\$100.00) dollars or shall be imprisoned in the county jail for not less than ten days, nor more than three months or both.

SEC. 18. It shall be the duty of the inspector, upon ascertaining by inspection or otherwise that, after one year from the passage of this act, any hotel is being carried on contrary to its provisions, to make complaint and cause the arrest of the person so violating same, and it shall be the duty of the prosecuting attorney in such case to prepare all necessary papers and conduct such prosecutions. Complaint.

SEC. 19. Every hotel containing twenty (20) rooms or less, for the accommodation of the public, shall pay an annual inspection fee of five dollars (\$5.00) when inspected under the provisions of this act, and every hotel containing more than twenty (20) and less than one hundred (100) rooms for the accommodation of the public shall pay an annual inspection fee of ten dollars (\$10.00), and every hotel containing one hundred (100) rooms or more shall pay an annual inspection fee of twenty dollars (\$20.00) when inspected under the terms of this act. Such fees shall be collected by the inspector at the time of inspection and if not paid on demand the inspector or deputy may sue therefor in his own name for the use of the state, and in such case the court shall allow and enter as a part of the judgment against the defendant all the costs of such action, including a reasonable fee for any attorney necessarily employed in such action by the inspector. All moneys collected under the provisions of this act shall be paid into the state treasury in the manner provided by law. Fees.

SEC. 20. For the payment of salaries of the state hotel inspector and his deputies, for necessary traveling expenses, office stationery, supplies and incidentals there is hereby appropriated out of any funds in the state treasury not otherwise appropriated the sum of twenty-five thousand dollars, or so much thereof as may be necessary, to be paid according to law, but in no event shall the amount appropriated during any biennial period exceed the collections under this act during said period. Appropriation.

Passed by the Senate February 8, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 30.

[S. B. 126.]

EXTENDING TIME OF PAYMENT ON CERTAIN SHORE
LANDS.

AN ACT to amend section 3 of an act entitled "An act to provide for the establishment of harbor lines, survey, platting and appraisal of shore lands of the first class of Lakes Washington and Union, in King county, Washington, the sale and disposition of said shore lands, the creation of the Alaska-Yukon-Pacific Exposition fund and declaring an emergency," approved February 4, 1907, and declaring an emergency.

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

SECTION 1. That section 3 of an act entitled "An act to provide for the establishment of harbor lines, survey, platting and appraisal of shore lands of the first class of Lakes Washington and Union, in King County, Washington, the sale and disposition of said shore lands, the creation of the Alaska-Yukon-Pacific Exposition Fund and declaring an emergency," be and it is hereby amended to read as follows:

"Sec. 3. All of said shore lands, whether sold to any applicant as above provided or sold at public auction in cases where there is no pending application as above provided, shall be paid for by the purchaser in ten equal annual installments, the first of which installments shall be paid at the time of the issuance of a contract by the state to the purchaser therefor; and all other provisions of the existing laws of this state governing the matter of the sale of the state's granted, school, tide and other lands shall govern and control the sale and disposition of said shore lands, except as modified or changed by the provisions of this act: *Provided, however,* That in all cases where contracts for the sale of any portion of said shore lands shall have been heretofore issued, the holders thereof may, at their option, surrender such contracts, whereupon it shall be the duty of the Commissioner of Public Lands to issue to such persons or their assigns, new contracts bearing the

[Am'd. § 3,
ch. 3, p. 4,
L. '07.]

Payments.

same date as the originals thereof, and distributing the payments into ten equal annual installments, as hereinbefore provided, the cash payments previously made by such persons to be credited upon such contracts: *And provided further*, That interest at the rate of six per cent. per annum shall be paid upon all deferred payments, the interest to be paid annually." Interest.

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

Passed by the Senate February 3, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 31.

[S. B. 83.]

RELATING TO RAILROAD CABOOSES.

AN ACT to promote the safety of employes on railroads by requiring and compelling railroads operating in this state to use suitable and proper caboose cars as prescribed in this act, and providing a penalty for the violation of this act.

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

SECTION 1. It shall be unlawful for any person, corporation or company operating any railroad or railway in this state to require or permit the use of any caboose cars, unless said caboose cars shall be at least twenty-four feet in length, exclusive of platforms, and shall be provided with a door in each end thereof, and with suitable water closets, cupolas, platforms, guard rails, grab irons and steps for the safety of persons in alighting or getting on said caboose cars and said caboose cars shall be equipped with at least two four wheel trucks and an operative hand brake on each end: *Provided, however*, That this act shall not apply to logging railways upon which passengers are not regularly carried for hire.

Caboose to be
twenty-four
feet long.

SEC. 2. Any person, corporation or company operating any railroad or railway in this state, violating any of the Penalty.

provisions of Sec. 1 of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars (\$500.00), nor more than one thousand dollars (\$1,000.00), for each offense.

Time of
taking effect.

SEC. 3. This act shall be in force and take effect from and after the first day of January, 1910: *Provided*, That caboose cars not conforming to the above requirements may be operated on branch lines not exceeding 100 miles in length, and on work trains, until January 1, 1911.

Passed by the Senate February 10, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 32.

[S. B. 88.]

RELATING TO ASSIGNMENT OF WAGES.

AN ACT providing for and regulating the assignment of wages to be earned in the future.

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

Assignment
to be
recorded.

SECTION 1. No assignment of, or order for, wages to be earned in the future to secure a loan of less than three hundred dollars, shall be valid against an employer of the person making said assignment or order unless said assignment or order is accepted in writing by the employer, and said assignment or order, and the acceptance of the same, have been filed and recorded with the county auditor of the county where the party making said assignment or order resides, if a resident of the state, or in which he is employed, if not a resident of the state.

Wife to
consent.

SEC. 2. No assignment of, or order for, wages to be earned in the future shall be valid, when made by a married man, unless the written consent of his wife to the making of such assignment or order is attached thereto.

Passed by the Senate January 27, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 33.

[S. B. 127.]

RELATING TO CARNEGIE PENSION FUND FOR TEACHERS.

AN ACT to authorize the boards of regents of the University of Washington and the State College of Washington to apply for participation in the fund of the Carnegie Foundation for the Advancement of Teaching.

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

SECTION 1. That the Board of Regents of the University of Washington and the Board of Regents of the State College of Washington are authorized to apply for participation by the said University and State College of Washington in the fund of the Carnegie Foundation for the Advancement of Teaching, and from time to time to make application for allowances for such persons as may be eligible to receive the same under the rules laid down by the Board of Trustees of the Carnegie Foundation for the Advancement of Teaching.

Passed by the Senate February 4, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 34.

[H. B. 67.]

RELATING TO NEW TRIALS.

AN ACT amending section 5071 and repealing section 5073 of Ballinger's Annotated Codes and Statutes of Washington in relation to new trials.

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

SECTION 1. That section 5071 of Ballinger's Annotated Codes and Statutes of Washington be, and the same is, hereby amended to read as follows: Section 5071. The former verdict or other decision may be vacated and a new trial granted, on the motion of the party aggrieved, for

[Am'd. §5071.
Bal.]

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; 2. Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have 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; 3. Accident or surprise which ordinary prudence could not have guarded against; 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; 5. Excessive or inadequate damages appearing to have been given under the influence of passion or prejudice; 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; 7. Insufficiency of the evidence to justify the verdict or the decision, or that it is against law; 8. Error in law occurring at the trial and excepted to at the time by the party making the application.

Irregularities.

Misconduct of party.

Accident or surprise.

New evidence.

Excessive or inadequate verdict.

Amount.

Insufficient evidence.

Mistake in law.

§ 5073 Bal.
repealed.

SEC. 2. That section 5073 of Ballinger's Annotated Codes and Statutes of Washington be, and the same is, hereby repealed.

Passed by the House February 16, 1909.

Passed by the Senate February 24, 1909.

Approved March 4, 1909.

CHAPTER 35.

[S. B. 48.]

RELATING TO ACTION TO RECOVER REAL PROPERTY.

AN ACT relating to actions brought to recover possession of real property and amending section 5518 of Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 5518 of Ballinger's Annotated Codes and Statutes of Washington be amended to read as follows: Section 5518. In an action to recover possession of real property, the judgment rendered therein shall be conclusive as to the estate in such property and the right of possession thereof, so far as the same is thereby determined, upon all persons claiming by, through, or under the party against whom the judgment is rendered, by title or interest passing after the commencement of the action, if the party in whose favor the judgment is rendered shall have filed a notice of the pendency of the action as required by section 4887, 2 Ballinger's Annotated Codes and Statutes of Washington. When service of the notice is made by publication, and judgment is given for failure to answer, at any time within two years from the entry thereof, the defendant or his successor in interest as to the whole or any part of the property, shall, upon application to the court or judge thereof, be entitled to an order, vacating the judgment and granting him a new trial, upon the payment of the costs of the action.

[Am'd. §5518, Bal.]

Judgment conclusive, when.

§ 4887 Bal.

New trial, when.

Passed by the Senate February 4, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 36.

[S. B. 102.]

RELATING TO HIGHWAYS.

AN ACT to prohibit the throwing and placing of bottles, glass, glassware, tacks and nails in any road or highway in the state of Washington, and prescribing a penalty for the violation thereof.

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

Glass or tacks
in highway.

Penalty.

SECTION 1. That any person or persons, corporation or corporations who shall throw, place or deposit, in any road, street, alley, or highway, in the State of Washington, any bottle, bottles, glass, glassware, tacks, or nails, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than \$25.00 nor more than \$50.00, together with the costs and disbursements of the prosecution, and shall be committed to the county jail until such fine and costs are paid.

Passed by the Senate February 4, 1909.

Passed by the House February 24, 1909.

Approved March 2, 1909.

CHAPTER 37.

[H. B. 37.]

DEDICATING CERTAIN SHORE LANDS TO CITY OF SEATTLE.

AN ACT dedicating to the city of Seattle all the right, title and interest of the State of Washington in and to certain lands in the city of Seattle, lying within section 16, twp. 25 north, range 4 east, W. M., for street and boulevard purposes, and declaring an emergency.

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

SECTION 1. That the following described lands, to-wit: Commencing at the N. W. corner of section 16, twp. 25 north, range 4 east, W. M.; running thence east 1346.68 feet, more or less, to the N. E. corner of the N. W. quarter

of the N. W. quarter of said section 16; thence south 35 feet; thence west 1346.68 feet, more or less, to a point 35 feet south of the point of beginning; thence north to the point of beginning, lying in section 16, twp. 25 north, range 4 east, W. M., in King county, Washington, be and the same are hereby dedicated to the city of Seattle, a municipal corporation of the State of Washington, to be used for street or boulevard purposes: *Provided, however,* That if the said city of Seattle shall ever use, or permit the use of said land, for any purpose other than in this act provided, the same shall at once revert to the State of Washington, without any suit or action in any court and without any action on the part of the state whatsoever.

Shore lands
for park
purposes.

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

Passed by the House February 2, 1909.

Passed by the Senate February 24, 1909.

Approved March 2, 1909.

CHAPTER 38.

[H. B. 169.]

CREATING PUBLIC ARCHIVES COMMISSION.

AN ACT to Create a Public Archives Commission, and to define its duties and powers.

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

SECTION 1. There is hereby created a Public Archives Commission which shall consist of the Governor of the state, the Secretary of State and the State Auditor, who shall be the official custodians of all public documents, records and archives of the state, and in general all such material as shall come into its possession in accordance with the terms of this act.

Archives
commission.

SEC. 2. The term archives as used in this act shall be construed to mean manuscripts, manuscript books, records, printed books, papers, maps or drawings, or other papers

Archives
defined.

of original record of any office, department, board or commission, constituting the state government, and which are not of current use, but whose chief use is that of preservation and reference, and which is required by law to be preserved, filed or recorded in any office of the state, or of any county or municipality, or of any officer or employe of the state or of any county or municipality.

Authority of
commission.

SEC. 3. The Public Archives Commission shall have full and complete control of the official archives of the state, and it shall be their duty to arrange for the assortment, classification, labeling, filing, indexing, and cataloging of the entire body of the archives committed to their custody.

Rules.

SEC. 4. They may adopt such rules and regulations regarding the care and custody of the official archives as they may deem best, and may authorize the making of copies of the same, which copies may be given under seal of the commission, for which purpose the commission may adopt an appropriate seal.

Records to be
surrendered
to commis-
sion.

SEC. 5. Any state official, county or other official is hereby authorized and empowered, in his discretion, to turn over to the Public Archives Commission for permanent preservation therewith any official archives not in current use in his office. When so surrendered copies therefrom shall be made and certified by the archivist upon the application of any person interested, which certification shall have all the force and effect as if made by the officer originally in charge of them and for which the same fees shall be charged, to be collected in advance: *Provided*, That in turning over the archives of his office the officer in charge thereof or his successor in office thereby loses none of his rights of access to them whenever necessary and for which no fees shall be charged.

State
Librarian.

SEC. 6. The state librarian shall serve, without pay, as archivist, and shall under the direction of the Public Archives Commission have control and direction of the work and operations of the department; he shall preserve its collections and care for the official archives that may

come into the custody of the commission. For this preservation the commission shall furnish suitable rooms, cases and vaults.

SEC. 7. It shall be the duty of the commission to report biennially to the legislature the condition of the archives Report. under their care, and to make such recommendations as will result in the records of this state being permanently preserved for historic and reference purposes.

Passed the House February 1, 1909.

Passed the Senate February 24, 1909.

Approved March 2, 1909.

CHAPTER 39.

[H. B. 107.]

RELATING TO POLICE PENSION FUNDS.

AN ACT to create a police relief, health and insurance fund in incorporated cities of the first class, providing for the disbursement thereof, and creating a Board of Police Pension Fund Commissioners.

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

SECTION 1. The mayor, clerk, treasurer and common council of all incorporated cities of the first class in the State of Washington are, in addition to the duties now required of them, hereby created and constituted a board of trustees *ex-officio* of the police relief and pension fund of the police department of each of said incorporated cities, and shall provide for the disbursement of the said relief and pension fund, and shall designate the beneficiary thereof as hereinafter directed, which said board shall be known as the Board of Police Pension Fund Commissioners. Police pension board.

SEC. 2. The mayor shall be *ex-officio* chairman, the clerk shall be *ex-officio* secretary, and the treasurer shall Officers. be *ex-officio* treasurer of said board. The secretary of said board, at the time of making his annual reports as said

city clerk, shall annually report the condition of said fund, the receipts and disbursements on account of the same, together with a complete list of the beneficiaries of said fund, and the amounts paid to each of them.

Duties of board.

SEC. 3. The said board, for the purpose of said police and relief and pension fund, shall have power to direct and shall direct the payments annually; and when the annual tax levy of the city or town is made, into said fund of the following moneys:

Fund, how created.

First. Not more than one per centum of all moneys collected and received from licenses for the keeping of places wherein spirituous, malt or other intoxicating liquors are sold.

Second. Not more than one-half of all moneys received from taxes or from licenses upon dogs.

Third. All moneys received from the sales of all unclaimed property.

Fourth. Not more than ten per cent. of all moneys received from licenses from pawnbrokers, second-hand stores, junk dealers, and from any person, firm or corporation maintaining or conducting billiard, pool or pigeon hole tables for hire, or billiard and pool rooms.

Fifth. All moneys received from fines for the carrying of concealed weapons.

Sixth. Not more than ten per centum of all fines collected or received in money for violation of city ordinances.

Seventh. The treasurer of any incorporated city which may hereafter be subject to the provisions of this act, shall retain monthly from the pay of each member of the police department of such city, a sum equal to one and one-half per centum of the monthly compensation paid each member for his services as such police officer, said sum to be forthwith paid into said police relief and pension fund, and no other or further deduction shall be made from such pay for any other fund or purpose whatever.

Who eligible to pension.

SEC. 4. Whenever any person at the taking effect of this act, or thereafter, shall have been duly appointed or selected and sworn, and shall have served for twenty

years, or more, in the aggregate, as a member, in any capacity or rank whatever, of the regularly constituted police department of any such city which may hereafter be subject to the provisions of this act, and shall have reached the age of sixty years, said board shall order and direct that such person shall be retired from further service in such police department, and from the date of the making of such order the service of such person in such police department may cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund, a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held in said police department for the period of one year next preceding the date of such retirement.

SEC. 5. Whenever any person, while serving as a policeman in any such city shall become physically disabled by reason of any bodily injury received in the immediate or direct performance or discharge of his duties as such policeman, said board may, upon his written request filed with the secretary of said board, or without such written request, if it deems it to be for the good of said police force, retire such person from said department, and order and direct that he shall be paid from said fund, during his lifetime, a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held in said police department at the date of such retirement, but on the death of such pensioner his heirs or assigns shall have no claim against or upon such police relief or pension fund: *Provided*, That whenever such disability shall cease, such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement. Disabled policeman.

SEC. 6. No person shall be retired, as provided in the next preceding section, or receive any benefit from said fund, unless there shall be filed with said board certificate of his disability, which certificate shall be subscribed and sworn to by said person, and by the city physician (if there be one) and two regularly licensed and practicing Certificate of disability.

physicians of such city, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

Pension to widow.

SEC. 7. Whenever any member of the police department of any such city shall lose his life while in the performance of his duty as such police officer, leaving a widow or child or children under the age of sixteen years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a yearly pension, equal to one-third of the amount of the salary attached to the rank which such member held in said police department at the time of his death, shall be paid to such widow during her life, or if no widow, then to the child or children, until they shall be sixteen years of age: *Provided*, That if such widow or child or children, shall marry, then such person so marrying shall thereafter receive no further pension from such fund.

Payment to relatives.

SEC. 8. Whenever any member of the police department of such city shall, after ten years of service, die from natural causes, then his widow, or child, or children under the age of sixteen years, or if there be no widow or children, then his parents or unmarried sisters, minor brother or brothers, dependent upon him for support shall be entitled to the sum of one thousand dollars from such fund.

Physical examination.

SEC. 9. Any person retired for disability under this act may be summoned before the board herein provided for, at any time thereafter, and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of said board with reference thereto; and all members of such police force who may be retired under the provisions of this act, shall report to the chief of police of such city where so retired on the first Mondays of April, July, October and January of each year; and in cases of emergency, may be assigned to and shall perform such duty as said chief of police may direct, and such persons shall have no claim against such city for payment for such duty so performed.

SEC. 10. Whenever any person who shall have received any benefit from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall become a non-resident of this state, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board under this act, in respect to said examination or duty, then such board shall order that such pension as may have been granted to such person shall immediately cease, and such person shall receive no further pension allowance or benefit under this act.

Pension ceases, when.

SEC. 11. The board herein provided for shall hold quarterly meetings on the first Mondays of April, July, October and January of each year, and upon the call of its president; it shall issue warrants, signed by its president and secretary, to the persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which warrant shall state for what purpose such payment is to be made; it shall keep a record of its proceedings, which record shall be a public record; it shall, at each quarterly meeting, send to the treasurer of such city, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payments and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The treasurer of such city shall thereupon enter a copy of said list upon a book to be kept for that purpose and which shall [be] known as "The Police Relief and Pension Fund Book," and the said board [shall] direct payment of the amounts named therein to the persons entitled thereto, out of such fund. A majority of all the members of said board herein provided for shall constitute a quorum, and have power to transact business.

Meetings of board.

Payments.

SEC. 12. The board herein provided for shall, in addition to other powers herein granted, have power: First: To compel witnesses to attend and testify before it and upon all matters connected with the operation of this act,

Board may subpoena witnesses.

in the same manner as is or may be provided by law for the taking of testimony in courts of record in this state, and its president or any member of said board may administer oaths to such witnesses. Second: To provide for the payment from such fund of all necessary expenses and printing: *Provided*, That no compensation or emolument shall be paid to any member of said board for any duty required or performed under this act. Third: To make all needful rules and regulations for its guidance in conformity with the provisions of this act.

Expenses of
sickness.

SEC. 13. Whenever any member of the police department of any such city shall, on account of sickness or disability, caused or sustained while in the discharge of his duty as such member, be confined to any hospital or to his bed, and shall require nursing, care or attention, the said board shall pay the necessary hospital, care and nursing expenses of such member out of said fund, and the salary of said member shall continue while he is necessarily confined to such hospital or bed and necessarily requires care and nursing on account of such sickness or disability for a period not exceeding six months, after which said period the other provisions of this act shall apply.

Payments
quarterly.

SEC. 14. Payments provided for in this act shall be made quarterly upon proper vouchers. If at any time there is more money in the fund provided for in this act than is necessary for the purposes of this act, then such surplus shall be transferred from such fund to the general fund of the city: *Provided*, That at all times enough money shall be kept in said fund to meet all payments provided for in this act.

Passed by the House February 11, 1909.

Passed by the Senate February 23, 1909.

Approved March 2, 1909.

CHAPTER 40.

[H. B. 58.]

DEPOSITARIES FOR MUNICIPAL FUNDS.

AN ACT relating to the keeping and deposit of municipal funds, and amending section 2, of chapter 22, of the Session Laws of 1907, and declaring an emergency.

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

SECTION 1. That section 2, of chapter 22, of the Session Laws of 1907, be amended to read as follows: [Am'd. § 2, ch. 22, p. 27 L. '07.]

Sec. 2. Before any such designation shall 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 or town clerk, file with the comptroller or town clerk of such city or town a surety bond to such city or town in the maximum amount of deposits designated by said treasurer to be carried in such bank, or in lieu thereof shall deposit with the treasurer Surety bond. good and sufficient municipal, school district, county or state bonds, or warrants, or United States bonds, or local improvement bonds, or warrants, or public utility bonds, Securities in lieu of bond. or warrants issued by or under authority of any municipality of this state upon which interest or principal is not in default at the time of such deposit, or first mortgage railroad bonds listed on New York stock exchange, conditioned for the prompt payment thereof on checks duly drawn by the treasurer, which surety bonds or security shall be approved by the mayor and comptroller or town clerk of said city or town, and such banks shall also at the same time file with said comptroller or town clerk a contract with said city or town wherein said bank shall agree to pay not less than two per centum on the average daily balances where such balances exceed one thousand (\$1,000) Interest on deposits. dollars 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 or town while said deposits

continue in said depository; said contracts shall run to said city or town and be in such form as shall be approved by the treasurer, mayor and corporation counsel.

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

Passed by the House February 16, 1909.

Passed by the Senate February 24, 1909.

Approved March 2, 1909.

CHAPTER 41.

[H. B. 18.]

REGISTRATION OF NURSES.

AN ACT relating to nurses, the registration thereof and providing penalties for violations.

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

Registered
nurses.

SECTION 1. That from and after the expiration of the ninety days immediately following the passage of this act no person shall in the State of Washington, in any manner whatsoever, represent herself to be a registered nurse, or allow herself to be so represented, unless she has been and is registered by the nurses' examining board in accordance with the provisions of this act.

Examining
board.

SEC. 2. That within thirty days after the taking effect of this act, the Governor of the State of Washington shall appoint a nurses' examining board to be composed of five graduate nurses, all of whom are eligible for registration according to the provisions of this act, and who have had at least three years' experience in the profession, after graduation. All appointments shall be so made, that the term of one member shall expire on the thirtieth day of June of each year, and upon the expiration of the term of office of any examiner, the Governor shall appoint a registered nurse to fill the vacancy. No member of said board shall enter upon the discharge of her duties until she has taken oath to faithfully and impartially perform

Oath.

the same; and the Governor may remove any member of said board for neglect of duty or for any other just cause.

SEC. 3. That the nurses' examining board shall meet in the State of Washington within ninety days after their appointment and organize the board and annually thereafter shall elect from its members a president, secretary and treasurer. It shall adopt such by-laws as it shall deem necessary for carrying into effect the provisions of this act, and may amend the same from time to time at the discretion of said board. The secretary shall be required to keep a record of all meetings of the board, and also a register of the names of all nurses duly registered under this act, which register shall be open to the public at all reasonable times, and to furnish a certificate of registration to all such nurses, said certificate to be renewed at end of five years upon payment of one dollar to the examining board, at least three months' notice having been given, by registered letter, of expiration of said certificate. The said board shall hold examinations at least once a year, and the notice of such examination shall be given in one daily newspaper published in three first class cities of the State of Washington, and in a nursing journal published on the Pacific Coast at least thirty days prior to said examination.

SEC. 4. That every nurse desiring to style herself a registered nurse in the State of Washington shall make application to the nurses' examining board for examination for registration, such examination to consist of questions in surgical nursing, contagious, *materia medica*, dietetics, medical nursing, obstetrics and gynaecology, anatomy, physiology and hygiene, and at the time of making such application applicant shall pay to the treasurer of said board five dollars, no portion of said fee to be returned. Said applicant must furnish satisfactory evidence that she is over twenty years of age, of good moral character, and free from habits liable to interfere with her services as a nurse, and further, that she holds a diploma from a training school for nurses of a reputable hospital: *Provided*,

Organization.

Certificates of registration.

Examination.

Scope of examination.

Fee.

Training
school.

That training school shall give not less than two years' training in a general hospital, or instruction of same kind, and, to at least the same extent, as that given in the general hospital, all of which shall be determined by the nurses' examining board.

Certificates
without
examination.

SEC. 5. That any person possessing the qualifications required in section 4 of this act who is engaged in nursing in the State of Washington at the time of the passage of this act or shall graduate from a reputable training school of a general hospital within three years of passage of this act, shall be entitled to registration without examination upon payment of registration fee.

Certificates
may be
revoked.

SEC. 6. That the registration of any person as a nurse in the State of Washington may be revoked and the certificate of such person cancelled if it should be found to have been obtained by fraud, or if she be found guilty by the nurses' examining board of any act derogatory to the standing and morals of the profession of nursing. But before any certificate shall be revoked the holder thereof shall be entitled to thirty days' notice of the charges against her, and after a full and fair hearing the certificate can be revoked by a majority vote of the whole board.

Expenses of
board.

SEC. 7. That all expenses incident to the execution of the provisions of this act shall be paid from the fees collected from applicants for registration as nurses, and if any balance remains on hand on the thirtieth day of June of any year the secretary and treasurer of the nurses' examining board shall receive of such balance not less than fifty dollars—the full amount to be determined by the board—and each other member of said board shall receive five dollars and expenses for each day actually spent in the discharge of official duties. All money shall be paid to the treasurer of the board and shall be paid out under the orders of the board.

Misdemeanor.

SEC. 8. That any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor.

Nurses from
other states.

SEC. 9. That the nurses' examining board shall have power to register in like manner without examination, any person who has been registered as a graduate nurse in

another state or territory under laws which in the opinion of said board maintains a standard substantially equivalent to that provided for by this act.

SEC. 10. That nothing in this act shall be construed to prevent any person from nursing any other person in the State of Washington either gratuitously or for hire: *Provided*, That such person so nursing shall not represent herself as being a registered nurse. Nothing in this act shall be construed as authorizing any person to practice medicine or surgery, or midwifery, in said state. Non-regis-
tered nurses.

SEC. 11. That the word "she" and the derivatives thereof, wherever they occur in this act, shall be construed so as to include the word "he" and derivatives. "She" in-
cludes "he."

Passed by the House February 18, 1909.

Passed by the Senate March 2, 1909.

Approved March 3, 1909.

CHAPTER 42.

[H. B. 21.]

VENUE OF CIVIL ACTIONS.

AN ACT relating to the venue of civil actions and amending section 4854 of Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. Section 4854 of Ballinger's Annotated Codes and Statutes of Washington is hereby amended to read as follows: Section 4854. An action against a corporation may be brought in any county where the corporation transacts business or transacted business at the time the cause of action arose; or in any county where the corporation has an office for the transaction of business or any person resides upon whom process may be served against such corporation, unless otherwise provided in this code. [Am'd. § 4854
Bal.]

Action
against
corporation.

Passed by the House February 16, 1909.

Passed by the Senate February 24, 1909.

Approved March 3, 1909.

CHAPTER 43.

[H. B. 68.]

OATH FOR STATE OFFICERS.

AN ACT providing for the taking and filing of official oaths.

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

SECTION 1. That the Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Public Instruction, Commissioner of Public Lands and Insurance Commissioner of the State of Washington, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution and laws of the State of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability. Which oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate whereof shall be affixed thereto by the person administering the oath, and the oath or affirmation so certified shall be filed in the office of the Secretary of State before the officer shall be qualified to discharge any official duties: *Provided, however,* That the oath of the Secretary of State shall be filed in the office of the State Auditor.

Officers included.

Oath.

Filing oath.

Passed by the House January 28, 1909.

Passed by the Senate February 25, 1909.

Approved March 3, 1909.

CHAPTER 44.

[H. B. 63.]

RELATING TO HOMESTEAD EXEMPTIONS.

AN ACT to amend section 5 of an act approved March 13, 1895, Laws of Washington 1895, page 109, entitled "An act defining a homestead and providing for the manner of the selection of the same and specifying in what cases the homestead shall be liable to execution."

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

SECTION 1. That section 5 of an act approved March 13, 1895, Laws of Washington, 1895, page 109, entitled "An act defining a homestead and providing for the manner of the selection of the same," be, and the same is hereby amended to read as follows:

[Am'd. § 5,
ch. 64, p. 110,
L. '95.]

Sec. 5. The homestead is subject to execution or forced sale in satisfaction of judgments obtained: 1. On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises. 2. On debts secured by mortgages on the premises executed and acknowledged by the husband and wife or by any unmarried claimant.

Homestead
liable, when.

Passed by the House February 2, 1909.

Passed by the Senate February 24, 1909.

Approved March 3, 1909.

CHAPTER 45.

[H. B. 152.]

LIENS FOR MATERIALS.

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

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

SECTION 1. Every person furnishing material or supplies to be used in the construction, alteration or repair of any mining claim, building, wharf, steamer, vessel, boat, bridge, ditch, dyke, flume, tunnel, well, fence, machinery,

[See ch. 116,
L. '05, § 6102
Pierce.]

Lien for
materials.

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 the time such material or supplies are delivered to any person or contractor, deliver or mail to the owner, or reputed owner, of the property, on, upon or about which said materials or supplies are to be used, a duplicate statement of all such materials or supplies delivered to any contractor or person to whom any such materials or supplies have been sold or delivered, and no materialmen's lien shall be filed or enforced unless the provisions of this act have been complied with.

Passed by the House February 16, 1909.

Passed by the Senate February 24, 1909.

Approved March 4, 1909.

CHAPTER 46.

[H. B. 65.]

RELATING TO FOREIGN CORPORATIONS.

AN ACT to amend section 3 of an act approved March 28, 1890, entitled, An act relating to foreign corporations and to repeal certain laws in conflict therewith.

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

[Am'd. § 3, p.
290, L. '89-
90: § 4293
Bal.; § 7216
Pierce.]

SECTION 1. That section 3 of an act approved March 28, 1890, entitled An act relating to foreign corporations and to repeal certain laws in conflict therewith, be and the same is hereby amended to read as follows: Sec. 3. Such corporations shall also constitute and appoint an agent, who shall reside at the place in the state where the principal business of the corporation is to be carried on, to be designated as hereinafter required. Such appointment shall be in writing, signed by the president or chief officer of such corporation, and shall be attested by its corporate seal, and shall contain the name of the agent, his place of residence and the place where the principal business of such corpora-

Agent.

tion is to be carried on, and shall authorize such agent to accept service of process in any action or suit pertaining to the property, business or transactions of such corporation within this state in which such corporation may be a party. The signature of such president or chief officer, attested by the corporate seal to such written appointment, shall be sufficient proof of the appointment of such agent. Such appointment, when duly executed, shall be filed for record in the office of the Secretary of State by such corporation, and shall be there recorded; and such corporation shall have and keep continually some resident agent, empowered as aforesaid during all the time such corporation shall conduct or carry on any business within this state, and service of any process, pleading, notice or other paper shall be taken and held as due service on such corporation. Such corporation may change its agent or its principal place of business, from time to time, by filing and recording with the Secretary of State a new appointment, stating the change of such agent or the change in the principal place of business; and in the event such foreign corporation shall withdraw from this state and cease to transact business therein it shall continue to keep and maintain such agent within this state upon whom service of process, pleadings and papers may be made, until the statute of limitations shall have run against any one bringing an action against said corporation, which accrued prior to its withdrawal from this state. In case said corporation shall revoke the authority of its designated agent after its withdrawal from this state and prior to the time when the statutes of limitations would have run against causes of action accruing against it, then in that event service of process, pleadings and papers in such actions may be made upon the Secretary of State of the State of Washington, and the same shall be held as due and sufficient service upon such corporation.

Service on.

Notice of change of agent or place of business.

Service on corporation after withdrawal from state.

Passed by the House February 9, 1909.

Passed by the Senate February 24, 1909.

Approved March 3, 1909.

CHAPTER 47.

[S. B. 196.]

RELATING TO TOWNSHIP ORGANIZATIONS.

AN ACT relating to township organization and amending an act entitled "An act to provide for township organization, and prescribing the duties and fixing the compensation of township officers, and providing for the assessment, levy and collection of town taxes, approved March 23, 1895," by amending sections 11, 17, 18, 48, 79, 80, 81, 82, 93 and 115 and adding sections 117, 118, 119 and 120 to said act, repealing all laws in conflict therewith and declaring an emergency.

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

[Am'd. § 11,
ch. 175, p.
476, L. '95.]

SECTION 1. That section 11 of said act be and the same is hereby amended to read as follows: Sec. 11. Each town is a body corporate, and has capacity—

Powers of
township.

First. To sue and be sued.

Second. To purchase, or receive by gift or otherwise, and hold lands within its own limits and for the use of its inhabitants, subject to the power of the legislature.

Third. To make contracts, purchase, and hold such personal property as may be necessary for the exercise of its corporate or administrative powers, and convey and dispose of the same.

Fourth. To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interest of its own inhabitants.

[Am'd. § 17,
ch. 175, p.
477, L. '95.]

SEC. 2. That section 17 of said act be and the same is hereby amended to read as follows: Section 17. There shall be elected at the annual town meeting in each town, three supervisors (one of whom shall be designated on the ballot as chairman), one town clerk, one treasurer, one assessor, one justice of the peace, one constable, and one overseer of highways for each road district in said town, but each overseer shall be elected by the electors of the respective road districts present at said annual town meeting and must be a resident elector of said road district; but justices of the peace and constables shall be elected only once in two years except to fill vacancies.

SEC. 3. That section 18 of said act be and the same is hereby amended to read as follows: [Am'd. § 18,
ch. 175, p.
478, L. '95.]

Sec. 18. The electors of each town have power, at their annual town meeting—

First. To determine the number of pound-masters, and the location of pounds. Powers of
annual
meeting.

Second. To select such town officers as are required to be chosen.

Third. To direct the institution or defense of actions in all controversies where such town is interested.

Fourth. To direct such sums to be raised in such town for prosecuting or defending such actions as they may deem necessary.

Fifth. To make all rules and regulations for ascertaining the sufficiency of fences in such town, and for impounding animals.

Sixth. To determine the time and manner in which cattle, horses, hogs, mules, asses, and sheep are permitted to go at large.

Seventh. To impose such penalties on persons offending against any rules or regulation established by said town, except such as relate to the keeping and maintaining of fences, as they think proper, not exceeding ten dollars for each offense, unless herein otherwise provided.

Eighth. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the town.

Ninth. To vote to raise such sums of money for the repairs and construction of roads and bridges as they deem necessary, and to determine the amount thereof to be assessed by the supervisors as labor tax and the amount thereof to be assessed and collected as other town taxes; also to vote such sums of money for other necessary town charges as they deem expedient: *Provided*, That they may, at their annual town meeting, direct such an amount of the poll and road tax of the town to be expended on the highways in an adjoining town as they deem conducive to the interests of the town, which labor and tax shall be expended under the direction of the supervisors of the Taxes.

town furnishing the same: *Provided further*, That where more than one entire congressional township is included within an organized town the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township, unless raised to be expended outside of such organized town in an adjoining town.

Regulate
sale of
liquors.

Tenth. To determine whether license shall be granted for the sale of spirituous, malt or intoxicating liquor in said town; and unless a majority of the electors present and voting at the annual town meeting shall vote by ballot in favor of granting license in their town for the year then next ensuing, no such license shall be granted to sell liquor in said town for that year. Before the question of granting license to sell liquor is voted on the notice given by the town clerk of the time and place of holding town meeting shall state that the question of voting for or against license to sell liquor will be voted on at the town meeting, and within one week after the annual town meeting a certificate of such vote in said town in favor of license, signed by the moderator and by the judges and the clerk of the town meeting, shall be filed in the office of the county auditor. Any license to sell intoxicating liquor in any town in this state shall expire ten days after the annual town meeting held next after such license is granted: *Provided, however*, That if at the expiration of said ten days after the annual town meeting, a portion of the period for which any license shall have been issued remains unexpired, the holder thereof shall be entitled to a refund in such part of the whole amount paid for such license, as the unexpired portion bears to the entire period for which such license was issued. Every license granted contrary to the provisions of this section shall be void.

[Am'd. § 48,
ch. 175, p.
486, L. '95.]

Supervisors.

SEC. 4. That section 48 of said act be and the same is hereby amended to read as follows: Sec. 48. The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers; and they shall have power to draw orders on the town treasurer for the

disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose. They shall have charge of all highways and bridges in their respective townships, and the care and supervision thereof; and shall have power to divide their respective townships into road districts and to appoint one resident elector of each road district as overseer thereof for the first year of township organization; to establish new highways and bridges and to vacate or alter all highways and bridges wholly within the township: *Provided*, Nothing in this act contained shall be construed as prohibiting any county from or denying to any county the power to build, repair, alter and maintain, at the county's expense, such highways and bridges as the county generally is interested in or such as may be of so large cost that a single township could not undertake the construction of, or such as are located in sparsely settled townships as are unable to construct the same.

SEC. 5. That section 79 of the said act be and the same is hereby amended to read as follows: Sec. 79. Each township assessor elected or appointed under this act shall take an oath and give a bond as now required of county assessors, the amount of said bond to be fixed, and the said bond to be approved, by the board of supervisors; and each township assessor shall, in his town, perform the same duties and exercise the same rights as are now performed and exercised by county assessors in their respective counties under the laws of this state, and shall be subject to the same penalties as county assessors now are.

[Am'd. § 79,
ch. 175, p.
495, L. '95.]

Assessor.

SEC. 6. That section 80 of said act be and the same is hereby amended to read as follows: Sec. 80. The county assessor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out in the real property assessment book complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated

[Am'd. § 80,
ch. 175, p.
495, L. '95.]

County
assessor to
provide
books.

opposite each tract or lot, the number of acres and the lots or parts of lots or blocks included in each description of property. The list of real property becoming subject to assessment and taxation every odd numbered year may be appended to the personal property assessment book. The assessment books and blanks shall be delivered to the county assessor on or before the second Saturday of March in each year, and the town assessors shall meet on that day at the office of the county assessor for the purpose of receiving such books and blanks, and for conference with the said county assessor in reference to the performance of their duties and that all township assessors shall perform their duties under the supervision of the county assessor.

[Am'd. § 81,
ch. 175, p.
496, L. '95.]

Supervisors
to pass upon
assessments.

SEC. 7. That section 81 of said act be and the same is hereby amended to read as follows: Sec. 81. The board of supervisors of each town shall meet on the second Monday in May at the office of the town clerk for the purpose of reviewing the assessment of property in such town, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property and each article, parcel or class of personal property shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intention of the board so to do. And on the application of any person considering himself aggrieved they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented. All complaints and grievances of individuals, residents of the town or district, in reference

to the assessment of any property, shall be heard and decided by the town board: *Provided*, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board of equalization: *Provided further*, That any person considering himself aggrieved by a decision of the town board of review may present the matter to the county board of equalization for determination.

Non-residents.

SEC. 8. That section 82 of said act be and the same is hereby amended to read as follows: Sec. 82. The assessor shall cause at least ten days' previous notice of the time and place of the meeting of the town board of review by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied. It shall be the duty of the assessor to attend the meeting of the town board of review with his assessment books and papers, and note all changes and additions made by the board, and correct his work accordingly, and not later than ten days after the meeting of the board of review said assessor shall return the assessment books of his town, duly verified, along with all the assessment papers in his hands, to the county assessor not later than the fifth day of June.

[Am'd. § 82.
ch. 175, p.
496, L. '95.]

Notice of
review of
assessment.

SEC. 9. That section 93 of said act be and the same is hereby amended to read as follows: Fees of town officers. Sec. 93. The following town officers are entitled to compensation, at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices: The town assessors shall receive for their services two dollars per day, while engaged in their respective duties as such assessors. Each road overseer shall receive for his services two dollars per day, while engaged in his duties as such road overseer. The town clerks and supervisors shall receive for their services one

[Am'd. § 93.
ch. 175, p.
501, L. '95.]

Pay of
assessors.

Supervisors
and clerks.

dollar per day when attending to business in their town, and one dollar and fifty cents when attending to business out of town; no town supervisor shall receive more than twenty dollars, for compensation, in any one year: *Provided*, That the town clerks shall be paid fees for the following, and not a per diem: For filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, five cents for each one hundred words; for copying any record or instrument on file in his office, and certifying the same, five cents for each one hundred words, to be paid for by the person applying for the same: *Provided further*, That at any town meeting, before the electors commence balloting for officers, they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

Fees of clerk.

[Am'd. § 115,
ch. 175, p.
507. L. '95.]

SEC. 10. That section 115 of said act be and the same is hereby amended to read as follows: Sec. 115. In this act the words town and township are used with the same meaning, and are used to designate a township organized under this act, unless the contrary appears from the context; and whenever the word oath is used, it shall be understood to mean oath or affirmation.

Construction.

[Added § to
ch. 175.]

SEC. 11. That section 117 is hereby added to said act to read as follows: Sec. 117. Whenever any real estate belonging to the town is sold, the conveyances thereof shall be executed by the chairman of the town board in his official capacity and attested by the clerk; and such conveyance, duly witnessed and acknowledged, shall convey to the grantee therein named all of the right, title and estate which the town then has in the real estate conveyed.

Conveyances
of real estate.

[Added § to
ch. 175.]

SEC. 12. That section 118 is hereby added to said act to read as follows: Sec. 118. That no act that shall hereafter become a law shall be construed as in any manner altering, amending or repealing any of the provisions of this act unless such act expressly so provides.

Future acts.

SEC. 13. That section 119 is hereby added to said act to read as follows: Sec. 119. All acts or parts of acts in conflict with the provisions of this act are hereby repealed. Repeals.

SEC. 14. That section 120 is hereby added to said act to read as follows: Sec. 120. An emergency exists and this act shall take effect immediately. Emergency.

Passed by the Senate February 19, 1909.

Passed by the House February 24, 1909.

Approved March 3, 1909.

CHAPTER 48.

[S. B. 151.]

APPROPRIATION FOR DEFICIENCIES IN MANAGEMENT OF STATE FAIR.

AN ACT providing for the payment of certain deficiencies in maintenance of the State Fair of Washington, and appropriating money therefor.

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

SECTION 1. That the sum of ten thousand six hundred ninety-nine dollars (\$10,699.00) be, and the same is hereby appropriated for the purpose of paying for buildings and improvements necessary for the caring for of exhibits for the years 1907 and 1908 and for the maintenance of the state fair of Washington from September 1, 1908, to April 1, 1909. Deficiency
appropriation
\$10,699.

Passed by the Senate February 15, 1909.

Passed by the House March 1, 1909.

Approved March 3, 1909.

CHAPTER 49.

[S. B. 96.]

PERMITTING COUNTIES TO BE DIVIDED INTO JUDICIAL DISTRICTS.

AN ACT relating to the dividing of counties into districts for judicial purposes and for holding sessions of the Superior Court of the State of Washington at places other than the county seat, and providing means to make this act effective and defraying the expenses incident thereto, and declaring an emergency.

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

Court, when held.

SECTION 1. Sessions of the Superior Court shall be held at places other than the county seat, whenever such sessions shall be determined upon in the manner hereinafter provided.

Districts for judicial purposes.

SEC. 2. Whenever a majority of the board of County Commissioners of any county within this state shall determine it to be to the best interests of the people of such county to have sessions of the Superior Court held at one or more places other than the county seat, they shall divide such county into two or more districts for judicial purposes, define the boundaries, and designate at what point in each of such districts such sessions shall be held: *Provided*, That all sessions of the said court held in the district where the county seat is located shall be held at the county seat: *Provided further*, That when said board shall have so divided such county into districts for judicial purposes and designated the places for holding sessions of said court, the judge of said court, if there be but one judge, and if there be two judges, then one of said judges, and if there be more than two judges, then a majority of all of such judges, shall, if they approve of the action of said board, enter an order confirming the action of said board of County Commissioners, and order the County Auditor to forthwith transmit a certified copy of the proceedings of such board of County Commissioners pertaining to the districting and designating places for holding sessions of said

court, to the clerk of such county, who shall spread the same at large upon the journal of the Superior Court of such county, together with the order of such judge or judges.

SEC. 3. After districts have thus been formed and the places designated, and the same approved as herein provided, the judge or judges shall hold sessions of said court at such places, at such times as the business therein shall require.

Session of court in district.

SEC. 4. The board in any such county shall, in forming any such district or districts, and designating the place or places for holding sessions of said court, be governed by considerations of convenience and economy to the people of the district and of the county at large.

Considerations in forming district.

SEC. 5. After districts have thus been formed, places designated, and approved by the judge or judges as herein provided, it shall be the duty of the County Commissioners of any such county to provide a jail for the incarceration of prisoners, also a suitable place for holding court, at the place designated in such district, and they shall pay therefor, out of the general fund belonging to any such county.

Jail.

SEC. 6. The County Clerk shall appoint the necessary number of deputies for each of such districts; and said deputy or deputies shall reside at the place designated for holding such sessions of the said court, and shall receive such compensation as shall be determined upon by the board of County Commissioners, which compensation shall be paid in the same manner as other county officials are paid, from the fund of any such county; and such clerk shall provide such deputy or deputies with a seal, which seal shall be the same in form as the one used by said county clerk; and said clerk shall provide all necessary fixtures, supplies, books and records as are by law required to be kept in the office of the clerks of the Superior Court of this state, so far as the same shall be necessary to meet the demands of the court holding sessions at any such place; and the County Commissioners shall provide for the payment of such seal, fixtures, supplies, books and records necessary

Deputy clerks.

to the successful conduct of the office presided over by said deputy, out of the proper fund belonging to said county.

Deputy
sheriffs.

SEC. 7. The sheriff of any such county shall appoint a deputy, who shall reside at the place designated in any such district, for holding sessions of said court; and such deputy shall receive such compensation as the board of County Commissioners shall provide, and shall be paid from the fund of such county as the other county officials of any such county are paid; and said sheriff shall furnish said deputy with all fixtures, supplies and records, necessary to the successful operation of the office presided over by such deputy. The County Commissioners of such county shall pay for such fixtures, supplies and records, out of the proper fund belonging to such county.

Duplicate
records.

SEC. 8. It shall be the duty of any such deputy clerk, when recording judgments, decrees or orders, or filing other instruments which shall become a lien on, or in any way affect the title of any real estate situate in said county, to make a duplicate of any such judgment, decree, order or other instrument, and forthwith transmit a correct copy of the same to the county seat of such county, which copy shall be duly certified and shall bear the seal of said court holding sessions at the place designated in any such district, and shall also bear the same file mark and page number as the original; and when by law such instrument is required to be spread upon the records, it shall be arranged with other instruments of like kind into a book, which book shall correspond with the original in all matters as to title, index and page numbers. All such records and books made up of such copies and duplicates of the originals, and transmitted to the clerk at the county seat shall have the same force and effect, and be used in the same manner, and the same faith and credit shall be given them as due original entries of like kind in this state: *Provided*, That all judgments, decrees and orders, or other instruments affecting the title to real estate in such county, which are filed or entered in the first instance in said court, holding sessions at the county seat of any such county, shall be filed and en-

tered in the same manner after the passage of this act as they now are.

SEC. 9. It shall be the duty of the board of County Commissioners who shall divide any county in this state into judicial districts, to number said districts consecutively, commencing with district No. 1. Districts numbered.

SEC. 10. For the purpose of determining in what district any action or matter should be tried or adjudicated, each district, for the purpose of this act, shall be considered as a separate and distinct county, and the law of this state applicable to the venue of actions shall be made to apply to each district, the same as if such district constituted a separate and distinct county. Venue.

SEC. 11. Change of venue may be granted from one district to another in the same manner, and for the same reasons as are now provided by law, and for that purpose, such districts shall be considered as separate and distinct counties. Change of venue.

SEC. 12. The judgments, orders and decrees of said court, rendered in any district in any such county, and all writs, shall have the same effect throughout the whole county as if said court were held only in the county seat: *Provided*, That the sheriff of said county, or his deputy, in any district in any such county, may make sales of property at the court house in any district in the same manner as is now by law provided, and for the purposes of this act, the place which the County Commissioners of said county shall provide for holding sessions of said court shall be considered as the court house. Jurisdiction.

SEC. 13. The citizens of any such county, eligible to serve as petit jurors in said court, shall only be liable to serve as such in said court holding sessions in the district in which such citizens shall reside; and for the purposes of this act, each district shall be considered as though it were a separate and distinct county, so far as ascertaining the eligibility of petit jurors is concerned, and such citizens shall be drawn to serve as jurors in said court holding sessions in any such district in which such citizens reside, in Jurors.

the same manner as though such district composed a separate and distinct county.

Rules of
practice.

SEC. 14. The Superior Court holding sessions in any such district or districts in any county in this state, shall be controlled by the law and rules of practice now prevailing in this state, so far as the same may be made to apply to this act.

Application
for change of
venue.

SEC. 15. Whenever, pursuant to the provisions of this act, the board of County Commissioners of any county within this state shall divide any such county into districts for judicial purposes, any party or parties having actions or matters pending before the Superior Court in any such county, shall make application to have said actions or matters transferred from the county seat to the place designated in any such district or districts, for final determination. The court shall hear such application, and if in his judgment it shall be to the best interest of the parties concerned, that said action or matter be transferred to such designated place, in another district, he may make an order to that effect, and require the clerk of said court to transfer all the files in such matters or actions to the office of his deputy, in the district to which the parties applying desire the same to be transferred, and in making such order, the judge of such court shall be controlled by the laws now in force or hereinafter enacted, pertaining to changes of venue.

Process.

SEC. 16. All process issued out of said court holding sessions in any such district in any county in this state, shall be made returnable according to the existing laws, so far as the same shall apply, to the proper district, disclosing in such process the district, time, place and court the parties to be served with such process are required to attend; and in all cases for the purpose of this act, the clerk of the court shall style himself the clerk of the said court or county, as the case may be, and not the clerk of either district.

Style of
actions.

SEC. 17. The style of all actions in any such district shall be the same as now provided by law, except that the number of the district shall be added.

SEC. 18. Hereafter, when persons are arrested, charged with having committed offenses against the laws of this state, they shall be tried in the district wherein the offense is alleged to have been committed; and for the purpose of determining the venue, each district shall be considered as though it composed a separate and distinct constitutional county of this state.

Criminal actions.

SEC. 19. It shall be the duty of the board of County Commissioners in any such county, to provide suitable offices for the deputy clerk and deputy sheriff at the place or places designated in the district or districts, other than the district in which the county seat is situated, and to pay therefor out of the proper fund belonging to the said county.

Offices in district.

SEC. 20. The judge or judges of said court shall be entitled to receive such expenses for traveling and holding court in the different districts, as are now allowed by law to superior judges for traveling and holding court in different counties; and such expenses shall be allowed in the same manner as now provided by law.

Expenses of judge.

SEC. 21. The judge or judges shall appoint a court commissioner in every district not resided in by one or more of the judges of said court in any such county, which commissioner shall reside at the place designated in any such district for holding sessions of said court, and shall receive such compensation as the County Commissioners may allow, and be paid from the proper fund of such county and shall possess such qualifications and hold office as now provided by law.

Court commissioner.

SEC. 22. The prosecuting attorney for any county which shall have been divided into districts for judicial purposes as herein provided, shall be the prosecuting attorney for each district in said county, and his duties as such officer shall not be affected by the provisions of this act; and he shall be allowed necessary expenses for traveling, and such other actual expenses as are incident to attendance upon any session of said court held in any district away from the county seat, whenever his attendance thereupon

Prosecuting attorney.

shall become necessary; and said expenses shall be allowed in the same manner as such expenses are allowed to the Superior Judges of this state holding sessions of court in different counties.

Residence
of judge.

SEC. 23. Whenever, in this state, any county shall be districted as hereinbefore provided, the judge or judges may reside in any district in such county that will best subserve the interests of the people therein.

Emergency.

SEC. 24. An emergency exists, and this act shall take effect immediately.

Passed by the Senate February 1, 1909.

Passed by the House February 24, 1909.

Approved March 4, 1909.

CHAPTER 50.

[S. S. B. 110.]

FIREMAN'S RELIEF AND PENSION FUND.

AN ACT to create a Fireman's Relief and Pension Fund in the several incorporated cities and towns of the State of Washington and making provisions for the maintenance and distribution thereof.

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

Board of
trustees.

SECTION 1. The mayor and clerk and three members of the common council of every incorporated city and town, in the State of Washington, are, in addition to the duties now required of them, hereby created and constituted together with six members from the fire department of such city or town, a board of trustees of "The Firemen's Relief and Pension Fund" of the fire department of each such incorporated city or town, and shall provide for the disbursement of such relief and pension fund, and shall designate the beneficiary thereof, as hereinafter directed, which board shall be known as the Board of Trustees of the Firemen's Relief and Pension Fund and upon the taking effect of this bill the fire department of each such incorporated city or town shall elect, by ballot, six members of such

fire department, two of whom shall serve for the term of one year, two for the term of two years and two for the term of three years, and thereafter such fire department shall, each year, elect, by ballot two of its members to serve for the term of three years upon said board of trustees: *Provided*, This act shall not apply to any city or town where no paid fire department is maintained.

SEC. 2. The mayor shall be ex-officio chairman, the clerk shall be ex-officio secretary, and the city treasurer shall be ex-officio treasurer of said board. The secretary shall report annually, at the time of making his annual report as city clerk, the condition of the Firemen's Relief and Pension Fund and the receipts and disbursements on account of the same with a full and complete list of the beneficiaries of said funds, and the amount paid them.

Annual
report.

SEC. 3. The board herein provided for shall hold monthly meetings on the first Monday of each and every month of each year and upon the call of its president at such other times as the president deems necessary. It shall issue orders, signed by its president and secretary, to the persons entitled thereto of the amount of money ordered paid to such persons from such fund by said board, which order shall state for what purpose such payment is to be made; it shall keep a record of its proceedings, which record shall be public record; it shall, at each monthly meeting send to the treasurer of such city or town, a written or printed list of all persons entitled to payment from the fund herein provided for, stating the amount of such payment and for what granted, which list shall be certified to and signed by the president and secretary of such board, attested under oath. The treasurer of such city or town shall therefor enter a copy of said list upon a book to be kept for that purpose, and which shall be known as "The Fireman's Relief and Pension Fund Book" and the said board shall direct payment of the amounts named therein to the persons entitled thereto, out of such funds. A majority of all the members of said board herein provided for shall constitute a quorum and have power to transact business:

Monthly
meetings of
board.

Payments.

Provided, however, No money belonging to said fund shall ever be disbursed for any purpose without a vote of a majority of all the members of the board of trustees, which shall be taken by the yeas and nays and the vote of each member so voting entered upon the proceedings of the board.

SEC. 4. Whenever any person, at the taking effect of this act or thereafter, shall have been duly appointed and sworn, and has served for a period of twenty (20) years or more, two (2) years of which shall have been consecutive immediately preceding the end of such period, as a member in any capacity or any rank whatever of the regularly constituted fire department of any such city or town which may hereafter be subject to the provisions of this act, shall be empowered to order and direct that such person may, after becoming fifty-five (55) years of age, and his service in such fire department shall have ceased, to be paid from such funds a monthly pension equal to one-half ($\frac{1}{2}$) the amount of salary attached to the rank which he may have held in said fire department for one year next preceding the date of such retirement.

Service—
pension.

Pension for
physically
disabled.

SEC. 5. Whenever any person, when serving as a fireman in any such city or town, shall become physically or mentally disabled while in, and in consequence of, the performance of his duty as such fireman, said board may upon his written request, or without such request if it deem it for the good of the said fire department, retire such person from active service and, if so retired, shall order and direct that he be paid from said fund a monthly pension equal to one-half ($\frac{1}{2}$) the amount of the salary attached to the rank which he may have held on such fire department preceding such retirement: *Provided,* That whenever such disability shall cease such pension shall cease, and such person shall be restored to active service at the same salary he received at the time of his retirement.

Certificate of
disability.

SEC. 6. No person shall be retired, as provided in the next preceding section, or receive any pension from said fund, unless there shall be filed with said board certificates

of his disability, which certificates shall be subscribed and sworn to by said person and by the city or town physician, if there be one, and the Firemen's Relief and Pension Fund physician, and such board may require other evidence of disability before ordering such retirement and payment as aforesaid.

SEC. 7. Whenever any member of the fire department of any city or town shall, on account of sickness or temporary disability, caused or sustained while in the discharge of his duty as such member, be confined to any hospital or to his bed, and shall require professional nursing, care or attention, the said board shall pay the necessary hospital, care and professional nursing expenses of such member out of said funds, and the salary of said member shall continue while he is necessarily confined to such hospital or bed and necessarily requires care and professional nursing on account of such sickness or temporary disability for a period not exceeding six (6) months, after which said period the other provisions of this act shall apply. Sick benefits.

SEC. 8. Whenever any member of the fire department of such city or town shall lose his life while in the performance of his duty, leaving a widow, or child or children under the age of sixteen (16) years, then upon satisfactory proof of such facts made to it, such board shall order and direct that a monthly pension equal to one-half ($\frac{1}{2}$) the amount of the salary attached to the rank which such member held in said fire department at the time of his death, shall be paid to such widow during her life, or if no widow, then to his child or children until they shall be sixteen (16) years of age: *Provided*, If such widow or child or children shall marry, then such person so marrying shall thereafter receive no further pension from such funds: *Provided, however*, Should there be no widow or children, then said pension may be paid to his parents or unmarried sister or sisters, or minor brother or brothers dependent upon him. Widow's pension.

SEC. 9. Whenever any member of the fire department of such city or town shall, after two (2) years, die from natural causes, then his widow or children, or if there be no Benefit.

widow or children then to his mother or unmarried sister or sisters, or if there be no mother or unmarried sister or sisters, then those immediately dependent upon him, shall be entitled to the sum of one thousand (\$1,000.00) dollars from such fund.

Physical
examination.

SEC. 10. Any person retired for disability under this act may be summoned before the board herein provided for, any time hereafter and shall submit himself thereto for examination as to his fitness for duty, and shall abide the decision and order of such board with reference thereto; and all members of the fire department, who may be retired under the provisions of this act, shall report to the city physician, or some physician designated by the board of the Fireman's Relief and Pension Fund of the city or town when so retired, on the first Monday of January, April, July and October of each year, and in case of great conflagration or great public emergency may be assigned to and shall perform such duty as the chief of the fire department may direct; and such person shall have no claim against the city or town for payment for such duty so performed.

Pension
stopped.

SEC. 11. When any person who shall have received any benefits from said fund shall be convicted of any felony, or shall become an habitual drunkard, or shall fail to report himself for examination for duty as required herein, unless excused by the board, or shall disobey the requirements of said board under this act, in respect to said examination or duty, then such board shall order that such pension or allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension or allowance or benefit under this act, but in lieu thereof the said pension or allowance or benefit may be paid to those immediately dependent upon him, or to his legally appointed guardian.

Disquali-
fication.

SEC. 12. That no person who has resigned or been dismissed from such fire department shall be deemed entitled to any relief or pension from such fund.

SEC. 13. The board herein provided for shall, in addition to other powers herein granted, have power, to-wit:

First. To compel witnesses to attend and testify before it, upon all matters connected with the operation of this act, and in the same manner as is or may be provided by law for the taking of testimony before notary publics; and its president or any member of said board may administer oaths to such witnesses. Powers of board.

Second. To provide for the payment from such funds of all its necessary expenses and printing: *Provided*, That no compensation or emolument shall be paid to any member of said board for any duties performed under this act.

Third. To make all needful rules and regulations for its guidance in conformity with the provisions of the act.

Fourth. To appoint one or more regularly licensed practicing physician of such city or town who shall be known as the Fireman's Relief and Pension Fund Physician who shall together with the city or town physician (if there be one) examine and report to the Board of Trustees upon all applications for relief and pension under this act and shall visit and examine all sick and temporarily disabled members when in their judgment the best interest of the Relief and Pension Fund require it, or ordered by the Board of Trustees, and such appointed physician shall be paid his fees from the said fund: *Provided, however*, That if such physician be retained as private physician he shall receive no compensation from said fund as private physician. Said board shall hear and decide all applications for such relief or pensions under this act and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board. Examining physician.

SEC. 14. The city council of each city or town is hereby authorized and empowered to levy, in the annual tax levy of such city or town, such an amount not exceeding one-half ($\frac{1}{2}$) of one (1) mill for the maintenance of the Firemen's Relief and Pension Fund: *Provided, however*, Whenever the Firemen's Relief and Pension Fund shall reach the sum of twenty-five thousand (\$25,000.00) dollars no fur- Tax levy.

ther levy shall be made for that fund, until such time when the amount in said fund shall be less than twenty-five thousand (\$25,000.00) dollars.

Donations.

SEC. 15. All rewards or donations given or paid to the Firemen's Relief and Pension Fund, or any of its members thereof, except otherwise designated, by the donator, shall be placed to the credit of said fund.

Part of salary for fund.

SEC. 16. The treasurer of any city or town shall retain from the pay of each and every member of the fire department a sum equal to one and one-half per centum of the monthly compensation paid each such member, to be forthwith paid into said Firemen's Relief and Pension Fund, and no other or further retention or deduction shall be made from such pay for any other fund or purpose whatever.

Monthly payments.

SEC. 17. Payment provided for in this act shall be made monthly upon proper vouchers and in such manner as provided for as in other disbursements of such city or town.

Passed by the Senate February 23, 1909.

Passed by the House February 27, 1909.

Approved March 4, 1909.

CHAPTER 51.

[H. B. 100.]

PROVIDING FOR SURVEY OF CERTAIN STATE ROADS.

AN ACT providing for the survey of certain proposed state roads, and state road extensions, by the State Highway Commissioner, and a report on the feasibility of the same.

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

Survey.

SECTION 1. That the State Highway Commissioner is hereby authorized and it is made his duty to cause an examination, and if necessary a survey to be made, to determine the feasibility and utility of the following described proposed state road extensions, and proposed state

roads, and to make a report of all facts concerning the same to the legislature of the State of Washington.

1st. Extension over the most feasible route of State Road No. 7 westerly through the town of Renton and along the shore of Lake Washington to the city of Seattle and easterly to the city of Spokane.

2nd. Extension over the most feasible route of State Road No. 5 westerly through the city of Chehalis to the cities of South Bend in Pacific county and Aberdeen in Chehalis county, and easterly to the city of Pullman in Whitman county.

3rd. Extension over the most feasible route of State Road No. 8 westerly to the city of Vancouver and easterly to the city of Walla Walla and thence to the eastern boundary of Asotin county.

4th. A north and south trunk road beginning at the city of Blaine in Whatcom county; thence southerly by the most feasible route through the principal cities of the sound to the city of Vancouver in Clark county.

5th. A north and south trunk road beginning at a point on the northern boundary of Ferry county, running thence along the most feasible route to the eastern boundary of the state in the southern part of Whitman county.

6th. A road beginning at a point on the proposed extension of State Road No. 7 in the vicinity of Cle Elum in Kittitas county, leading thence as nearly as practicable along the Yakima valley to an intersection with the proposed extension of State Road No. 8 in Benton county.

7th. A road beginning at Kelso in Cowlitz county and leading along the most feasible route through Wahkiakum and Pacific counties to a point in the vicinity of South Bend in Pacific county.

8th. A road beginning at Alder in Pierce county and extending easterly and southerly to a point on State Road No. 5 in Lewis county in the vicinity of Cosmos.

9th. A road beginning at Metaline in Stevens county and extending by the most feasible route northerly and westerly through Northport and thence southerly and westerly to Orient in Ferry county.

No. 4. 10th. A road beginning at a point in Lincoln county, opposite the mouth of the San Poil river in Ferry county, and extending southerly to Wilbur, Washington, the same being an extension of State Road No. 4.

Passed by the House February 10, 1909.

Passed by the Senate February 24, 1909.

Approved March 4, 1909.

CHAPTER 52.

[H. B. 62.]

ADDITIONAL JUDGE FOR SPOKANE COUNTY.

AN ACT relating to the Superior Court of the county of Spokane; the election and appointment of judges therein and declaring an emergency.

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

SECTION 1. Hereafter, there shall be five judges of the Superior Court of the State of Washington in and for Spokane county.

Five judges
in Spokane
county.

SEC. 2. The Governor shall, upon taking effect of this act, appoint one additional judge of said Superior Court, who shall hold his office from the time of his appointment until his successor is elected and qualified, which said successor shall be elected at the general election in November, 1910, and shall hold his office until the second Monday in January, 1913, and until his successor is elected and qualified.

One ap-
pointed.

SEC. 3. At the general election in November, 1912, there shall be elected five judges of said Superior Court, whose terms of office shall be four years from and after the second Monday in January, 1913, and until their successors are elected and qualified; and every four years thereafter there shall be elected at the general state election, five judges of said Superior Court, whose terms of office shall be four years from the second Monday in Jan-

Five elected.

uary, next succeeding their election, and until their successors are elected and qualified.

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

Passed by the House February 9, 1909.

Passed by the Senate March 3, 1909.

Approved March 5, 1909.

CHAPTER 53.

[H. B. 179.]

RELIEF OF KITTITAS COUNTY.

AN ACT for the relief of Kittitas county, Washington, for money advanced in securing the extradition from the State of Illinois of Paolo Nigro, accused of a felony, and making an appropriation therefor.

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

SECTION 1. That there is hereby appropriated out of the general fund the sum of two hundred seven and 55-100 (Appropriation \$207.55. \$207.55) dollars, the said sum to be payable to Kittitas county, by the State Auditor upon proper vouchers duly presented, being for money advanced by said Kittitas county to secure the extradition from the State of Illinois of one Paolo Nigro, accused of a felony in the Superior Court of said county.

SEC. 2. The State Auditor is hereby authorized to draw a warrant on the State Treasurer in favor of Kittitas Payment. county for the sum of two hundred seven and 55-100 dollars (\$207.55) and the State Treasurer is directed to pay the same out of any money in the treasury not otherwise appropriated.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 54.

[H. B. 79.]

PROTECTING GAME ON LAKE WASHINGTON.

AN ACT to prevent the firing of guns or the killing, entrapping, shooting, ensnaring, maiming, or molesting any of the wild birds at any season of the year upon the waters of Lake Washington, or within one mile of the shores thereof, and providing a penalty for the punishment of the violation of this act.

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

Lake Wash-
ington game
preserve.

SECTION 1. That it shall be unlawful to fire any gun or to kill, shoot, entrap, ensnare, maim, or destroy any wild birds at any season of the year upon the waters of Lake Washington, or within one mile of its shores, and any person who shall kill, shoot, entrap, ensnare, destroy, or maim any wild birds at any season of the year upon the waters of Lake Washington, or within one mile of the shores of said lake, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as hereinafter provided.

Penalty.

SEC. 2. Any person violating any of the provisions of this act shall, upon conviction thereof, be subject to a fine of not less than ten dollars nor more than one hundred dollars, together with the costs of prosecution, or imprisonment in the county jail where the offense is committed for not less than five days nor more than thirty days, or by such fine and imprisonment in the discretion of the court.

Application.

SEC. 3. Sections one and two of this act shall not apply to any person holding a certificate giving the right to take birds, their nests, or eggs, for scientific purposes, as now provided by law.

Passed by the House February 25, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 55.

[H. B. 269.]

RELATING TO THE USE OF LAMPS IN COAL MINES.

AN ACT regulating the use of lamps in coal mines and prescribing a penalty for the violation of the provisions thereof.

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

SECTION 1. In every working of a coal mine approaching any place where there is likely to be an accumulation of explosive gases, or in any working where there is imminent danger from explosive gases, no light, lamp or fire other than a magnetic locked, air locked or lead locked safety lamp shall be allowed or used, except by mine superintendents, mine foremen or their assistants, gas-testers, fire-bosses or shot-lighters, who may use such lamps as may be approved by the State Mine Inspector. Whenever safety lamps are required in any mine they shall be the property of the owner of said mine, and a competent person, who shall be appointed for the purpose, shall examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be clean, safe and securely locked, and safety lamps shall not be used until they have been so examined and found safe, clean and securely locked.

Safety
lamps.

Lamps
examined.

SEC. 2. Whenever the operator or operators of any mine may be using safety lamps other than magnetic locked, air locked or lead locked lamps, the said operator or operators shall procure and put in use the said magnetic locked, air locked or lead locked lamps and cease the use of such other lamps within six months from the time this act shall go into effect. Where nonmagnetic lighting safety lamps are not in use, the operator or operators shall provide stations in safe places for relighting safety lamps.

Application
of act.

SEC. 3. For the violation of any of the provisions of this act the operator or operators of any mine shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined in any sum not less than fifty dollars nor more than two hundred dollars and in addition thereto

Penalty.

the State Mine Inspector shall have authority and it shall be his duty to close such mine until the provisions of this act shall be complied with. Any man opening or tampering with one of said safety lamps or found with matches or any lighting device other than the safety lamps, shall be guilty of a misdemeanor and upon conviction thereof for the first offense he shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) and for the second offense he shall be fined not less than two hundred dollars (\$200.00) or imprisonment for a term of not more than one year.

Passed by the House February 25, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 56.

[H. B. 281.]

RELATING TO SHODDY.

AN ACT regulating the sale and manufacture of shoddy and the use of the same in the manufacture of mattresses, couches, and other like articles; providing for its enforcement, and fixing a penalty for the violations of the provisions thereof.

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

Shoddy must
be dis-
infected.

SECTION 1. No person, firm or corporation shall, within this state, sell, offer for sale, or manufacture for sale, what is commonly known as shoddy, or use the same in the manufacture of mattresses, quilts, pillows, rugs, couches, lounges or bedding of any kind or description, unless such commodity has been first properly disinfected or in some other manner rendered free from pathogenic or disease bearing germs.

What is
shoddy.

SEC. 2. That the term "shoddy," as used in this act, shall include all materials made or manufactured of rags, old clothing, burlap, old mattresses, quilts or pillows.

SEC. 3. It shall be the duty of all departments of health, health officers, commissioners of health or officials

discharging similar duties in the State of Washington to enforce the provisions of this act, and they shall have power, in the performance of their official duties, to enter any store or manufacturing establishment where the articles mentioned in section 1 of this act are manufactured or are for sale and make such examination as they deem necessary in order to ascertain whether or not the provisions of this act are being violated.

Officers to enforce act.

SEC. 4. It shall be the duty of the attorney general and prosecuting attorneys of the counties of this state to prosecute all cases arising under the provisions of this act.

Attorney General.

SEC. 5. Every person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or by both such fine and imprisonment.

Fine.

Passed by the House February 26, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 57.

[H. B. 239.]

PROTECTING PERSONS WORKING IN COAL MINES.

AN ACT to amend section 5 of an act entitled, An act for the protection of persons working in coal mines, approved March 6, 1897.

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

SECTION 1. That section 5 of an act entitled, An act for the protection of persons working in coal mines, approved March 6, 1897, be and the same is hereby amended to read as follows:

[Am'd. § 5,
ch. 45, p. 60,
L. '97.]

Sec. 5. The quantities of air in circulation shall be ascertained with an anemometer; such measurements shall be made by the superintendent, inside foreman or his assistant, at least once a week at the inlet and outlet airways,

Measurements of air.

also at or near the face of each gangway, and at the nearest cross-heading to the face of the inside and outside chamber, breast or pillar where men are employed: *Provided*, That no heading shall be driven more than sixty feet from the face of each chamber, breast or pillar, unless for the reason that he deem the same impracticable the inspector gives permission in writing to extend the distance beyond sixty feet. A record of all measurements herein provided for shall be entered in a book to be kept for that purpose, and said book must always be produced for examination at the request of the inspector. It shall be the duty of the mine inspector, whenever he shall visit said mine, to make a careful measurement of the quantities of air in circulation therein, said measurements to be made at the places hereinabove indicated. Any superintendent, inside foreman or his assistant, who shall neglect or fail to comply with the provisions of this section, or who shall make any false report in regard to air measurements, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than fifty dollars, and shall stand committed to the county jail until such fine is fully paid.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 58.

[H. B. 230.]

RELATING TO RIGHTS-OF-WAY FOR STATE ROADS.

AN ACT providing for the conveyance by boards of county commissioners of rights-of-way over county roads for state road purposes.

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

SECTION 1. It shall be lawful for boards of county commissioners to transfer and convey to the State of Washington rights-of-way over and along county roads for state

Rights-of-way for state road.

road purposes, and it is hereby made their duty to make such transfer or conveyance upon receiving notice from the State Highway Board that a state road has been established and definitely located over a county road and that said road will be improved and maintained by the state and that funds are available for the immediate construction of such road.

Passed by the House February 23, 1909.

Passed by the Senate March 4, 1909.

Approved March 6, 1909.

CHAPTER 59.

[H. B. 125.]

PERMITTING CITIES AND TOWNS TO VALIDATE CERTAIN INDEBTEDNESS.

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

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

SECTION 1. Any county, city or town in this state may ratify in the manner prescribed by this act, the attempted incurring of any indebtedness of such county, city or town, by the issuing of warrants, making of contracts, or creation of other evidences of indebtedness on the part of such county, city or town, by the corporate authorities thereof at any time prior to the passage of this act, when the only ground of the invalidity of such indebtedness so to be ratified is that, at the time of such attempted incurring thereof, the same, together with all other then existing indebtedness of such county, city or town, exceeded one and one-half per centum of the taxable property of such county, city or town, ascertained by the last assessment for state and county purposes previous to the attempted incurring of such indebtedness, except that in incorporated cities the assessment shall be taken from the last assessment for city

[This chapter supercedes ch. 221, L. '07.]

Ratification.

Grounds of invalidity.

purposes, and that such indebtedness was so attempted to be incurred without the assent of three-fifths of the voters therein voting at an election held for that purpose.

Ordinance.

SEC. 2. Whenever the corporate authorities of any such county, city or town shall deem it advisable that the ratification authorized by this act shall be obtained, they shall provide therefor by ordinance or resolution, which shall specify separately the amount of each distinct class of such indebtedness so to be ratified, the date or period of the attempted incurring by the corporate authorities of each separate class thereof, and the general nature of the indebtedness composed in each distinct class and shall provide for the holding of an election for that purpose, at which the attempted incurring of such indebtedness shall be submitted to the voters in such county, city or town for ratification or approval, of which election notice, to be provided for in such ordinance or resolution, shall be given by publishing the same in a newspaper published in such county, city or town once a week for at least four successive weeks prior to the election, and if no newspaper is published in such city or town, then by publishing such notice for the same period in a newspaper published in the county wherein such city or town is situate and of general circulation therein. Each distinct class of such indebtedness so specified shall be the subject of a distinct vote in favor of or against the ratification thereof, and such vote shall designate the class of indebtedness referred to by the description thereof used and the amount specified in the ordinance or resolution.

Election.

Classes of indebtedness.

Vote necessary to validate.

SEC. 3. If at an election held as provided for in section two of this act, three-fifths of the voters of such county, city or town, voting at such election, shall vote in favor of the ratification, of any distinct class of such indebtedness, specified in the ordinance or resolution providing for such election, then such indebtedness shall thereby become and is hereby declared to be validated and a binding obligation upon such county, city or town, when the only ground of the previous invalidity of such indebtedness is that at the time of the incurring thereof so ratified, the same, together

with all other then existing indebtedness of such county, city or town, exceeded one and one-half per centum of the taxable property in such county, city or town ascertained by the last previous assessment for state and county purposes (except that in incorporated cities the assessment shall be taken from the last assessment for city purposes): *Provided*, That neither anything in this act contained nor the vote cast at any such election shall be deemed to validate or authorize any indebtedness, which, together with all other indebtedness of such county, city or town existing at the time of the attempted incurring of the same exceeded any constitutional limitation of indebtedness which might be incurred with the assent of three-fifths of the voters in such county, city or town voting at an election to be held for that purpose: *And provided further*, That this act shall apply only to indebtedness attempted to be incurred prior to the passage hereof.

SEC. 4. The words corporate authorities used in this act, shall be held to mean the legislative or managing body of any county, city or town.

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

Passed by the House February 1, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 60.

[H. B. 266.]

RELATING TO DRAINAGE AND SEWERAGE IN CITIES OF THE THIRD CLASS.

AN ACT authorizing cities of the third class to provide for the drainage and sewerage of such cities and provide for the payment of the cost and maintenance thereof, and declaring an emergency.

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

SECTION 1. That cities of third class be, and the same are hereby empowered to improve the public streets

Drains and
sewers.

and alleys of such cities by constructing and maintaining therein, drains and sewers, either surface or underground, and may make such improvements by improving any street, or alley, as a separate improvement, or may improve one, or more streets, or alleys, in one improvement district, or system, and construct and maintain any main, or trunk sewer line for the benefit of the property abutting or approximate thereto, and as an outlet for sub-sewer lines, or districts formed for the improvement of streets by the construction of sewers or drains therein which may subsequently connect therewith, under the terms and conditions of this act: *Provided*, That this act shall not be intended to supersede or repeal any law now in effect relating to the improvement of public streets by cities of the third class, but the same shall be considered concurrent and additional legislation thereto. Said cities being hereby authorized to proceed under the law as it now exists where the character of the improvement is sufficiently provided for under the existing law relating thereto.

Old laws
continued.

Petition.

SEC. 2. Whenever it is desired to improve any street, or streets, alley or alleys in any city of the third class, by the construction of sewers, or drains therein, a petition signed by the owners of one-fourth in quantity of the property abutting upon or approximate to the street or streets, alley or alleys to be improved, may be presented to the city council setting forth therein the street or streets, alley or alleys to be included in such proposed improvement, that it is the desire of said petitioners to have said street or streets, alley or alleys improved, the character of said improvement sought, the point of beginning, and the terminus of said sewer and praying that the council of said city proceed to establish and construct said improvement as provided by law.

Survey.

SEC. 3. On the presentation of such petition to the council of said city, said council shall at once cause a survey to be made for the purpose of ascertaining the practicability of the proposed improvement, and to determine whether a feasible and practical natural or artificial

outlet can be provided for the same and in case the report of said survey be satisfactory, and said improvement be deemed practical, and that a sufficient outlet therefor can be made or secured, such council shall immediately proceed to enter an order finding such facts and directing in said order that plans and specifications for said improvement be prepared by the city engineer and filed with said city council, and thereupon said council shall by ordinance declare its intention to make such improvement, setting forth in such ordinance the name of the street, or streets, alley, or alleys, to be improved, the beginning, and the terminus of said improvement, and the general character of the same as shown by the plans and specifications on file, which said plans and specifications shall be approved and adopted in said ordinance, and an estimate of the cost of said improvement, and reciting further therein, whether said improvement, or any part thereof is to be constructed as a main, or trunk line sewer, or for the special and exclusive benefit of the property abutting upon, or approximate thereto, and also what portion if any, of the cost of said improvement is to be assessed against the property abutting upon or approximate thereto, and fixing the boundaries so as to include all abutting or approximate property to be benefited by said proposed improvement, and setting forth what portion, if any, of the cost thereof shall be paid by the city from its general, or current funds. Said ordinance shall fix a time not less than ten days in which protests against such proposed improvement may be filed in the office of the city clerk. It shall be the duty of such clerk to cause such ordinance to be published in the official newspaper of the city for at least two consecutive issues of such paper before the time fixed in such ordinance for filing such protests, and proof of the publication of such ordinance by the affidavit of the publisher of such newspaper shall be filed with the clerk of such city, on or before the time fixed for such filing. If protests against the proposed amendment be filed by the owners of two-thirds in quantity of the lands abutting on, or approximate to said improvement

Ordinance.

Estimate of cost.

Protests.

Assessment
district.

Limit of
assessment.

on or before the date fixed for such filing, the council shall not proceed further toward the establishment of said improvement unless six members of said council shall vote to proceed with such work. If no such protests are filed, or if such protests are filed, and the council shall vote to proceed in the establishment of such proposed improvement it shall at its next regular meeting, proceed to consider the same and shall then, or at a subsequent time, proceed to enact an ordinance establishing such improvement, designating the same in said ordinance as Local Improvement Sewer District No. —, and fixing the boundaries of said district so as to include all the property abutting upon, or approximate thereto which will be benefited by said improvement, and such council shall find and set forth in said ordinance that all the property included within the boundaries of said district abuts upon or is approximate to the street or alley so improved. Such ordinance shall further provide that such improvement shall be made and that the cost and expense thereof shall be assessed upon all the property in such district by special tax upon such property, to be levied in accordance with the last general assessment of the land within said district for city purposes, exclusive of all improvements, not exceeding the benefits to be derived from such improvement: *Provided, however,* That in case such city shall determine to pay any portion of the cost of said improvement out of the general or current funds of said city such portion shall be designated in said ordinance, but such portion shall not exceed twenty-five per cent. of the cost unless by the unanimous vote of the council, and the amount of such cost remaining shall be levied against the property in such district as herein provided: *Provided,* That it may be provided in said ordinance that the payment of the cost of said improvement to be assessed against the property in said district may be made in annual installments of not less than twenty-five per cent. thereof: *And provided further,* That the expense for making the survey and plans and specifications herein provided for, in case said improvement shall be abandoned,

shall be paid by such city, but if said improvement is established, such expense or any portion thereof may be paid by such city or the whole or any portion thereof may be assessed against the property of such district as a part of the cost of said improvement, as the council may determine.

SEC. 4. The manner of making the assessment roll, the letting of the contract for such improvement, the acquiring of the right of way for the same, and the manner and method of enforcing the lien of said assessment, and the payment of the costs of said improvement shall be as now provided by the law relating thereto in cities of the third class; except as herein otherwise provided and it is hereby further provided, that such cities for the purpose of acquiring the necessary right of way for such sewer improvement may if necessary, go beyond the corporate limits of such city in acquiring the same and where no natural outlet exists, or cannot be secured, may provide for an artificial outlet or means of disposing of the sewerage by the construction of pumping plants, reservoirs, and septic tanks as a part of any main or trunk line, and include the cost of the same as a part of the cost of said improvement: *And provided further*, That any trunk or main line sewer shall be considered a sufficient outlet for any sub-sewer or lateral district connecting therewith: *Provided*, The same is found and declared in the ordinance establishing said sub-sewer lateral district.

SEC. 5. That in any proceeding for the foreclosure of any assessment made under this act, if the court shall be satisfied that the work has been done or material furnished, which according to the true intent of the act would be properly chargeable upon any lot or tract of land abutting or approximate to such improvement, a recovery shall be permitted or charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable upon such lot of land notwithstanding any informality, irregularity or defect in any of the proceedings of such municipal corporation or its officers.

Bonds.

SEC. 6. That in case any portion of the cost of any such improvement be assumed by such city to be paid out of the general fund thereof as provided herein, and such city has reached the limitation of its indebtedness, or for any other reason no funds are available therefor, such city may proceed under the provisions of chapter sixteen of Ballinger's Annotated Codes and Statutes of the State of Washington, as amended by chapter 85 of the Session Laws of 1901, relating to the incurring of indebtedness, and the issuing of bonds for the construction of water works, systems of sewerage, and issuing bonds therefor, and such other law, or laws as may now, or hereinafter be in force relating to the incurring of indebtedness for municipal purposes over the constitutional limit, by cities of the class embraced in this act: *Provided*, That the system or plan to be submitted as provided in said chapter shall be the system or plan established by ordinance under the provisions of section two of this act: *And provided further*, That in case it is desired to issue bonds of such improvement district to provide for the payment of the cost of such improvement such city may apply the provisions of an act relating to internal improvements in cities, approved March 9th, 1893, the same being chapter twenty of Ballinger's Annotated Codes and Statutes of the State of Washington, as the same may have been, or hereafter be changed or amended. In case the proposition submitted under said chapter 16 be rejected by the voters of such city then all proceedings in said improvement shall be abandoned.

Maintenance fund.

SEC. 7. That such city for the purpose of operating, repairing and maintaining such system shall establish for each improvement established under the provisions of this act, a fund to be known as "Sewer District No. — Maintenance Fund," and may provide such fund in whole, or in part out of the general funds of said city, or by an annual assessment against the property included in such improvement district in manner and form as provided for the assessment of the cost of the original improvement as

provided for in section three of this act. Said special levy to be based upon an estimate made by the city council of the probable cost of maintenance for the succeeding year not exceeding the benefits to said property from such maintenance. Such levy to be at the time the general levy of taxes for municipal purposes is made by said council, and the same shall become a lien and be collected or foreclosed in the same manner as the special tax for the cost of the original improvement: *Provided*, That said maintenance fund may be created and established by separate ordinance or by the ordinance creating such improvement district.

SEC. 8. An emergency exists and this act shall take Emergency. effect immediately.

Passed by the House February 26, 1909.

Passed by the Senate March 1, 1909.

Approved March 6, 1909.

CHAPTER 61.

[H. B. 186.]

ESTABLISHING STATE ROADS.

AN ACT providing for the establishment of certain state roads.

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

SECTION 1. The following described roads having been examined and all surveys necessary to a determination as to their feasibility and utility having been made by the State Highway Commissioner under the provisions of chapter 116, Laws of Washington, A. D. 1907, and the report of the State Highway Commissioner being favorable, the same are hereby declared to be state roads and shall be known and described as hereinafter set forth.

SEC. 2. State Road No. 14, or the Hood Canal road, the same being a road beginning at Hoodspout in Mason No. 14. county and running thence by the most practicable route to Duckabush in Jefferson county. State Road No. 15,

or the Lewis River road, beginning at Woodland in Cowlitz county and running thence up the north bank of Lewis river, following as nearly as practicable the county road, and continuing to the mouth of the Big Muddy, a tributary of Lewis river in Skamania county.

No. 16.

State Road No. 16, or the Garfield-Asotin road, beginning at a point where the county road intersects the north line of the northeast quarter of section 4 in township 9 north, range 42 east, W. M., in Garfield county and running thence in a southerly course by the most feasible route along the divide between the Tucannon river and Pataha creek and the divide between the Tucannon river and Asotin creek to the summit of the Blue mountains, near what is known as Summit Springs; thence by the most feasible route southerly to the divide between Wenatchee and Grouse creeks, thence following the divide southwesterly to the Asotin county road near the upper crossing of Grouse creek at or near the line between sections 5 and 6 in township 6 north, range 43 east, W. M., in Asotin county, Washington.

No. 17.

State Road No. 17, or the Island-Skagit road, the same being a road and two bridges crossing the United States Military Reservations Nos. 14 and 15 and connecting the county roads of Island and Skagit counties.

Passed by the House February 9th, 1909.

Passed by the Senate March 1st, 1909.

Approved March 6, 1909.

CHAPTER 62.

[S. B. 33.]

ENCOURAGING COUNTY FAIRS AND EXHIBITS.

AN ACT to amend sections 2 and 3 of an act entitled "An act to encourage county agricultural associations and fairs, and to provide funds therefor," approved March 17, 1903.

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

SECTION 1. That section 2 of an act entitled "An act to encourage county agricultural associations and fairs, and to provide funds therefor," approved March 17th, 1903, be amended to read as follows: Sec. 2. To enable the said board of county commissioners to give said grant, they may and they are hereby authorized to appropriate from the current expense funds of said county, any sums for said purpose not to exceed one-half of one mill on the dollar of all taxable property in the county according to the assessment as made by the county assessor and equalized by the board of equalization for the year next preceding the year in which the appropriation is made: *Provided*, That in counties of the third and fourth classes such appropriation shall not exceed one-fourth of one mill on the dollar, and in counties of the first and second class, such appropriation shall not exceed one-eighth of one mill on the dollar of all the taxable property in such counties: *And provided further*, That the members of the board of county commissioners shall be *ex-officio* members of the county agricultural fair association in all counties where appropriations are made under the provisions of this act.

[Am'd. § 2,
ch. 174, p.
363, L. '03.]

Appropriation
from current
expense fund.

Counties of
third and
fourth class.

Of first and
second class.

SEC. 2. That section 3 of said act shall be amended to read as follows: Section 3. The said board of county commissioners shall make said appropriations for said fair not later than July 31st annually, where they shall deem it to the best interests of the county to make such appropriations, and shall cause such sums so appropriated to be paid to the trustees of said associations or their duly au-

[Am'd. § 3,
ch. 174, p.
364, L. '03.]

One fair
each year.

thorized treasurer: *Provided, however,* That no more than one county agricultural fair shall be held in any county in any one year; and said county fair association so applying for the benefit of the aforesaid appropriation must have a corporate existence: *And provided further,* That any and all buildings and structures erected with the funds so appropriated shall become the property of the county making such appropriation: *And further provided,* That full and complete vouchers covering all expenditures of public money appropriated under this act, shall be made to the board of county commissioners before the close of each calendar year.

Passed by the Senate February 15, 1909.

Passed by the House March 4, 1909.

Approved March 6, 1909.

CHAPTER 63.

[S. B. 167.]

PERMITTING THE VACATION OF WATERWAYS.

AN ACT to provide for the vacation of portions of waterways, the extension of streets over the portions so vacated, and for the sale and disposition of the portions so vacated not embraced within any street or streets extended over the same.

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

SECTION 1. Whenever the owners of the tide lands and uplands, if any, abutting upon the portion of any waterway heretofore established under authority of the laws of this state, shall desire any portion of such waterway so abutting upon the lands by them owned, vacated, they shall submit to the city council of the city within, in front of, or in the vicinity of which such waterway is located, a petition therefor, describing the extent of such waterway so desired to be vacated. If such council by ordinance approve such petition, a certified copy thereof, together with a certified copy of such ordinance, shall be sub-

Petition.

mitted to the Commissioner of Public Lands of the State of Washington, and thereupon, if he shall approve the same, and the portion of such waterway sought to be vacated be not navigable water of the United States, or otherwise within the jurisdiction of the United States, the portion of such waterway so described shall thereupon be deemed to be, and shall be thereby vacated: *Provided, however,* That if such portion of such waterway sought to be vacated be navigable water of the United States, or otherwise within the jurisdiction of the United States, a copy of such petition and ordinance, with the approval thereof of the Commissioner of Public Lands, certified to by him, shall be submitted to the Secretary of War and Chief of Engineers of the United States for their approval, and if they approve the same, the portion of such waterway so described, shall thereupon be deemed to be, and shall be, thereby vacated.

Commissioner
of Public
Lands.

Secretary of
War.

SEC. 2. Upon such vacation occurring, in either of the manners aforesaid, the city within, in front of, or in the vicinity of which such waterway is located, shall have the right to extend across the portions so vacated any existing streets, or to select therefrom such portions thereof as the city may desire for street purposes, in no case to exceed 150 feet in width for any one street. Such selection shall be made within sixty days subsequent to the receipt of notice from any party in interest of the vacation of the portion of the waterway so vacated.

Streets.

SEC. 3. Should such city fail to make such selection within such time, or having within such time made such selection, the remaining portions of such waterway so vacated shall be appraised and disposed of in the same manner, and with preference right of purchase in the same parties as is now provided by law for the disposition of tide lands of the class to which such vacated portion shall belong.

Remaining
portion sold.

Passed by the Senate February 11, 1909.

Passed by the House March 1, 1909.

Approved March 6, 1909.

CHAPTER 64.

[H. B. 296.]

FOR RELIEF OF GRAND ARMY POSTS.

AN ACT relating to the relief of the posts of the Grand Army of the Republic.

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

SECTION 1. Any post of the Grand Army of the Republic which has qualified to accept relief from the Indigent Soldiers' Relief Fund of any county may draw upon said county fund for the payment of the rent of its regular meeting place: *Provided*, That no post shall be allowed to draw on such fund for this purpose to exceed the sum of one hundred dollars (\$100) in any one year, or in any amount for hall rental where said post is furnished quarters by the state or by any municipality.

Amount.

Before such claims are ordered paid by the county commissioners, the commander of such posts shall file a proper claim each month with the county auditor for such rental.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 6, 1909.

CHAPTER 65.

[S. B. 149.]

FOR RELIEF OF HOLDERS OF NORMAL SCHOOL WARRANTS.

AN ACT authorizing the issuance of bonds for the payment and redemption of all warrants issued for erecting and equipping the Cheney and New Whatcom Normal Schools, under the act entitled "An act relating to State Normal Schools and making appropriation therefor," approved March 7, 1895.

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

SECTION 1. The Governor, State Auditor and State Treasurer are hereby authorized and directed to pay and redeem all warrants issued under the act entitled "An act

relating to State Normal Schools, and making appropriation therefor," approved March 7, 1895, for the purpose of erecting and equipping normal schools at Cheney and New Whatcom, by issuing to the holders of such warrants bonds of the State of Washington to the amount of the principal of said warrants, together with simple interest thereon at the rate of seven per cent. per annum from date of issuance of the various warrants, which bonds shall have interest coupons attached.

Bonds to be issued.

SEC. 2. Said bonds shall be signed by the Governor and attested by the Secretary of State, and countersigned and registered by the State Auditor, and shall be in denominations as nearly as practicable of one thousand dollars each, and shall on their face be made payable by the State of Washington at any time after five years and within fifteen years from their date at the option of the state, at the office of the State Treasurer, and said bonds shall bear interest at the rate of three per cent. per annum, payable semi-annually.

Denomination.

Payable, when.

SEC. 3. Interest upon said warrants shall cease upon the taking effect of this act.

Interest to cease.

Passed by the Senate February 16, 1909.

Passed by the House February 27, 1909.

Approved March 6, 1909.

CHAPTER 66.

[S. B. 27.]

TO ESTABLISH A FISH HATCHERY NEAR AUBURN.

AN ACT providing for the purchase of the southeast quarter (S.E. $\frac{1}{4}$) of the northeast quarter (N.E. $\frac{1}{4}$) of section sixteen (16) in township twenty-one (21) north of range five (5) east of the Willamette meridian, for state fish hatchery purposes and declaring an emergency.

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

SECTION 1. For the purpose of providing a suitable site for a state fish hatchery, the Governor of the State

Purchase of
site.

of Washington is hereby authorized and directed to purchase, in the manner now provided by law, that certain tract or parcel of land situated in the county of King, State of Washington, particularly described as follows, to-wit: The southeast quarter (S. E. $\frac{1}{4}$) of the northeast quarter (N. E. $\frac{1}{4}$) of section sixteen (16) in township twenty-one (21) north of range five (5) east of the Willamette meridian.

Upon making said purchase the Governor shall enter into a contract with the proper officers of the State of Washington for the payment of the entire purchase price, with interest at the rate fixed by the existing law and in the manner required of other purchases of school land: *Provided*, The purchase price may be paid at any time, but it shall not be necessary to pay any part of the purchase price in advance or at any given date.

Emergency.

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

Passed by the Senate January 29, 1909.

Passed by the House February 24, 1909.

Approved March 6, 1909.

CHAPTER 67.

[H. B. 116.]

RELATING TO FIRE INSURANCE.

AN ACT regulating the business of fire insurance, and providing a penalty for violation thereof.

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

Rebate
prohibited.

SECTION 1. No insurance company or corporation transacting the business of fire insurance in this state, and no agent or sub-agent thereof, or any other person, shall offer to pay or allow as inducement to insurance any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give, sell or

purchase, or offer to give, sell or purchase as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever, not specified in the policy.

SEC. 2. No person shall receive or accept from any such company or corporation, or agent or sub-agent thereof, or from any other person any such rebate of premium payable on the policy, or any special favor or advantage in the dividend or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance. No person shall be excused from testifying, or from producing any books, papers, contracts, agreements or documents at the trial of any other person charged with violating any provision of this act, on the ground that such testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Unlawful
to accept
rebate.

No im-
munity.

SEC. 3. The provisions of this act shall not apply to any dividends of any mutual insurance company organized under and pursuant to the laws of this state.

Mutual
societies.

SEC. 4. Whoever violates any of the provisions of this act shall be punished by a fine of not more than two hundred dollars.

Fine.

Passed by the House February 18, 1909.

Passed by the Senate March 3, 1909.

Approved March 9, 1909.

CHAPTER 68.

[H. B. 33.]

ARMORY AT BELLINGHAM.

AN ACT relating to the construction of an armory for the use of the National Guard of Washington, at Bellingham, appropriating money from the military fund therefor, creating a board to superintend the construction thereof.

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

Appropriation
\$75,000.

SECTION 1. That for the purpose of constructing an armory for the use of such organization or organizations of the National Guard of Washington as may be stationed there, the sum of seventy-five thousand dollars (\$75,000.-00) is hereby appropriated from the military fund for the construction of an armory in the city of Bellingham: *Provided*, That the appropriation carried by this section shall not become available before April 1, 1910, and that a suitable site for such armory be furnished without cost to the State of Washington, and that the title to such site shall be deeded to the State of Washington.

Available,
when.

Site.

SEC. 2. The county of Whatcom of the State of Washington is hereby authorized and empowered to appropriate money for the purchase of an armory site whenever the Legislature of this state shall appropriate money for or authorize the construction of an armory therein.

Commission.

SEC. 3. That for the purpose of erecting the armory provided by this act, the Governor shall appoint a board of commissioners to be known as the Bellingham Armory Commission. The board shall consist of six members comprised as follows: The Adjutant General of the National Guard of Washington, the ranking officer of the active list of the National Guard of Washington, stationed at the city of Bellingham, the State Board of Control and the chairman of the board of county commissioners of the county of Whatcom, all of whom shall be *ex-officio* members of the board. The Adjutant General shall be chairman of said board, and the board shall elect a secretary from

among its members. The members of the board shall act as such until the completion of the armory and the acceptance thereof by the state, and shall give bond with at least two sureties, to the State of Washington, in the sum of five thousand (\$5,000.00) dollars, conditioned for the faithful performance of the duties imposed by this act, to be approved by the Governor and filed with the Secretary of State, said sureties qualifying in double the penal obligation of said bond. A majority of the board shall constitute a quorum: *Provided, however,* That no member of the board shall be allowed or shall receive any compensation for his services as a member of such board. Bond.

SEC. 4. It shall be unlawful for any members of the said board to be connected, either directly or indirectly, in any manner whatsoever, with any contract or part thereof for the erection of said armory or for any work connected therewith, or for the furnishing of any supplies or material therefor or to receive any benefit therefrom, either by way of commission, rebate, bonus, division of profits or otherwise, and any one of said members who shall violate any of the provisions of this act shall be guilty of a felony, and upon conviction thereof shall be subject to a fine not to exceed \$1,000.00 and imprisonment in the penitentiary not to exceed five years, and shall forfeit his right to and be removed from his place on the board by the court in which he shall have been convicted. It shall be unlawful for said board to employ any person in the supervision or superintendence of the building of said armory, or in any work connected therewith, who may or shall become in any manner connected, directly or indirectly, with any contract for the erection of said armory, or for the furnishing of any supplies or material therefor; and the said board is hereby charged with the rigid enforcement of this provision of this act. Members not to be interested in contract.
Penalty.

SEC. 5. It shall be the duty of said board to locate its armory upon the most sightly and suitable site which shall become available therefor within the said city; to secure the submission of plans and designs appropriate to an Duties of commission.

armory to cost not more than the amount specified in this act, and such additional sum, if any, as may be donated for the purposes of this act; to select desirable site, plan and design, and to obtain proper architectural designs, plans and specifications and details, in conformity with such plan and design; to secure the erection and completion of such armory building conforming faithfully to such plan and design.

SEC. 6. No construction or material exceeding \$500.00 shall be furnished except pursuant to bids advertised for in one daily paper for a period of ten days in said city where said armory is to be built. The bid of the lowest and best responsible bidder shall be accepted, saving that the board shall have the right to reject any and all bids. The performance of any contract shall be secured by a surety company bond to the State of Washington in a sum not less than one-quarter of the contract price, said bond to be conditioned for the faithful performance of said contract and to be approved by the Commission. Each bid shall be accompanied by a certified check in the sum of \$1,000.00, payable to the chairman of the Commission, which shall be forfeited to the state for the use of the military fund upon failure of the party, for a period of ten days after any contract is awarded, to enter into a proper contract and furnish satisfactory bonds as required by law. All contracts shall reserve the right of the board for good cause shown to annul the contract, without allowance for damages, and allowing only expenses incurred and labor performed, not exceeding the contract price of the proportion that the work done or the material furnished thereunder bears to the total amount contracted for. Such a per centum, not less than twenty per centum, as the board shall [deem proper shall] be reserved from payment on monthly estimates of work done, until such work shall have been completed, inspected and accepted. All material contracted for shall be of the best quality and to the satisfaction of the board, and the directions, plans and specifications of the work executed and carried out by

Bids.

Good faith
required.

Contract
may be
annulled.

skilled and reputable architects, artists, mechanics and laborers, likewise to the satisfaction of the board.

SEC. 7. The architect chosen by the board shall receive such compensation for his plan and design as the board shall deem reasonable. He shall be supervising architect of said building, and for all contracts for construction or material therefor. He shall see that all material furnished and work done shall be of the best quality, and all contracts with said board are faithfully performed by the parties so contracting with said board. He shall perform all other duties devolving upon him as such architect, and the supervising architect of said building, and may be removed at the pleasure of said board. Neither said architect nor any of his subordinates or assistants shall be in any way connected with any work done or material furnished for said building, or any contract therefor, or shall have any interest therein, directly or indirectly. He shall furnish a surety company bond to the State of Washington in the sum of \$10,000.00 conditioned for the faithful performance by said architect, his assistants and subordinates, of his or their duties as herein prescribed.

SEC. 8. All disbursements on account of the construction of said armory provided for in this act shall be made pursuant to certificates issued by the board. All claims, bills and demands for labor performed, work done or material furnished, shall be presented to the board in duplicate, and shall be passed upon by said board after a careful examination of every item named. If found correct, they shall audit the same, preserving one duplicate and transmitting the other as audited and allowed to the state auditor, and shall issue a certificate to the effect that the services have been rendered or materials furnished, and the person named therein is entitled to a warrant on the treasury for the amount therein named. Upon a presentation of said certificate and duplicate of the vouchers therefor as audited and approved by the board herein provided, to the State Auditor, he shall draw his warrant on the state treasury upon the military fund, and the State Treas-

urer is hereby authorized to pay said warrant for the amount stated, and to the order of the person named in said certificate: *Provided*, That no certificate shall be issued in excess of the amount appropriated for said armory. All certificates issued shall be recorded in a book for that purpose.

Attorney
General.

SEC. 9. The Attorney General shall be the legal adviser of the board herein constituted.

Government
of armory.

SEC. 10. The Commander-in-Chief is hereby authorized to make such rules and regulations as he may deem expedient to govern this armory, but such rules and regulations shall conform to this act. When promulgated, they shall have the same force and effect as this act.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 9, 1909.

CHAPTER 69.

[H. B. 310.]

PROVIDING FOR ERECTING A CAPITOL BUILDING.

AN ACT relating to the sale of lands granted for public buildings at the state capitol, providing for the payment of all the claims against the capitol building fund and for the erection and completion of a capitol building, and making an appropriation for the carrying out of the provisions of this act and declaring an emergency.

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

State Capitol
Commission.

SECTION 1. A State Capitol Commission is hereby created, consisting of the Governor, State Auditor, the Commissioner of Public Lands, one member of the Tax Commission to be named by the Governor as *ex-officio* member thereof and three qualified electors of the State of Washington to be appointed by the Governor, to serve until the completion of their duties under this act, unless sooner removed; and in case of any vacancy in said Commission by

reason of the death, resignation or removal of any of the appointive members thereof, the Governor shall appoint a person to fill such vacancy. The members of said commission shall serve without compensation other than their actual expenses incurred in the performance of their duties as members of said commission. The Commissioner of Public Lands shall be the secretary of the commission, but the commission may appoint a suitable person as acting secretary thereof, and fix his compensation: *Provided*, That all records of sales made by the commission shall be filed in the office of the Commissioner of Public Lands, and all other records of said commission shall be filed with the State Auditor.

SEC. 2. All lands granted to the state by the Federal Government for the purpose of erecting public buildings at the state capitol shall be known and designated as "Capitol Building Lands." None of such lands, nor the timber or other materials thereon, shall hereafter be sold without the consent of the State Capitol Commission and only in the manner as herein provided.

SEC. 3. The State Capitol Commission shall cause said lands to be appraised and prepare an abstract or record of all the capitol building lands with such maps and other data as may be deemed necessary to properly show in detail and by legal subdivision the location thereof, and of the timber and other materials thereon, and the character and value thereof. The commission shall seek proposals by advertising in the public press or otherwise, within or without the state, for the sale of such land in tracts not to exceed 160 acres in extent, and readvertise and re-see other and new proposals or bids as often as said commission shall deem necessary, and may sell any such lands at public auction, with a view of obtaining the full market value of said lands, announcing the times, terms and particulars of sale as is now provided for sale of other state lands: *Provided*, That the commission may sell the timber or other materials separate from the land, and said commission shall fix the time in which such timber or other materials shall be re-

moved from the land, and may provide that the purchaser of timber or other materials separate from the land shall not be limited as to the time of removal thereof upon payment to the state for the use of such lands upon which such timber or other materials are situated of an annual rental to be fixed by the commission at or before the time of sale.

Rules to govern sales.

SEC. 4. The commission shall make necessary rules under which proposals or bids for the purchase of land, timber or other materials shall be received, and shall fix the terms of the sale thereof: *Provided*, That at least one fifth of the purchase price of each tract of land sold shall be paid at the time of sale, and the balance shall be distributed in such number of equal annual payments, not exceeding ten, as the purchaser may elect, with six per cent interest, payable annually, on the deferred payments; but the purchaser may at any time pay the entire amount then remaining unpaid, with interest to the date of such payment: *And provided further*, That the purchase price of all timber or other materials when sold separate from the land shall be paid in cash at the time of sale: *And Provided further*, That in case of the sale, on deferred payments, of any tract of land, where the timber thereon constitutes its principal source of value, all unpaid installments of the purchase price shall be paid before any timber is removed therefrom.

Payments.

Sales to take place at state capitol.

SEC. 5. All sales shall take place at the state capitol and the proceeds of such sale of lands, or the timber or other materials, shall be paid into the capitol building fund to be used: First: In the payment of all warrants or claims against such fund, and Second: For the construction of a capitol building on the foundation, or first story, now constructed on what is known as the "old capitol site," such capitol to be built according to the plans heretofore prepared and known as the "Flagg plans," with such modifications and improvements therein as may be deemed advisable by the commission: *Provided, however*, That all contracts for the construction of said capitol building shall be let after notice for proposals or bids have been advertised for at least four (4) consecutive weeks in at least three news-

Plans for capitol building.

papers of general circulation throughout the state: *And Provided further*, That said commission shall not award any contract for the construction of said capitol building until sufficient sales have been made to take up all outstanding claims against said capitol building fund, and sufficient sales to cover the amount of contract.

SEC. 6. Upon performance by the purchaser of all such conditions as shall have been fixed by the commission for the sale of any such lands or the timber or other materials thereon, conveyances shall issue therefor in the same manner as now provided by law for the conveyance by the state of other granted lands or the timber or other materials thereon. Conveyances.

SEC. 7. The commission may employ such cruisers, draughtsmen, engineers, architects or other assistants as may be necessary for the best interests of the state in carrying out the provisions of this act, and all expenses incurred by the commission, and all claims against the capitol building fund shall be paid by order of the commission upon vouchers signed by the chairman and secretary thereof, out of the appropriation hereinafter made. Employees.

SEC. 8. All sums of money received from sales made by the commission shall be paid into the capitol building fund in the state treasury, and are hereby appropriated for the purposes of this act. Appropriation from capitol building fund.

SEC. 9. To facilitate the work of the commission there is hereby appropriated out of the general fund of the state twelve thousand (\$12,000) dollars, or so much thereof as may be necessary, which amount so used shall be a charge against the capitol building fund, and shall be returned to the general fund after all other claims against the capitol building fund or incurred under the provisions of this act shall have been paid. Appropriation from general fund. \$12,000.

SEC. 10. An emergency exists and this act shall take effect immediately. Emergency.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 8, 1909.

CHAPTER 70.

[H. B. 263.]

FIXING THE INTEREST ON BONDS OF JEFFERSON COUNTY.

AN ACT providing the rate of interest to be paid on bonds of Jefferson county and owned by the State of Washington, and declaring an emergency.

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

6 per cent.
interest.

SECTION 1. That the treasurer of the State of Washington be and he is hereby authorized and directed to accept in full payment of interest upon thirty-six thousand dollars of Jefferson county bonds issued January, 1891, and owned by the State of Washington, for four years beginning January 1st, 1908, and ending December 31st, 1911, interest at the rate of four per cent per annum.

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

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 9, 1909.

CHAPTER 71.

[S. B. 234.]

RELATING TO LOCAL IMPROVEMENTS.

AN ACT to amend sections 2 and 4 of an act entitled, "An act relating to and authorizing the collection of assessments for local improvements by a new assessment or re-assessment of the cost and expense of making same in cities and towns, and declaring an emergency," approved March 9, 1893.

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

[Am'd. § 2.
ch. 95, p. 226,
L. '93.]

SECTION 1. That Section 2 of the act entitled, "An act relating to and authorizing the collection of assessments for local improvements by a new assessment or re-assessment of the cost and expense of making same in cities and towns, and declaring an emergency," approved March

9, 1893, be and the same is hereby amended to read as follows: "Section 2. The city council of such city or town shall by ordinance order and make a new assessment or re-assessment, as provided in preceding section, upon the lots, blocks, or parcels of land, which have been or will be benefited by such improvement, to the extent of their proportionate part of the cost, expense and value thereof. Said city council may include in such new assessment or re-assessment any property which they shall find to be benefited by said improvement whether or not the same was included in the original assessment district and whether or not the same abuts upon the said improvement. Such additional property so assessed shall thereby become a part of the local improvement district theretofore created, or attempted to be created, for the purpose of assessment to provide a fund to pay for said improvement, and the said new assessments shall all be paid into and become a part of the local improvement fund provided to pay for said improvement."

Re-assessment.

Additional property.

SEC. 2. That Section 4 of said act is hereby amended to read as follows: "Section 4. Upon receiving the said assessment roll the clerk of such city or town shall give notice by three (3) successive publications in the official newspaper of such city or town, that such assessment roll is on file in his office, the date of filing the same, and said notice shall state a time not less than thirty (30) days after the first publication of said notice at which the council will hear and consider objections to said assessment roll by the parties aggrieved by such assessment. The owner or owners of any property which is assessed in such assessment roll, whether named or not in such roll, may, at any time prior to the time of hearing fixed in said notice, file with the clerk his objection in writing to said assessment. If by said assessment roll an assesment is levied upon any property not included in the original assessment roll made for the purpose of providing a fund to pay for said improvement or upon any property not abutting upon said improvement, said notice shall also include a statement of that fact, together with either a description of all property included

[Am'd. § 4.
ch. 95, p. 228,
L. '93.]

Assessment roll.

Objections.

in said assessment roll or a description of the exterior boundaries of said assessment district: *Provided*, That the fact that there may be included within said boundaries some property not assessed shall not be held to invalidate said notice or said roll.”

Passed by the Senate February 19, 1909.

Passed by the House March 4, 1909.

Approved March 9, 1909.

CHAPTER 72.

[S. B. 176.]

RELATING TO DISBARMENT OF ATTORNEYS.

AN ACT relating to the disbarment and suspension of attorneys and counselors-at-law, and amending section 1 of an act entitled “An act to amend section 3289 of the Code of 1881, relating to the removal and suspension of attorneys,” being chapter IX of the Laws of 1897.

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

[Am'd. §3289,
C. '81; §4775
Bal.; § 3197
Pierce.]

SECTION 1. That section 1 of chapter IX of the Laws of 1897, being an act entitled “An act to amend section 3289 of the Code of 1881, relating to the removal and suspension of attorneys,” be amended to read as follows: Section 3289. An attorney and counselor may be removed or suspended by any court of record of the state, for either of the following causes, arising after his admission to practice: 1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence. 2. Wilful and malicious disobedience or violation of an order of the court requiring him to do or forbear an act connected with, or in the course of, his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney and counselor. 3. Corruptly or wilfully, and without authority, appearing as attorney for a party to an action or proceeding. 4. Lending his name to be used as attorney

Grounds for
disbarment.

and counselor by another person who is not an attorney and counselor. 5. For the commission of any act involving moral turpitude, dishonesty or corruption, whether the same be committed in the course of his relations as an attorney or counselor at law, or otherwise, and whether the same shall constitute a felony or misdemeanor or not; and in the event that such act shall constitute a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disbarment or suspension from practice therefor. 6. In all cases where an attorney is removed or suspended by a superior court, the judgment or order of removal or suspension may be reviewed on appeal by the supreme court.

Passed by the Senate February 4, 1909.

Passed by the House March 5, 1909.

Approved March 9, 1909.

CHAPTER 73.

[S. B. 109.]

RELATING TO JURORS.

AN ACT relating to the selection, exemption, and service of jurors in the superior courts of the state.

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

SECTION 1. No person shall be competent to serve as a juror in the superior courts of the state unless he be,

- (1) An elector and taxpayer of the State of Washington. Qualifications.
- (2) A resident of the county in which he is called for service for more than one year preceding such time.
- (3) Over twenty-one years of age.
- (4) In full possession of his faculties and of sound mind.
- (5) Able to read and write the English language.

SEC. 2. Officers of the United States and of the state, ^{Who dis-}attorneys-at-law, school teachers, practicing physicians, _{qualified.}

active members of the fire or police department of any municipality, and all persons over sixty years of age, shall not be compelled to serve as jurors, and in preparing jury lists the names of such persons shall, if it be known that they are entitled to be excused from jury service, be omitted from the jury list: *Provided, however,* That the right of any such person to be excused from jury service shall not be cause for challenge as to his competency if he desires to serve.

Jury dis-
tricts.

Lists to be
prepared.

SEC. 3. Upon the taking effect of this act, the judge or judges of the superior court of each county in the state shall divide the county into not less than three nor more than six jury districts, following the lines of voting precincts, and arranging the districts in such manner that the population in each district shall be equal, so nearly as may be. The fixing of the boundaries of the district shall be evidenced by an order made by the court and entered upon its records. During the month of July of each year, the county clerk of each county in the state shall make up a jury list containing the names of all the qualified jurors in the county so far as he may be able to ascertain the same from the latest tax rolls and poll books of the county, or from any other official sources of information, and shall ascertain, so far as possible, the voting precinct and place of residence of each juror, and if these cannot be ascertained, the school district in which he resides. He shall provide boxes sufficient in number to correspond with the number of jury districts fixed by the court, and numbered to correspond therewith, and, having written the names of the jurors in each district upon slips of paper, which shall be similar in size, quality of paper, and writing, he shall deposit such slips in the jury box of the proper district. The jury list shall be revised from year to year, new lists being made up each year, adding thereto the names of new residents, and omitting therefrom the names of persons who may have removed from the county, or who have served as jurors within five years theretofore (unless they shall be necessary to make up a sufficient list),

and the names of the new list shall be deposited in the boxes for service for that year, as hereinbefore provided.

SEC. 4. Jury terms shall commence on the first Monday in each month, unless postponed to a later date by order of the judge or judges of the superior court, but it shall not be necessary to call a jury for any month in any county unless the judge or judges of the superior court of that county shall consider that there is sufficient business to be submitted to a jury to require that one be called. When the judge or judges of the superior court of any county shall deem that the public business requires a jury term to be held, he or they shall require the county clerk to draw a jury to serve for the ensuing month. The county clerk on the second Saturday of the calendar month preceding the month on which the jury is to be called to serve, shall be blind-folded and in the presence of the judge or judges of the superior court, shall draw from the jury boxes such number of names as the judge or judges may have ordered to be summoned as jurors for the ensuing month. The names shall be drawn in equal number from each jury box, and before the drawing is made the box shall be shaken up so that the slips bearing names thereon may be thoroughly mixed, and the drawing of the slips shall depend purely upon chance. The names of persons so drawn to serve as jurors shall be struck from the jury list by the county clerk, and they shall not be called to serve as jurors for five years thereafter, unless their services shall be necessary because there are not sufficient competent jurors to be found within the county who have not served within that time.

SEC. 5. Whenever the judge or judges of the superior court of any county in the state shall desire to summon a grand jury, the names of persons to serve as grand jurors shall be drawn from the jury list as hereinbefore provided: *Provided, however,* That the names of the persons who so serve as grand jurors shall not be stricken from the jury list, and such service shall not excuse them from service

upon the petit jury as though they had not been summoned on the grand jury.

Additional jurors.

Open venire.

SEC. 6. If, for any reason, the jurors drawn for service upon the petit jury for any month shall not be sufficient to dispose of the pending jury business, the judge or judges of the superior court may draw from the jury list such additional names as they may consider necessary, and the persons whose names are so drawn shall thereupon be summoned to serve as jurors forthwith. By stipulation or agreement made in open court as a part of the record the parties to any action may agree that an open venire may issue to make up the jury in that action, and upon order of the court approving of such stipulation and directing the number of jurors to be drawn, the clerk shall issue an open venire and the sheriff shall fill the same by summoning from the by-standers, or elsewhere, a sufficient number of persons to fill the open venire.

Juror excused, when.

Name of excused juror re-entered.

SEC. 7. A person summoned as a juror may be excused from acting as such on account of any of the reasons stated in section two hereof, when his own health requires, on account of death in his family, or if illness in his family of such character that he is required to be in attendance thereupon, or when his business interests would be seriously prejudiced by such service. No person, however, shall be excused from service as a juror on account of business reasons unless his service as such would lead to the waste or destruction of his property, and unless it shall appear that after having been summoned as a juror he had made every reasonable effort to permit of his serving as a juror without causing waste or destruction to his property. When excused for any of the foregoing reasons, the name of the juror so excused shall be placed upon the jury list from which jurors are drawn to serve at the next succeeding jury term, and he shall be summoned with the other jurors to serve at such term. Any person applying to be excused from jury service for any of the causes herein specified, shall be placed upon oath (or affirmation) to testify truly in all respects as to the cause for such ex-

cuse, and that he will answer truly any question put to him by the judge with respect thereto.

SEC. 8. In no action or proceeding whatsoever, except felony cases, shall the jury sworn to try the issues therein be kept together and in custody of the officers of the court, save during the actual progress of the trial, until the case shall have been finally submitted to them for their decision. Whenever the jury are kept together in custody of the officer, when the trial is not in progress, they shall be supplied with meals at regular hours, and with comfortable sleeping and toilet accommodations.

Jury kept together, when.

Passed by the Senate February 10, 1909.

Passed by the House March 5, 1909.

Approved March 10, 1909.

CHAPTER 74.

[S. B. 359.]

RELIEF OF VAUGHAN & MORRILL CO.

AN ACT for the relief of Vaughan & Morrill Co.

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, not otherwise appropriated, the sum of two hundred and eighty-nine dollars, fifty-five cents (\$289.55) for the relief of Vaughan & Morrill Co. for supplies furnished to the legislature for the year 1907.

Appropriation
\$289.55.

Passed by the Senate March 2, 1909.

Passed by the House March 5, 1909.

Approved March 10, 1909.

CHAPTER 75.

[S. B. 104.]

RELATING TO SALE OF CERTAIN STATE LANDS.

AN ACT authorizing and directing the Board of State Land Commissioners to sell at public auction, in manner provided by law, a portion of the southeast quarter of the northwest quarter of section 16, in township 11 north, range forty-three east of the Willamette meridian; and declaring an emergency.

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

SECTION 1. That the Board of State Land Commissioners be and is hereby authorized and directed to appraise, offer for sale and sell at public auction, in manner provided by law, the following bounded and described lands, to-wit:

Lands to be sold.

Commencing at the northwest corner of the southeast quarter of the northwest quarter of section sixteen, in township eleven north, range forty-three east of the Willamette meridian; thence running east thirty rods; thence south thirty rods; thence west thirty rods; thence north thirty rods to the place of beginning.

Emergency.

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

Passed by the Senate February 16, 1909.

Passed by the House March 5, 1909.

Approved March 10, 1909.

CHAPTER 76.

[H. B. 214.]

ESTABLISHING A UNIFORM SYSTEM OF PUBLIC ACCOUNTING.

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.

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

Bureau of Inspection.

SECTION 1. There is hereby established in the department of the State Auditor a bureau to be known as the

Bureau of Inspection and Supervision of Public Offices; the principal officer of said bureau shall be known as the chief inspector and supervisor of public offices; the State Auditor shall be, *ex-officio*, chief inspector and supervisor of public offices, and as such chief inspector and supervisor, shall appoint not exceeding three deputies, who shall each receive a salary not exceeding two thousand five hundred dollars per annum, and a clerk who shall receive a salary not exceeding fifteen hundred dollars per annum, and in addition thereto an allowance for all necessary traveling and hotel expenses while absent from their places of residence in the discharge of their official duties.

Deputy
inspectors.

SEC. 2. (Duty of State Auditor.) The State Auditor, through said bureau, shall formulate, prescribe and install a system of accounting and reporting in conformity with the provisions of this act, that shall be uniform for every state office and every state educational, benevolent, penal and reformatory institution, public institution and every public office and every public account of the same class, and which shall exhibit true accounts and detailed statements of funds collected, received and expended for account of the public for any purpose whatever, and by all public officers, employes or other persons, such accounts to show the receipt, use and disposition of all public property, and the income, if any, derived therefrom, and of all sources of public income and the amounts due and received from each source, all receipts, vouchers and other documents kept, or that may be required to be kept, necessary to isolate and prove the validity of every transaction, and all statements and reports made or required to be made, for the internal administration of the office to which they pertain, and all reports published, or that may be required to be published, for the information of the people, regarding any and all details of the financial administration of public affairs.

System of
accounting.

SEC. 3. (Separate Accounts.) Separate accounts shall be kept for every appropriation or fund made by a taxing body or legislative, showing date and manner of each

Separate
accounts.

payment made out of the funds provided by such appropriation, the name, address and vocation of each person, organization, corporation or association, to whom paid, and for what purpose paid. Separate accounts shall be kept for each department, public improvement, undertaking, institution and public service industry under the jurisdiction of every taxing body, and of the state, and all service rendered by, or property transferred from, one department, public improvement, undertaking, institution or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution or public service industry receiving the same, and no department, public improvement, undertaking, institution or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another department, public improvement, undertaking, institution or public service industry. All unexpended balances or appropriations shall be transferred to the fund from which appropriated whenever the account with an appropriation is closed.

SEC. 4. (Public Service Industries.) Separate accounts shall be kept for every public service industry which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public and the amount and character of the service rendered therefor, and the amount collected annually from private users, if any, for service rendered to them, and the amount and character of the service rendered therefor.

SEC. 5. (Comparative Statistics.) The State Auditor, through said bureau, shall require from every taxing district, state, educational, penal, benevolent and reformatory institution and public institution financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by him, which shall be uniform for all accounts of the same class, which said reports shall be prepared, certified and filed with said bureau within thirty days after the close of each fiscal

Public service industries.

Comparative statistics.

year by the auditing department of said taxing district or public institution. Such reports shall contain an accurate statement in summarized form of all collections made by or receipts received by the officers from all sources, all accounts due the public treasury but not collected, and of all expenditures for every purpose and by what authority authorized, and also: (a) A statement of all costs of ownership and operation and of all income of each and every public service industry owned and operated by a municipality. (b) A statement of the entire public debt of every taxing district to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, the provisions made for the payment of the debt; a classified statement of all receipts and expenditures by any state office, state educational, penal, benevolent and reformatory institution and all public institutions, together with such other information as may be required by the State Auditor. Such reports shall be certified as to their correctness by said State Auditor, his deputies, the chief inspector and supervisor of public offices, or other person legally authorized to make such certificate. Their substance shall be published in an annual volume of comparative statistics that shall be issued for each class of accounts at the expense of the state as a public document, and shall be submitted by the State Auditor to the Governor for transmittal to the legislature at the next regular session, or at a special session when required.

SEC. 6. (Duty of Public Officers.) It shall be the duty of every public officer and employe to keep all accounts of his office in the form prescribed and to make all reports required by the State Auditor. Refusal or neglect to perform these duties shall be deemed an offense against the efficiency of public administration and the welfare of the people, and shall be punished by removal from office, after trial and conviction by a court of competent jurisdiction. Every public officer and employe whose duty it is to collect or receive payments due the public shall de-

Accounts to
be kept, how.

posit all public moneys collected or received by him with the treasurer of the taxing district once every twenty-four consecutive hours. In case a public officer or employe collects or receives funds for the account of a taxing district of which he is not an officer or employe he shall, during the Saturday of each week, pay to the proper officer of the taxing district for account of which the collection was made or payment received, the full amount collected or received during the current week for the account of such taxing district.

Examiners
appointed.

SEC. 7. After the Bureau of Inspection and Supervision shall have formulated and installed the system of uniform accounting in any or all classes of public offices, the State Auditor is hereby empowered to appoint additional assistants as required, not more than ten, to administer the provisions of this act; said additional assistants shall be known as state examiners, who shall each be paid five dollars per day for the time necessary to the performance of his duties, and in addition thereto his necessary expenses incurred.

Examination
of all public
offices.

SEC. 8. (Powers of the State Auditor.) The State Auditor, a deputy state inspector and supervisor, and every state examiner shall have power by himself or by any person legally appointed to perform the service, to examine into all financial affairs of every public office and officer; such examination of the financial affairs of townships, incorporated cities and towns and school districts shall be made at least once in every two years; all other examinations shall be made at least once a year. On every such examination inquiry shall be made as to the financial condition and resources of the taxing district; whether the constitution and statutory laws of the state, the ordinances and orders of the taxing district and the requirements of the Bureau of Inspection and Supervision of Public Offices have been properly complied with; and into the methods and accuracy of the accounts and reports. The State Auditor, his deputies, every state examiner and every person legally appointed to perform such service,

To compel
attendance of
witnesses.

shall have and may exercise the necessary authority to issue subpoenas and compulsory process and to direct the service thereof by any constable or sheriff, to compel the attendance of witnesses and the production of books and papers before him at any designated time and place and to administer oaths. Where any person summoned to appear before the person making such examination and give testimony, shall neglect or refuse to appear, or shall neglect or refuse to answer any question that may be put to him touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior judge of the proper county to issue a subpoena for the appearance of such person before him; and it shall be the duty of such superior judge to order the issuing of such subpoenas for the appearance of such person forthwith before him to give testimony; and if any person so summoned shall fail to appear or appearing shall refuse to testify or to produce any books or papers required, he shall be subject to like proceedings and penalties for contempt as witnesses in actions pending in the superior court. Wilful false swearing in any such examination shall be perjury and shall be punishable as such. A report of such examination shall be made in triplicate, one copy to be filed in the office of the State Auditor, one in the auditing department of the taxing district reported upon, and one in the office of the Attorney General. If any such examination discloses malfeasance, misfeasance or nonfeasance in office on the part of any public officer or employe, within thirty days from the receipt of such copy of said report, it shall be the duty of the Attorney General and he is hereby authorized to institute and prosecute without delay in the proper county such legal action as is proper in the premises by civil process and promptly and efficiently prosecute the same to final determination to carry into effect the findings of any such examination. Before or after such legal action is commenced it shall not be lawful for the county commissioners or any board or officer to make

May administer oaths.

Subpoena by superior court.

Corruption in office.

Prosecution.

Settlements
not per-
mitted.

a settlement or compromise of any claim arising out of such malfeasance, misfeasance or nonfeasance or any action commenced therefor or for any court to enter up any compromise or settlement of such action, without the written approval and consent of the Attorney General and the State Auditor.

Claims
sworn to.

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 having a seal and authorized to take acknowledgments, and all county clerks and county auditors are required to take such affidavits without charge. The Bureau of Inspection and Supervision of Public Offices shall prescribe the form of affidavits and no warrant shall be drawn for any claim not properly sworn to.

Expenses to
be paid by
counties.

SEC. 10. The expense of maintaining and operating the bureau herein provided for shall be paid by the several counties out of the general county current expense fund, in proportion to their assessed valuation, next preceding the levy hereby authorized, and the State Auditor is hereby authorized and empowered to levy upon and collect from each county in the state its proportion of said expenses. Said amount shall be paid semi-annually during the months of June and December of each year following the passage of this act, and shall in the aggregate be only sufficient to pay said expenses. The same shall be paid in vouchers of the State Auditor, and all funds received by the State Auditor on this account shall be covered into the state treasury to the credit of the Bureau of Inspection and Supervision of Public Offices account. There is hereby appropriated from said fund for the purpose of carrying out the provisions of this act the sum of twenty-five thousand dollars, or as much thereof as may be necessary, but the amount in no case shall exceed the total of the levy upon the several counties under the provisions of this section.

Appropriation
\$25,000.

SEC. 11. (Expense of Audit.) The expense of auditing public accounts shall be borne by each taxing district

for the auditing of all accounts under its jurisdiction and the State Auditor is hereby authorized and empowered to certify the expense of such audit to the auditor of the county in which said taxing district is situated, who shall promptly issue his warrant on the county treasurer payable out of the current expense fund of the county, said fund, except as to auditing the financial affairs and making inspection and examination of the county, to be reimbursed by the county auditor out of the money due said taxing district at the next quarterly settlement of the collection of taxes and to be transferred quarterly by the county treasurer to the current expense fund.

Expenses for local examination.

SEC. 12. Each county auditor shall be *ex-officio* deputy supervisor and in such capacity shall be under the direction of the chief inspector and the supervisor of public offices, but shall receive no additional salary or compensation by virtue of the same and shall perform no duties as such, except in connection with county business.

County auditor deputy supervisor.

SEC. 13. June 30 shall end the fiscal year of school districts and December 31 of all other taxing districts.

Fiscal year.

Passed by the House February 23, 1909.

Passed by the Senate March 3, 1909.

Approved March 10, 1909.

CHAPTER 77.

[H. B. 305.]

RELATING TO THE TAKING OF FOOD FISHES.

AN ACT providing for the protection and propagation of the [food] fishes in the waters of the State of Washington, relating to the catching thereof, fixing penalties, amending section 1 of chapter 117, Session Laws of 1899, and amending section 2 of chapter 247 of the Session Laws of 1907, and declaring an emergency.

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

SECTION 1. That section 1 of an act entitled, An act providing for the protection and propagation of the food fishes in the waters of the State of Washington, regulating

[Am'd. § 1, ch. 117, p. 194, L. '99; §5273, Pierce.]

the catching and sale thereof, establishing licenses, fixing penalties, repealing conflicting laws and declaring an emergency, Session Laws 1899, chapter 117, be and the same is amended so as to read as follows: Section 1. Hereafter it shall be unlawful to construct, own, operate and maintain within any of the rivers of this state flowing into Puget Sound and within said bodies of water within a distance of three miles from the mouth of any such river, and also within that arm of Puget Sound and body of water known as Deception Pass, or within one-half mile of the west entrance thereof and in any of the other salt waters of this state at a greater depth than sixty-five feet at low tide, any pound net, trap, weir, fish wheel, or other fixed appliance, set lines excepted, for the purpose of catching salmon or other food fishes, and for the purpose of enforcing the provisions of this section, the Fish Commissioner shall indicate the mouths of said rivers by driving piles therein. It shall also be unlawful hereafter to use any purse net, purse seine, or other like seine within two miles, and drag seines within one mile from the mouth of any of said rivers or within said rivers. It shall be unlawful to use any purse seine or purse net longer than five hundred feet, the meshes of which are less than two and one-half (2 $\frac{1}{2}$) inches stretch measure: *Provided*, That nothing in this act or any other act shall prevent any person residing in this state from taking salmon or other fish by any means at any time for consumption by himself and family: *Provided*, That there shall be a closed season for the catching of salmon in the Skagit river from July 15th to September 15th hereafter: *Provided*, That this provision shall not apply to persons fishing with nets the meshes of which is not less than eight and one-half inches, stretch measure: *Provided further*, That there shall be no commercial fishing hereafter in the Snohomish river above the Snohomish wagon bridge, or above tide water in the Duwamish river.

Rivers of Puget Sound.

Deception Pass.

Mouths of rivers to be indicated.

Size of meshes.

Family supply.

Skagit river.

Snohomish river.

[Am'd. § 2, ch. 247, p. 682, L. '07.]

SEC. 2. That section 2 of an act entitled, An act relating to the taking of food fishes, providing penalties for a

violation thereof, amending section 2 of chapter 117, Session Laws 1899, also amending section 3 of chapter 170, Session Laws 1905, and repealing section 4, chapter 170, Session Laws 1905, and declaring an emergency, Session Laws 1907, be and the same is hereby amended to read as follows: Section 2. It shall be unlawful to take or fish for salmon, except with hook or line, in any of the tributaries of Puget Sound, except as provided in section 1 of this act; and it shall further be unlawful to take or fish for salmon with pound nets, fish traps, weirs, or fish wheels, or other fixed appliances, or with purse seine, purse nets, or other like seines or nets, in any of the open waters of Puget Sound, between the hours of four o'clock P. M., Friday, and four o'clock A. M., Sunday of each week of each year; and it shall further be unlawful to take or fish for salmon with gill nets in that arm of the sound known as Swinomish slough, or in any of the other sloughs, or in any of the waters of Puget Sound, or tributaries thereof, between the hours of six o'clock A. M., Saturday, and six o'clock P. M. of Sunday of each week in each year, and it shall be unlawful to fish for sockeye salmon in the waters of Puget Sound between August 25th and September 15th of each year, and any salmon of that species taken between the last named dates in the waters of Puget Sound shall be liberated. That between four o'clock P. M., Friday, and four o'clock A. M., Sunday, of each week of each year, as above provided, all pound nets or fish traps operated within the waters of Puget Sound shall be closed by an apron placed across the entrance to the heart of the trap or pound net, which apron shall extend from above the surface of the water to the bottom of the sound at the place where the trap is maintained and be connected securely to the piles on either side of the entrance to the heart of such trap or pound net, fastened by rings not more than four feet apart on a taut wire stretched from top to bottom of piles so as to effectually prevent any salmon from entering the heart of such trap or pound net.

Weekly
closed season.

Closed sea-
son for
sockeye.

Traps, how
closed.

Penalty.

Any person violating any of the provisions of this section, whether or not such a violation is otherwise specifically declared to be a misdemeanor, either by neglecting to observe the requirements of this section, or by violating any of the requirements thereof shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in each and every offense be subject to a fine of not less than two hundred and fifty dollars (\$250) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not less than twenty-five days nor more than one year, or by both such fine and imprisonment.

Location
abandoned,
how.

SEC. 3. If the locator or owner of a fishing location for pound nets or fish traps in the waters of Puget Sound fails to construct his fishing appliances thereon at least one time during a period of four years, his location shall be deemed abandoned, even though he shall during said period comply with the requirements of the laws of the State of Washington pertaining to fishing locations in other respects. Any statute of the State of Washington inconsistent with the provisions of this section is hereby repealed.

Emergency.

SEC. 4. An emergency exists and this act shall take effect April 1, 1909.

Passed by the House February 25, 1909.

Passed by the Senate March 5, 1909.

Approved March 10, 1909.

CHAPTER 78.

[S. B. 67.]

PROVIDING FOR THE PURCHASE OF BRIDGE ACROSS THE
COLUMBIA AT WENATCHEE.

AN ACT for the purchase of the highway bridge across the Columbia river at Wenatchee, Washington, by the State of Washington, from the Washington Bridge Company, providing means, method and time of payment therefor and the manner of future maintenance and supervision thereof, and making an appropriation for said purchase.

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

SECTION 1. The State Highway Board of the State of Washington is hereby empowered and directed to purchase from the Washington Bridge Company at once the highway bridge across the Columbia river at Wenatchee: *Provided*, That said bridge shall first be examined and tested to the satisfaction of said State Highway Board, and the title thereto shall first be examined and approved by the Attorney General.

Highway
board to
purchase.

SEC. 2. Said State Highway Board shall pay for said bridge the actual cost of construction thereof, plus six per cent interest, to be computed from the time money has actually been paid out by said bridge company, up to the date of the transfer thereof, less the amount actually paid toward the construction of said bridge by citizens of Wenatchee: *Provided*, That the amount to be paid therefor by the State of Washington shall not exceed the amount of the appropriation hereinafter made.

Actual cost.

SEC. 3. For the purpose of determining the cost of construction of said bridge the State Highway Board shall examine the original vouchers of the Washington Bridge Company, and may employ such other means as they may deem necessary.

Cost, how
determined.

SEC. 4. Said purchase shall be made subject to a contract heretofore entered into between the Washington Bridge Company and the Wenatchee Canal Company whereby the latter is given a perpetual right to lay two

Purchase
subject to
certain
rights.

pipe lines, each of 36 inches internal diameter, over, or suspended from said bridge, for the purpose of carrying water for irrigating lands on the east side of the Columbia river, in Douglas county: *Provided, however,* That so long as its pipe line shall be carried upon said bridge, the Wenatchee Canal Company shall be liable for and shall pay one-third of the necessary expense for the maintenance of said bridge.

Free bridge. SEC. 5. From the time said bridge becomes the property of the State of Washington it shall be and remain free from all charges or tolls for highway crossings, and shall be and remain a portion of the public highways of the state, and shall be maintained in the same manner as all other state highways, under general provisions of law.

Franchises. SEC. 6. The State Highway Board is hereby authorized and empowered to grant franchises for the laying of rails and other necessary facilities for a single railway track across said bridge, and the operation thereon of street and suburban railways, and for the laying thereon or suspending therefrom pipes for the carrying of water, gas and other substances, and wires and cables for the conducting of electricity for telegraph, telephone, lighting, power, heating and other purposes, but no such franchise shall be exclusive nor shall any preference be granted thereunder. Any street or suburban railway laying rails and other necessary railway facilities thereon shall do so at its own expense, but said rails and other necessary railway facilities shall thereupon become the property of the State of Washington, and shall be maintained and replaced at the joint expense of all lines using the same. Said franchise or franchises shall require such payment or compensation as the said State Highway Board may deem equitable, without preference or discrimination, and all such payments shall be made into the public highway fund of the state.

Railways.

Appropriation \$190,000. SEC. 7. For the purpose of carrying out the provisions of this act, the sum of \$190,000 or so much thereof as may be necessary, is hereby appropriated out of the state

highway fund, against which fund warrants shall be issued therefor: *Provided, however,* That none of said warrants shall be issued before the issuance and sale of the bonds hereinafter provided for. To make or replace in said fund the amount necessary for payment of such warrants, state coupon bonds to the amount of \$190,000, payable to bearer, are hereby authorized to be issued bearing interest at the rate not to exceed 4 per cent per annum, payable semi-annually, and to run for twelve years, save that any of said bonds may be redeemed upon any interest date upon call of the State Auditor, and that not less than ten per cent of said bonds shall be redeemed annually, beginning with the biennial term of the year 1911, and be payable, principal and interest, out of the state highway fund. Such bonds shall be numbered in series, consecutive numbers from 1 upwards, be issued in the denominations of one thousand dollars (\$1,000) each and shall each contain upon its face the date of issue, the number, the rate of interest, into what fund the proceeds are to be paid, where payable, time to run and the provision for redemption. Such bonds shall be signed by the Governor and attested by the Secretary of State under the seal of the state and countersigned and registered by the State Auditor and shall be offered for sale by the Governor and State Auditor. The coupons shall be authenticated by the facsimile signatures of the Governor and Secretary of State and be payable to bearer, and need not be under seal. Such bonds shall not be sold by the state at less than par and upon sale the proceeds shall be turned into the state highway fund. Such bonds shall be a valid and binding indebtedness against the state; and shall be redeemed in numerical order; and any such bonds outstanding and not redeemed at the expiration of twelve years from the date thereof, shall be paid out of the state general fund.

Bonds.

Denomination
of bonds.

Passed by the Senate February 25, 1909.

Passed by the House March 8, 1909.

Approved March 11, 1909.

CHAPTER 79.

[S. B. 364.]

RELATING TO TAXES IN NEW COUNTIES.

AN ACT concerning the collection and division of taxes, and property between old and new counties and amending section 274, Ballinger's Codes and Statutes of Washington, and declaring an emergency.

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

SECTION 1. That section 274 of Ballinger's Codes and Statutes of Washington, be amended so as to read as follows: Sec. 274. When a county is divided or the boundary is altered, all taxes levied before the division was made or boundaries changed, must be collected by the officers of the county in which the territory was situated before the division or change. And the auditor or auditors of the county or counties so divided or having boundaries changed, shall apportion the amount of the real property taxes so collected after division or change of boundary to the old county or counties and the new county or counties, in the ratio of the assessed value of such property situated in the territory of each county or counties respectively, and the old county that may have been divided or whose boundaries may have been changed, shall retain all of the personal property taxes on the said tax rolls, as compensation for cost of collection of the entire taxes: *Provided*, That in such accounting neither county shall be charged with any debt or liability then existing incurred in the purchase of any county property, or in the purchase or construction of any county buildings then in use or under construction, which shall fall within and be retained by the county: *Provided further*, That this shall not be construed to affect the rights of creditors: *And provided further*, That any such county property or buildings shall be the property of and owned by the county wherein the same is situated. In case the auditors of the interested counties are not able to agree upon the proportion to be awarded to each county, the same shall be determined by

[Am'd. § 274,
Bal.; §3920
Pierce.]

Old county
to collect
taxes.

Personal
taxes.

Apportion-
ment of
taxes, how
determined.

the judge of the superior court of the district in which all of the interested counties are situated, if they be in one district, and have one common judge, and if not, by the judges sitting *en banc* of the judicial district in which each and any of the said counties may be situated. Said auditors shall make said apportionment within sixty days after the creation of any new county or the changing of boundaries of any old county, and if they do not, within said time, agree upon said apportionment, thereafter either or any county affected may petition the judge or judges of any court given jurisdiction by this act, and upon ten days' notice to any other county affected, the same may be brought on for hearing and summarily disposed of by said judge or judges, after allowing each side an opportunity to be heard.

SEC. 2. An emergency is declared to exist and this act shall take effect immediately after its passage and after its approval by the Governor. Emergency.

Passed by the Senate March 4, 1909.

Passed by the House March 6, 1909.

Approved March 10, 1909.

CHAPTER 80.

[S. B. 50.]

RELATING TO EMINENT DOMAIN BY CITIES.

AN ACT to amend section 48 of an act of the legislature of the State of Washington entitled, "An act to enable cities of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13th, 1907, and declaring an emergency.

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

SECTION 1. Section 48 of an act of the legislature of the State of Washington entitled, "An act to enable cities

[Am'd. § 48,
ch. 153, p.
336, L. '07.]

of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for, making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13th, 1907, shall be and hereby is amended so as to read as follows: "Sec. 48. If any street, avenue or alley, or the right to use and control the same for purposes of public travel, shall belong to any city and such city shall establish a grade therefor, which grade requires any cut or fill, damaging abutting property, the damages to arise from the making of such grade may be ascertained in the manner provided in this act, but such city may provide that the compensation to be made for such damage, together with the accruing costs, shall be added to the cost of the labor and material necessary for the grading thereof, and shall be paid by assessment upon the property within the local assessment district defined by law or the charter or ordinances of such city in the same manner and to the same extent as other expenses of such improvement are assessed and collected. In such cases it shall not be necessary to procure the appointment of commissioners to take the other proceedings herein provided for making such assessments, but all the proceedings for the assessment and collection of such damages and costs, shall, if so ordained by such city, be governed by the charter provisions, law or ordinances in force in such city for the assessment and collection of the costs of such improvements upon property locally benefited thereby: *Provided, however,* That this section shall not apply to the original grading of such street, avenue or alley.

Damages to property included in cost of improvement.

Act applies to regrading.

Emergency.

SEC. 2. An emergency exists and this act shall take effect and be in force from and after its passage and approval.

Passed by the Senate March 9, 1909.

Passed by the House March 10, 1909.

Approved March 12, 1909.

CHAPTER 81.

[S. S. B. 121.]

LOCAL OPTION.

AN ACT to provide for the submission to the qualified electors of the question whether the sale of intoxicating liquors shall be licensed or prohibited, providing for the enforcement of the result of the elections hereunder, defining offenses hereunder, and providing penalties therefor.

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

SECTION 1. For the purpose of an election upon the question of whether the sale of intoxicating liquors shall be permitted as hereinafter provided for, there shall be the following units of territory, to-wit: Each city of the first, second, third or fourth class; each unclassified city having a population of more than one thousand; each county not containing any city of the first, second, third or fourth class, nor any unclassified city having a population of more than one thousand; and that portion, considered as a whole, of each county containing any such city, cities or fourth class towns outside of its or their boundary lines. Each subdivision of territory as above shall be a unit to itself and may vote as such upon the question of the sale of intoxicating liquor within its boundaries.

Units of
territory.

SEC. 2. Within any unit hereinbefore created, a special election may be held upon the question of whether the sale of intoxicating liquor shall be permitted within that unit, upon compliance with the conditions hereinafter prescribed; thereafter no election upon the question of the sale of intoxicating liquor shall be held except on the day of the general county election. In the event that a special election is held in any unit hereunder, no other election under the provisions of this act upon the question of the sale of intoxicating liquor within such unit shall be held prior to the day of the general county election of 1910, and thereafter at the said general election biennially.

Question
submitted,
when.

SEC. 3. Any unit hereby created may hold a special election upon the question of whether the sale of intoxicat-

Special
election.

ing liquor shall be permitted within the boundaries of such unit, upon the filing with the clerk of any city or town unit or the county auditor of any county unit of a petition subscribed by qualified electors of the unit equal in number to at least thirty per cent of the electors voting at the last general election within such unit. Such petition shall designate the unit in which the election is desired to be had, the date upon which the election is desired to be held, and the question that is desired to be submitted. The persons signing such a petition shall state their post-office address, the name of the precinct in which they reside, and in case the subscriber be a resident of a city, the street and house number, if any, of his residence, and the date of signature. Said petition shall be filed not less than sixty days nor more than ninety days prior to the date upon which the election is desired to be held. No signature shall be valid unless the above requirements are complied with, and unless the date of signing the same is less than ninety days preceding the date of filing. No signature shall be withdrawn after the filing of such petition. Every signature appended to such petition shall be presumed to be genuine and validly affixed to such petition unless the genuineness and validity of the names subscribed thereto, or some of them, be attacked by a proper proceeding in a court of competent jurisdiction, by a qualified elector of the unit in which the election is sought to be held, within ten days after the filing of such petition. Any proceeding to test the genuineness or validity of any signature to any such petition shall be speedily heard by the court, and its decision therein shall be conclusive, and no appeal shall lie therefrom. Such petition may consist of one or more sheets and shall be fastened together as one document, filed as a whole, and when filed shall not be withdrawn or added to. Such petition shall be a public document and shall be subject to the inspection of the public. Upon the request of anyone filing such a petition and paying or tendering to the city or town clerk or county auditor one dollar for each one hundred names, or fraction thereof, signed there-

Petition.

Petition
filed, when.

Names can-
not be
withdrawn.

Petition a
public
document.

to, together with a copy thereof, said clerk or county auditor shall immediately compare the original and copy and attach to such copy and deliver to such person his official certificate that such copy is a true copy of the original, stating the day when such original was filed in his office, and said officer shall furnish, upon the demand of any person, a copy of said petition, upon payment of said fees as above provided for.

SEC. 4. Upon the filing of a petition as hereinbefore provided, the city or town clerk or county auditor with whom it is filed shall, in not less than thirty days nor more than sixty days thereafter, cause notice of such election to be given, by publishing in not less than one, nor more than three daily or weekly newspapers having a general circulation in the unit within which the election is desired to be held, a notice stating the question that is to be submitted, the unit in which it is to be submitted, and the date for which the election is called. Such notice shall be published in each consecutive issue of such newspaper thereafter until the date of the election, if the paper in which the publication is made be a weekly paper, and not less than fifteen times, if the paper in which the publication is made be a daily paper. All provisions of the general election law relative to the designation of election officers, printing of ballots and designation of voting places, the conducting of elections and the return and canvass of votes, shall govern any special election held hereunder. The persons filing any such petition, and any organization or organizations opposed to the side represented by the petitioners, may each, within ten days prior to the holding of such election, file with the city or town clerk, if the unit where the election is to be held is a city or town, or with the county auditor, if such unit is a county, the names of two persons, one to act as challenger and one as a watcher at each precinct in the unit, and the challengers and watchers of the opposing interests shall have the right to be present in the polling room and exercise the powers which are conferred upon challengers by law. A certificate

Copies.

Notice of election.

General election provisions apply.

Challengers and watchers.

signed by the city or town clerk or the county auditor, as the case may be, certifying that any person is a challenger or watcher, duly designated as such, for the precinct in which he assumes to act, shall be sufficient evidence of his right to act as such.

Ballot.

SEC. 5. The ballot to be used at any such election shall be of suitable size and proper paper, and shall have at the top thereof the question printed, "Shall the sale of intoxicating liquor be licensed within the (insert the name or description of the city, town or county unit in which the vote is to be taken)?" Immediately below said question shall be placed the alternative answers one above the other:

For license



Against license



Each of said alternatives being followed by a square of convenient size. Persons desiring to vote in favor of licensing the sale of intoxicating liquor within the unit in which the election is to be held shall mark a cross within the square following the words "For license," and those desiring to vote against the licensing of the sale of intoxicating liquor within said unit shall mark a cross in the square following the words "Against license," and the ballots shall be counted accordingly.

Returns.

SEC. 6. The returns of any such election shall be canvassed in the manner provided by law for other city, town or county elections, and after such canvass the city or town clerk or county auditor, as the case may be, shall publicly certify the result of the election, and shall cause notices of such result to be published in some newspaper circulating in the unit in which the election was held, within ten days after said canvass is completed; and shall record in a well bound book, to be kept in his office by him and his successors, the result tabulated by precincts of said vote; and said result may be proved in all courts and in all proceedings by such record or by the official certificate of such city or town clerk or county auditor, and

Result to be published.

where such a record or certificate shows that a majority of the qualified electors voting on said question voted "For license," the same shall be conclusive evidence that the political unit (city, town or county) to which such vote was applicable has voted in favor of licensing the sale of intoxicating liquor, unless the official certificate of the city or town clerk or county auditor shall be reversed after a contest of the election in accordance with the provisions of section 22 of this act. Thereupon, if the majority of the qualified electors voting upon said question at said election shall have voted in favor of the sale of intoxicating liquor within the unit in which the election was held, the sale of intoxicating liquor may be continued under license as theretofore, if it was theretofore licensed and sold within such unit: *Provided*, That no license for the sale of intoxicating liquors shall be granted to any person who is not of good moral character and is not a citizen of the United States; and if the sale of intoxicating liquor was not theretofore licensed within such unit, it shall be within the power of the city or town council or of the board of county commissioners, acting within the provisions and requirements of state laws or city or town charters, as the case may be, to issue licenses for the sale of intoxicating liquor within such unit, but such licenses shall not be granted to be in force earlier than January 1st following the vote at a general county election. If the majority of the qualified electors voting on such question at any such election shall have failed to vote "For license" the same shall be conclusive evidence that the political unit to which such vote was applicable has voted against the sale of intoxicating liquors within such unit, and, thereupon, ninety days after the day of such election, in the case of a special election, and on the first day of January following any general county election at which a vote has been taken under this act, such result shall become operative, and no intoxicating liquor, save as hereinafter provided, shall be sold within that unit until permission so to do be granted at an election held for that purpose under the provisions of this

Licensing
to continue.

Sale pro-
hibited.

Portion of
license fee
returned.

act. When a majority of the qualified electors in any unit wherein intoxicating liquor has theretofore been sold and licenses have been issued by the city council or by the board of county commissioners under existing laws, shall fail to vote in favor of the sale of intoxicating liquor within such unit, upon such vote becoming operative as herein provided, the city or town council or the board of county commissioners, as the case may be, shall return to each person holding a valid, unexpired license for the sale of intoxicating liquor ninety per cent. of the unearned portion of the license fee which shall have been paid to such city, town or county.

General
election.

SEC. 7. At any election which shall be held under this act on the day of the general county election there may be submitted to the qualified electors of any unit the question whether the sale of intoxicating liquor shall be licensed and permitted therein. The method of procuring the submission of such question at any such election shall be the same as that prescribed for procuring the submission of such question at the special election hereinbefore provided for, and all provisions as to the manner of holding the special election, the ballots, the manner of counting the votes, the return and canvass shall, so far as applicable, govern in the submission of such question at the general election. The petition for the submission of such question at the general election shall state the general election at which it is to be submitted. The ballot to be voted upon that question shall be a separate ballot, but the election officers acting at the general election shall act as the election officers upon the election on the submission of such question, but they shall keep the ballots cast on such question in a separate ballot box, and shall make a separate canvass and return of the vote on that question, as though the vote were at a special election: *Provided, however,* That where any special election is held as hereinbefore provided, the question may not be submitted at a general election prior to the time provided in section 2 hereof. The result of the vote upon the question of licensing the sale of intoxicating liquor at any

Separate
ballot.

general election shall be publicly certified and shall have the same effect as hereinbefore prescribed in the case of a special election.

SEC. 8. It shall be the duty of the city or town clerk or the county auditor, as the case may be, to furnish all ballot boxes, ballots, poll books and other necessary supplies for the holding of any special or general election hereunder, and the expense thereof, as well as the expenses of the election officers and other necessary expenses of the election, including all official publications herein required, shall be paid in the same manner that the expenses of general elections in any such city, town or county are paid. Voters at any such election shall have the same qualifications as voters at general elections, and the city clerk shall furnish to the election officers registration books showing the names of persons who are registered to vote thereat.

Expense of
ballot boxes,
etc.

Qualifications
of voters.

SEC. 9. Whenever a majority of the qualified electors voting upon said question in any unit hereinbefore created, at an election held for that purpose, shall have failed to vote "for license" and it shall thereby have been decided by said vote that intoxicating liquor shall not thereafter be sold within that unit, and the city or town clerk or county auditor, as the case may be, shall have made public certificate of the result of such election, it shall not be lawful to grant or issue, or cause to be granted or issued, any license for the sale of intoxicating liquor within said unit; and after the lapse of ninety days from any special election or after the first day of January next following any general county election at which a vote has been taken it shall not be lawful to sell, give away or in any manner dispose of intoxicating liquor, in any quantity whatever, within the limits of the unit in which the election was held: *Provided*, That the words "give away" shall not be construed to prohibit the giving of intoxicating liquor to guests by a person in his private dwelling or private apartments, unless such dwelling or apartments shall become a place of public resort. The phrase "intoxicating liquor" as used in this act shall be construed to include whiskey, brandy, rum,

"Give away."

"Intoxicating
liquor."

wine, ale, beer, or any spirituous, vinous, fermented, malt or any other liquor containing intoxicating properties, whether medicated or not, and which is capable of being used as a beverage, except preparations compounded by a registered pharmacist, the sale of which would not subject him to the payment of the special liquor tax required by the laws of the United States.

Stock not to be kept in "dry territory."

SEC. 10. Within ten days after the date when the result of any election under this act has become operative, every retail liquor dealer, except druggists, trafficking personally or by agent within any unit which shall have voted against the licensing of the sale of intoxicating liquor therein, shall remove, or cause to be removed, all intoxicating liquor from his place of business, its appurtenances or dependencies; and failure so to do shall be *prima facie* evidence that such liquor is kept therein for the purpose of being sold, given away or otherwise disposed of in violation of the provisions of this act.

Penalty.

SEC. 11. Whoever shall, either as principal, agent, clerk or servant, directly or indirectly, sell, barter, exchange, give away or otherwise dispose of any intoxicating liquor in any quantity whatever, within the limits of a unit which has, by its vote, decided against the licensing of the sale of intoxicating liquor, or who shall keep or have in his possession any intoxicating liquor with intent to sell, give away or otherwise dispose of such liquor in violation of the provisions hereof, shall, upon conviction thereof, be fined not less than twenty dollars nor more than two hundred dollars, or be imprisoned in the county jail for not less than ten days nor more than thirty days, or be punished by both such fine and imprisonment. Any person convicted of the violation of any provision of this act who shall subsequently violate any provision hereof shall, upon conviction, be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail for not less than ten days nor more than ninety days. If thereafter he shall again violate any provision of this act, for such third and each subsequent violation he shall,

Subsequent convictions.

upon conviction thereof, be fined not less than two hundred dollars nor more than one thousand dollars, and be confined in the county jail for not less than three months nor more than one year. Prosecuting attorneys and justices of the peace having knowledge of any previous conviction of any person accused of violating the provisions hereof shall, in preparing warrants, informations or indictments for such offense or offenses, allege such previous conviction therein, and a certified transcript from the docket of any justice of the peace, or a certified copy of the record under seal of the clerk of any court of record, shall be sufficient evidence of any previous conviction or convictions of violations of this act.

Previous conviction to be alleged.

SEC. 12. The giving away, delivering or handling of any intoxicating liquor by any storekeeper at any place of business, or the taking or soliciting of orders, or the making of agreements for the sale or delivery, or for the giving away, of any intoxicating liquor within the limits of a unit which shall have voted against licensing the sale of intoxicating liquor therein, or any other device to evade the provisions hereof, shall be deemed an unlawful sale of intoxicating liquor, and any person guilty thereof shall be punished as provided in the preceding section.

Taking orders.

SEC. 13. All places where intoxicating liquor is sold in violation of the provisions of this act are common nuisances, and may be abated as such, and upon conviction of the keeper of any such place of the sale of intoxicating liquor in violation of the provisions hereof, the court shall order that such nuisance be abated and that such place be closed until the keeper, owner, lessor, lessee or other person occupying the same shall give bond with a sufficient surety to be approved by the court making the order in the penal sum of one thousand dollars, payable to the State of Washington, conditioned that intoxicating liquor will not thereafter be sold therein contrary to the law, and will pay all fines, costs and damages assessed against him for any violation thereof, and in case of violation of any con-

Place where liquor sold common nuisance.

dition of the bond the whole amount may be recovered as a penalty for the use of the county, city or town wherein the premises are situated.

Fines may
be used to
enforce act.

SEC. 14. The county commissioners of any county are hereby authorized to use any part of the penalties collected for the violation of this act for the purpose of employing persons to secure evidence for the enforcement of the same, and when there are no funds available from penalties collected for the violation of this act, the county commissioners or city or town council may appropriate a sum not exceeding two hundred dollars annually from the general fund of the county, city, or town, for the purpose of enforcing its provisions.

Public
decency.

SEC. 15. Any city or town clerk, county auditor, inspector, judge of election, police officer or other officer of the law who shall wilfully refuse or neglect to discharge any duty imposed upon him by the provisions of this act, and any one who signs any petition provided for herein, knowing he is not qualified so to sign, or who files with the city or town clerk or county auditor any petition or sheet or part thereof, knowing that it contains the signature of a person not qualified to sign the same, or any forged or fraudulent signature, or who unlawfully signs such petition, or who receives, requests, demands or gives, offers or promises any reward for the signing or the refraining from signing of any such petition, or who, by treating or giving of intoxicating liquor or anything else of value, or by threats to injure the person or property of another, or by betting or other device, either directly or indirectly influences or attempts to influence anyone to sign or refrain from signing any such petition or to withdraw his name from the same shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment, in the discretion of the court. If any person shall be convicted of violating any provision of this section, and shall

Punishment.

subsequently again violate any provisions hereof, he shall, upon conviction thereof, be fined not less than twenty dollars nor more than two hundred dollars, and be imprisoned in the county jail for not less than ten days nor more than ninety days.

SEC. 16. It shall be unlawful for any physician to issue a prescription for intoxicating liquor except in writing or in any case unless such physician has good reason to believe that the person for whom it is issued is actually sick and the liquor is required as medicine. Every prescription for intoxicating liquor shall contain the name and quantity of liquor prescribed, the name of the person for whom prescribed, the date on which the prescription is written and directions for the use of the liquor so prescribed. Every physician issuing a prescription in violation of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars. Any person who knowingly makes false statements to a physician or druggist for the purpose of wrongfully obtaining intoxicating liquor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars, and imprisoned in the county jail not longer than ninety days.

SEC. 17. Nothing in this act shall be construed to forbid or prevent the sale within any unit which has voted against the sale of intoxicating liquor therein, by a druggist or pharmacist, of liquor upon prescription for medical purposes, or for sacramental purposes, or of alcohol for medicinal, mechanical or chemical purposes only, and any such liquor so sold shall not be drunk upon the premises under any circumstances. Any druggist or pharmacist selling liquor for the purposes above provided shall keep a true and exact record, in a book provided by him for that purpose, in which shall be entered at the time of every sale of intoxicating liquor made by him, or in or about his place of business,

Physician.

Penalty.

False statement to physician.

Liquors may be sold for certain purposes.

to any person whatsoever, the date of the sale, the name of the purchaser, his residence (stating the street and house number if there be such), the kind, quantity and price of such liquor, the purpose for which it is sold, and when the sale is for medicinal purposes the book shall also contain the name of the physician issuing the prescription therefor. Such entry shall be signed by the person purchasing the liquor. Every prescription for the sale of such liquor shall be cancelled by writing the word "cancelled," and the date on which it was presented and filled, and shall be kept on file, and no such prescription shall be filled the second time. This book and all prescriptions for intoxicating liquor filled shall be open to inspection by any prosecuting attorney of the county in which the liquor was sold, judge or justice of the peace having criminal jurisdiction therein, or any sheriff, constable, marshal or other police officer within such county. Any druggist or pharmacist who shall fail to keep such record, or who shall destroy or alter in any way any such record or entry therein, or any prescription filled, or permit or procure the same to be destroyed or altered, or refuse inspection thereof to any person entitled to demand such inspection, or shall fail to cancel any such prescription, or shall refill any prescription, or shall sell intoxicating liquor for medical purposes except on a written prescription, or for sacramental purposes without an order signed by a clergyman, shall, for each such act, be deemed guilty of a misdemeanor, and shall be fined not less than fifty dollars nor more than two hundred and fifty dollars for each such offense: *Provided*, That nothing herein contained shall be construed to prohibit the sale by a druggist or pharmacist of such intoxicating liquor as may be needed by or for a sick person in case of extreme illness where delay may be dangerous to the patient. No druggist or pharmacist who has been convicted of selling intoxicating liquor or of any other act in violation of this section shall thereafter sell intoxicating liquor for any purpose whatsoever, either personally or by agent, for two years within

Prescriptions.

Record of prescriptions open to public inspection.

Druggist violating provision.

Penalty.

Druggist convicted not permitted to sell thereafter.

any unit in which the sale of intoxicating liquor is forbidden, and upon a second conviction for a violation of the provisions of this section such druggist or pharmacist shall forfeit his right to practice pharmacy, and the justice of the peace or superior judge before whom such druggist or pharmacist is convicted of a second violation of this act shall so order, and send a copy of such order to the board of pharmacy, who, upon receipt of such order, shall forthwith revoke such license, and no other license shall be issued by the board of pharmacy to any person so convicted, within one year from the date of such revocation.

SEC. 18. It shall be unlawful for any person, or public or private carrier, to accept or receive for shipment, transportation or delivery to any person or place within any unit in which the sale of intoxicating liquor is forbidden under the provisions of this act, or to carry, bring into or transfer to any other person, carrier or agent, or handle, deliver or distribute in any such unit any intoxicating liquor of any sort or character whatsoever; and whoever shall, either as principal, agent or servant, knowingly violate any of the provisions of this section shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars, and upon a subsequent violation of this section, in addition to the fine hereinbefore prescribed, he shall, if a natural person, be imprisoned in the county jail for not less than thirty days nor more than six months: *Provided, however,* That nothing herein contained shall be construed to apply to any individual who may bring into such unit upon his person or as his personal baggage and for his private use intoxicating liquor in quantity not to exceed one gallon of spirituous liquor or one case of malt liquor, nor to physicians or druggists to whom any public carrier may deliver such goods in unbroken packages, nor to deliveries to churches or the proper officers thereof of wine in unbroken packages for sacramental purposes, nor to shipments or deliveries at residences which are not places of business or of public resort, by manufacturers or wholesalers in their own

Shipments
into "dry"
territory
forbidden.

Penalty.

Personal
baggage.

Exceptions.

conveyances, or by any common carrier or otherwise, any unbroken packages of liquor, nor to shipments of liquor in continuous transit to a point outside of such unit, nor to shipments of commercially pure alcohol for mechanical or chemical purposes. This section shall apply to all packages of intoxicating liquor, whether broken or unbroken, and the carrying into or delivery of each such package of intoxicating liquor, regardless of the name by which it may be called, accepted, received, carried, transferred, handled, delivered, or distributed in violation of the provisions of this section, shall constitute a separate offense, and any liquor so carried or delivered shall be forfeited and shall be destroyed by the officer seizing the same: *Provided*, That nothing in this act shall be construed to prohibit the manufacture of intoxicating liquor from the raw material in any no-license unit, nor the delivery of the same.

May make in
"dry" ter-
ritory.

It is further expressly provided that no provision of this section is intended or shall be construed to violate or be in conflict with any provision of the constitution and laws of the United States respecting interstate commerce, but this section and all parts of the same are intended to prohibit the acceptance, receiving, carrying, transferring, handling, delivery or distribution, as herein provided, of intoxicating liquor to such extent only as the same is not expressly permitted under the constitution and laws of the United States.

Interstate
commerce.

If any provision of this section shall be held to be void or unconstitutional, it is hereby provided that all other portions of the same which are not expressly held to be void or unconstitutional shall continue in full force and effect.

Void in part
not to vitiate
whole.

SEC. 19. Prosecutions for violations of this act may be by information or indictment. In any such prosecution it shall not be necessary to state the kind of intoxicating liquor sold, nor to describe the place where sold, nor to show the knowledge of the principal in order to convict for the acts of any agent or servant, nor to state the name of any person to whom such liquor is sold, nor to set forth

Prosecutions;
allegations.

the evidence showing that the required number of qualified electors petitioned for the submission to the electors of the question whether intoxicating liquor should be sold in the unit where the violation is alleged to have occurred, nor that a majority of the qualified electors voted against the sale of liquor within such unit, but in all cases it shall be sufficient to state that the act complained of was committed in a unit in which the sale of intoxicating liquor was prohibited, and that such act was then and there prohibited and unlawful.

SEC. 20. The issuance of an internal revenue special tax stamp or receipt by the United States to any person as a retail dealer in intoxicating liquor at any place within a unit in which at the time of the issuance thereof the sale of intoxicating liquor was forbidden, shall be *prima facie* evidence of the sale of intoxicating liquor by such person at such place, or at any place of business of such person within the unit where such stamp or receipt is posted if, at the time, the stamp or receipt is in force and effect: *Provided*, That this section shall not apply to wholesalers, manufacturers or druggists.

Payment of
internal
revenue
evidence.

A copy of any such stamp or of the records of the United States internal revenue office, certified to by any United States internal revenue officer, or assistant, having charge of such records or stamps, which shows that the United States special liquor tax has been paid by any person charged with selling, giving away or otherwise disposing of intoxicating liquor in violation of this act in any unit in which, at the time of issuance of said special liquor tax stamp, the sale of liquor was prohibited, shall be competent and *prima facie* evidence that the person whose name appears on said records or stamp, as shown by said certified copy, has paid the special liquor tax for the time stated therein.

Copy of
record
sufficient.

SEC. 21. Any city or town which, under the provisions of its charter, may possess the power to vote upon the question of the issuance of licenses for the sale of intoxi-

City charter
may
supersede
this act.

cating liquor within its limits may proceed to secure such vote and the results thereof under the provisions of such charter, or may apply the provisions of this act, as the petitioners in any such city may elect.

Contest of
election.

SEC. 22. That any five qualified electors of any unit in which an election shall have been held as provided for in this act may, within ten days after the canvass of the returns of such election and upon filing a bond for costs in a penalty to be fixed by the presiding judge, and with a surety or sureties to be approved by him, contest the validity of such election by filing a verified petition in the superior court for the proper county in which such unit is situated, setting forth the ground for the contest. Upon the filing of such petition a summons shall forthwith issue from such court, signed by a judge thereof, and shall be served by the sheriff or his deputy of the county in which said unit is situated, addressed to the city or town clerk or county auditor with whom the petition for such election is filed, notifying such clerk or auditor of the filing of such petition and directing him to appear in such court on behalf of such unit at the time named in the summons, which time shall be not less than five nor more than fifteen days after the filing of such petition. The procedure in such cases shall be the same as that provided by law for contesting an election to a public office, so far as the same is applicable. The said court shall have final jurisdiction to hear and determine the merits of such cases. Any qualified elector in the unit in which such election shall have been held may be permitted by the court in its discretion to appear in person or by attorney, in any such contested election case, in defense of the validity of such election.

Who may
defend.

Present pro-
hibitory laws
continued.

SEC. 23. Nothing in this act shall be construed to repeal or affect the operation of any existing laws of the State of Washington, whereby the licensing and sale of intoxicating liquor is prohibited within certain specified areas surrounding certain state institutions and also within one mile outside of each incorporated city or town in the

state, but said prohibitory laws shall continue in full force and effect.

Passed by the Senate February 18, 1909.

Passed by the House March 4, 1909.

Approved March 12, 1909.

CHAPTER 82.

[A. S. B. 4.]

PRIMARY ELECTIONS.

AN ACT relating to, regulating and providing for the nomination of candidates for public office in the State of Washington and providing penalties for the violation thereof, and amending sections 1, 2, 3, 5, 10, 13, 22, 29, 30, 33 and 38 of an act entitled "An act relating to, regulating and providing for the nomination of candidates for public office in the State of Washington, and providing penalties for the violation thereof, and declaring an emergency," approved March 15, 1907, and declaring an emergency.

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

SECTION 1. That section 2 of said act shall be amended to read as follows: Sec. 2. Hereafter, all candidates for elective offices in this state, either state, county, municipal, precinct or congressional, shall be nominated at a direct primary election held in pursuance of this act: *Provided*, That this act shall not be held to refer to special elections for filling the vacancies for unexpired terms, or to election to offices of any city or town of the fourth class or for any school, dike, irrigation or Metropolitan park district or other local improvement election, or for presidential electors, or judges of the supreme court: *Provided further*, That the provisions of this act shall not apply to nominations of candidates for municipal elective offices in cities of the first class which have adopted or may hereafter adopt charters under section 10, article XI of the state constitution, where such charters have provided or may hereafter provide a non-partisan method or methods of nominating candidates for municipal elec-

[Am'd. § 2,
ch. 209, p.
457, L. '07.]

Application
of act.

City charter
may super-
cede act.

tive offices; and all such cities shall have the right and power to provide in their charters for any method or methods of non-partisan nomination of candidates for their elective offices as they may desire.

[Am'd. § 5,
ch. 209, p.
458, L. '07.]

SEC. 2. That section 5 of said act shall be amended to read as follows: Section 5. At least thirty (30) days before the primary election any person who shall be eligible, who shall desire to become a candidate for nomination for any office, subject to this act, shall file in the proper office a declaration of candidacy accompanied by the fee provided for in this act, which fee shall be as follows: For any office with a salary or compensation attached, of one thousand dollars or less per annum, ten (\$10) dollars; when such salary or compensation exceeds one thousand dollars per annum, an additional sum equal to one per cent. on such excess; and in case of any precinct office without salary, the filing fee shall be one (\$1.00) dollar. Said fees shall be paid to the following officers: When the candidacy is for a state, congressional or district office, embracing more than one county, the fee shall be paid to the Secretary of State, to be paid by him to the State Treasurer, and when for district offices for more than one county, the same shall be divided equally between the the counties composing such district and paid to the respective treasurers thereof and the Secretary of State shall issue all necessary warrants for such payments on the State Treasurer. When such fees are for county offices and offices for districts within counties, such fee shall be paid to the county auditors and by them to the respective county treasurers, and when for city or municipal offices, shall be paid to the respective clerks of such cities or municipalities and by them to the respective treasurers of the same.

Declaration
of candidacy.

Fee.

Fees for
district
officers di-
vided between
counties.

[Am'd. § 10,
ch. 209, p.
460, L. '07.]

SEC. 3. That section 10 of said act shall be amended to read as follows: Sec. 10. The method of voting at such primary election shall be by ballot, and all ballots voted shall be printed as herein provided. On the 15th day before the primary election the county auditor shall

group all the candidates for each party by themselves, and shall prepare at once in writing, a separate sample ballot for each party for public inspection, which he shall post in a conspicuous place in his office. He shall proceed to have printed a separate primary election ballot for each political party which has qualified as hereinbefore provided. These ballots to be prepared in the following manner: Every ticket shall be absolutely uniform in color and size, shall be white and printed in black ink. Across the head of each ballot shall be printed in plain, black type, first, the name of the political party, on each ticket, following the words, "Primary Election Ballot." On the next line shall be printed the name of the political party, and below that the county in which the ballot is to be used. Then shall follow the words "To vote for a person mark a cross in the first square at the right of the name of the person for whom you desire to vote." Beginning at the top of the left hand column, at the left of the line, in black type, shall appear the position for which the names following are candidates, and to the extreme right of the same line the words "Vote for," then the words "One," "Two," or a spelled number designating how many persons under that head are to be voted for. Following this shall come the name of each candidate for that position, inclosed in a light faced rule, with a square to the right of said name, said square being separated by heavy black face rule, the parallel rules containing the names and squares to be one-sixth of an inch apart. Each position with the name running for that office, shall be separated from the following one by a black-face rule to separate each position clearly. The position shall be arranged as follows, provided nominees for such positions are to be selected in said county under the provisions of this act hereinafter provided: First, congressional; next, state; next, preference for United States senators; next, legislative; next, county officers; next, precinct officers; in all cases following under each heading here given, the rotation used in the make-up of the various ballots at

Sample ballot.

Form of ballots.

Arrangement of offices.

the general election. In city elections it shall be the duty of the city clerk to prepare the ballots and arrange the position of the candidates on such ballots, commencing with the office of mayor and following with the offices for which candidates are to be selected, using his reasonable discretion as to such arrangement. The duties provided for in this act to be performed by the county auditor with reference to candidates for county and district offices or either of them shall in like manner be performed by the city clerk in each city with reference to the preparation of ballots and primary elections for candidates for city offices. When there shall be four or more candidates for any state or congressional office, there shall be printed immediately under the designation of office, the following: "Vote for both first and second choice for this office." On the next line shall be printed the words "To vote for a person for first choice, mark a cross (X) in the first square at the right of the name of the person for whom you desire to vote." "To vote for a person for second choice, mark a cross (X) in the second square after the name of the person for whom you desire to vote." The form of ballot shall be substantially as follows:

City elections.

Second
choice.

(FORM OF BALLOT)
PRIMARY ELECTION BALLOT

Designation of Party. _____

PARTY _____

County _____

To vote for a person, make a cross (X) in the square at the RIGHT of the name of the person for whom you desire to vote.

CONGRESSIONAL		First Choice	Second Choice	Votes for one choice only	
Representative in Congress Vote for both first and second choice for this office.		Vote for _____	Vote for _____	United States Senator	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
STATE		First Choice	Second Choice	LEGISLATIVE	
Governor Vote for both first and second choice for this office.		Vote for One	Vote for One	State Senator, District	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
Lieutenant Governor Vote for both first and second choice for this office.		Vote for One	Vote for One	Member of House of Representatives, District	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
Secretary of State Vote for both first and second choice for this office.		Vote for One	Vote for One	COUNTY	
JOHN DOE				County Clerk	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
State Auditor Vote for both first and second choice for this office.		Vote for One	Vote for One	Treasurer	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
State Treasurer Vote for both first and second choice for this office.		Vote for One	Vote for One	Sheriff	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
Attorney General Vote for both first and second choice for this office.		Vote for One	Vote for One	Coroner	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
Commissioner of Public Lands Vote for both first and second choice for this office.		Vote for One	Vote for One	Prosecuting Attorney	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
State Superintendent of Public Instruction Vote for both first and second choice for this office.		Vote for One	Vote for One	County Auditor	Vote for One
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
JOHN DOE				JOHN DOE	
				Surveyor	Vote for One
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				Superintendent of Schools	Vote for One
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				County Commissioners	Vote for ...
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				Justice of the Peace	Vote for ...
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				Constable	Vote for ...
				JOHN DOE	
				JOHN DOE	
				JOHN DOE	
				Precinct committeeman	(write one name)

[Am'd. § 12,
ch. 209, p.
464, L. '07.]

Voter to
name party
at time of
registering.

Spolled
ballot.

Choice, how
designated.

SEC. 4. That section 12 of said act be amended to read as follows: Section 12. Every qualified person, properly registered as a voter in the election precinct enabling him to vote at the ensuing election where registration is required, and every qualified person in precincts where registration is not required, shall be entitled to participate in the primary election. When he desires to vote at said primary each elector shall have the right to receive the ballot only of the party for which he registered if living in a precinct in which registration is required, or if living in a precinct in which no registration is required the ballot of the party for which he asks; and in the latter event, he shall, if challenged, be required to make oath or affirmation that he intends to affiliate with said party at the ensuing election and intends to support its candidates generally. Thereupon he shall retire to one of the booths and without undue delay mark the ballot received by him and fold it so that its face shall be concealed. He shall thereafter deliver said ballot received by him to the election officers. In the event said voter shall soil or deface the ballot he desires to vote he shall at once return the ballot received by him and get a new ballot and the election officers shall destroy or render unfit for use the ballot so returned. The elector shall designate his choice on his ballot by marking a cross in each of the small squares nearest the names of the candidates for whom he desires to vote and shall not vote for more candidates for an office than are to be elected thereto at the election to follow the primary election as indicated on the ballot at the right of each office for which candidates are to be selected.

Where under the provisions of this act a voter is required to designate his first and second choice the voter shall designate his first choice by marking a cross (X) in each of the small squares nearest to the names of the candidates for whom he desires to vote for first choice, and shall designate his second choice by marking a cross (X) in the second square opposite to and parallel to the names

of the candidates for whom he desires to vote as a second choice.

SEC. 5. That Sec. 13 is amended to read as follows: [Am'd. § 13, ch. 209, p. 465, L. '07.]

Sec. 13. The names of candidates for each office upon the ballot and under the heading designating each official position upon the ballots to be used in voting, shall be first arranged in the order in which their declarations of candidacy shall have been filed. In printing each set of ballots for the several counties, the positions of the names of candidates shall be changed in each office division as many times as there are candidates in the office division in which there are the most names. As nearly as possible an equal number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of the division, and shove up the column so that the name that before was second, shall be first, after the change. After the ballots are printed they shall be kept in separate piles, one pile for each change of position, and shall then be gathered by taking one from each pile; the intention being that every other ballot in such pile shall have the names in a different position. There shall be no printing upon the back of the ballots or any marks to distinguish them. After the ballots have been gathered as above provided they shall be numbered consecutively, said numbering to be perforated and torn off by the election officers on the voting of the ballot. Sample ballots shall be substantially in the same form as the official ballot, but upon colored paper, and the names thereon need not be alternated.

Arrangement of names for each office.

Names rotated.

Ballots to be numbered.

SEC. 6. That section 22 of said act shall be amended to read as follows: [Am'd. § 22, ch. 209, p. 468, L. '07.]

Sec. 22. At the September primary each voter may write in the space left on the ticket for that purpose the name of one qualified elector of the precinct for member of the party county committee. The one having the highest number of votes shall be such committeeman of such party for such precinct. The party committee of each county shall consist of the precinct

Precinct committeemen.

committeemen from the several precincts of such county. The state committee shall consist of one committeeman from each county, elected by the county committee, which shall meet for such purpose and organization at the court house at the county seat of each county at 2 o'clock p. m. on the second Saturday after such primary election, unless some other time and place of such meeting shall be designated by a regular call of the properly authorized officers of the retiring committee. Each political party organization shall have the power to make its own rules and regulations, call conventions, elect delegates to conventions, state and national, fill vacancies on the ticket, provide for the nomination of presidential electors, and perform all other functions inherent to such organizations, the same as though this act had not been passed: *Provided*, That in no instance shall any convention have the power to nominate any candidate to be voted for at any primary election. City committeemen may be elected at municipal elections in the manner provided in this section, as near as may be.

State
committee.

Party
organization.

[Am'd. § 28,
ch. 209, p.
472, L. '07.]

SEC. 7. That section 28 of said act be amended to read as follows: Section 28. No person shall, in order to aid or promote his own nomination to a public office under the provisions of this act, or any amendment thereto, directly or indirectly, himself or through another person, give, pay, expend or contribute, or promise to give, pay, expend or contribute any money or other valuable thing, except for personal expenses. The words "personal expenses," as used in this act, shall include only expenses directly incurred and paid by a candidate for traveling and for purposes properly incidental to traveling, and for writing, printing and preparing for transmission any letter, circular or other publication not issued at regular intervals, whereby he states his position or views upon public or other questions; for advertising in one or more newspapers a simple announcement of candidacy to contain only his name, address and the office for which he is a candidate and the party of which he

Personal
expenses.

Advertising.

seeks nomination, and to be paid for at no more than the regular advertising rates of such paper or papers; for stationery and postage, for telegraph, telephone and public messenger service; and for other similar expenses, and for the necessary expense of hiring halls or other rooms for the purpose of holding meetings to address the voters and others upon public questions and matters relating to his candidacy.

No person shall be competent to qualify for any public office, who shall have, prior to the holding of any primary election, paid or promised or agreed to pay, either directly or through another or in any manner whatsoever, to the owner, publisher, manager or representative of any newspaper, any sum of money or other thing of value, for any article or published statement in a newspaper, wherein the electors are advised or counseled to vote for such candidate, or his fitness or qualifications for office are set forth, or his photograph or biography is published.

Person violating not competent to qualify.

SEC. 8. That section 29 of said act is amended to read as follows: Sec. 29. It shall be unlawful for any owner, proprietor, editor, manager, officer, clerk, agent, reporter or employe of any newspaper, magazine or periodical printed or published in this state, to take, accept or receive, or agree to take, accept or receive, for himself or any other person or persons, firm or corporation either by himself or any other person, persons, firm or corporation, any money, gratuity or other valuable consideration or article of value for or on account of or as a consideration for such newspaper, magazine or other periodical supporting or advocating the election or defeat of any candidate or candidates at any primary election. Any such owner, proprietor, editor, manager, officer, clerk, agent, reporter or employe of any newspaper, magazine or other periodical violating the provisions of this act shall be deemed guilty of a misdemeanor, and shall be fined in any sum not less than \$25.00 and not more than \$500.00, or confined in the county jail not less

[Am'd. § 29, ch. 209, p. 473, L. '07.]

Newspaper not to sell support.

Penalty.

than 10 days nor more than six months, or be punished by both such fine and imprisonment: *Provided, however,* That nothing herein shall prevent any person or persons, firm or corporation engaged in the publication of any newspaper, magazine or periodical from receiving from any person other than a candidate, for publication, and publishing, any matter, article or articles advocating the election or defeat of any candidate or candidates, and receiving from such person not a candidate, a consideration therefor, if such article so published or printed black face Roman capitals, in a conspicuous place, the statement "Paid Advertisement, paid for by" (here insert name of person, persons, firm or corporation making such payment and if such person, persons, firm or corporation is agent for another, then must follow a statement as to whom such person, persons, firm or corporation is or are agent for). But this section shall not be construed as permitting the payment for such publication, either directly or indirectly, by a candidate, or for any publication prohibited by section 28 of this act.

"Paid advertisement."

[Am'd. § 30,
ch. 209, p.
473, L. '07.]

SEC. 9. That section 30 of said act shall be amended to read as follows: Sec. 30. Every candidate for nomination under the terms of this act, or any amendment thereto shall, within ten days after the day of holding the primary election at which he is a candidate, file an itemized statement in writing, duly sworn to as to its correctness, with the officer with whom his declaration of candidacy or other nomination paper is filed, setting forth each sum of money and thing of value, or any consideration whatever, contributed, paid or promised by him, or anyone for him, with his knowledge or acquiescence, for the purpose of securing or influencing, or in any way affecting, his nomination, to said office. Said statement to set forth the sums paid as personal expenses and stating fully the nature, kind and character of the expense for which the sums were expended separately, and the party or parties to whom the sums were paid and

Statement of expenses to be filed.

the purposes for which such payments were made; and in this statement all sums or other considerations promised and not paid shall be included. Such statement, when so filed shall immediately be subject to the inspection and examination of any elector and shall be and become a part of the public records.

SEC. 10. That section 33 of said act shall be amended to read as follows: Sec. 33. The provisions of the statute in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns thereof, and all other kindred subjects, including the sale of intoxicating liquors during the hours the polls are open, shall apply to all primaries in so far as they are consistent with this act.

[Am'd. § 33,
ch. 209, p.
475, L. '07.]

General elec-
tion laws
apply.

SEC. 11. That section 38 of said act shall be amended to read as follows: Sec. 38. Judges of the superior courts, state senators and representatives shall not be considered state officers within the provisions of this act relating to the first choice and second choice voting. Candidates for judges of the supreme court shall be nominated by a convention of any political party or parties in the manner provided by existing laws for conventions and the names of such nominees shall be certified to the Secretary of State and shall be placed on the official ballots under the party designation of the party so nominating them, or if by a joint convention of two or more political parties, then under the political designation of each party joining in such convention. When there are to be elected at any general election one or more judges of the superior court of any county, the candidates for each respective office whose names are to be placed on the general election ticket, shall be determined as follows: The number of candidates equaling the number of judicial positions to be filled, who receive the highest number of votes at the primary election, and an equal number of candidates for such positions, providing there are such candidates, who receive the next highest number of votes,

[Am'd. § 38,
ch. 209, p.
476, L. '07.]

Supreme
judges nomi-
nated by
convention.

Placed on
ballots, how.

Superior
judges.

shall be the candidates for such respective offices and their names shall appear on the general election ballot under the designation of such respective offices. The names of all such candidates for such judicial offices shall appear on the general election ballot under the heading "Non-Partisan Judiciary." Where a vacancy or other cause shall necessitate the election of a judge for a short term and at the same election one or more judges are to be elected for the full term, candidates may announce themselves for either the short or full term and the ballots shall be arranged accordingly. There shall be a separate ballot for the candidates for nomination for such judicial offices which shall be the general election ballot hereinbefore referred to, and shall be printed, delivered, voted and counted as hereinbefore provided for the general primary election ballot: *Provided*, That any voter shall have the privilege of voting this ticket alone. The form of said ballot shall be substantially as follows:

[FORM OF BALLOT]

PRIMARY ELECTION BALLOT

.....COUNTY

NON-PARTISAN JUDICIARY TICKET

To vote for a person make a cross (x) in the square at the RIGHT of the name of the person for whom you desire to vote.

Judges of Superior Court	Vote for....
JOHN DOE.....	<input type="checkbox"/>
JOHN DOE.....	<input type="checkbox"/>
JOHN DOE.....	<input type="checkbox"/>

[New section to ch. 209, L. '07.]

SEC. 12. That said act be amended by inserting between sections 38 and 39, section 38½, to read as follows: Sec. 38½. Nothing in this act contained shall prevent any voter from writing or pasting on his ballot or ballots the name of any person for whom he desires to vote for any office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter.

Writing or pasting name permitted.

SEC. 13. An emergency exists and this act shall take Emergency.
effect immediately.

Passed by the Senate March 4, 1909.

Passed by the House March 10, 1909.

Approved March 12, 1909.

CHAPTER 83.

[S. B. 228.]

RELATING TO ACTIONS FOR TORT.

AN ACT providing that all claims for damages sounding in tort against any city of the first class must set forth a statement of the actual residence of the claimant at the date of presenting such claim and for six months immediately prior to the time such claim for damage accrued, and providing that such claims for damages shall comply in all other respects with valid charter provisions of any such city relating to such claims for damages, and declaring mandatory the provisions hereof.

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

SECTION 1. That whenever a claim for damages sounding in tort against any city of the first class shall be presented to and filed with the city clerk or other proper officer of such city, in compliance with valid charter provisions of such city, such claim must contain, in addition to the valid requirements of such city charter relating thereto, a statement of the actual residence of such claimant, by street and number, at the date of presenting and filing such claim; and also a statement of the actual residence of such claimant for six months immediately prior to the time such claim for damages accrued. Claims, how presented.

SEC. 2. That nothing in this act shall be construed as in any wise modifying, limiting or repealing any valid provision of the charter of any such city relating to such claims for damages, but the provisions of this act shall be in addition to such charter provisions, and such claims for Charter provisions.

damages, in all other respects, shall conform to and comply with such charter provisions.

Provisions
mandatory.

SEC. 3. That compliance with the provisions of this act is hereby declared to be mandatory upon all such claimants presenting and filing any such claims for damages.

Passed by the Senate February 18, 1909.

Passed by the House March 5, 1909.

Approved March 11, 1909.

CHAPTER 84.

[S. B. 251.]

PROHIBITING WHOLESALE LIQUOR DEALERS FROM OWNING SALOON BUILDINGS.

AN ACT to prohibit any manufacturer of or wholesale dealer in intoxicating liquor from owning, operating or having any financial interest in any saloon or other retail liquor store or in any retail liquor license in the State of Washington or to become surety on any liquor dealer's bond and providing penalties for violation thereof.

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

Wholesalers
not to own
buildings for
retailing.

SECTION 1. That from and after the 31st day of December, 1909, it shall be unlawful for any person, persons, firm or corporation engaged in the manufacture, rectifying or bottling of spirituous, fermented malt or other intoxicating liquors or engaged in buying, selling or disposing of the same in quantities of five gallons or more to own all or any part of or to have any interest in the liquor, stock, fixtures or equipment of any kind whatsoever of any retail liquor store or to pay, advance or loan or become surety for the payment for any other person of the license fee required by any state law or city charter or ordinance, or to hire, engage or employ, directly or indirectly, any person, persons, firm or corporation to manage, conduct, control or operate a place where intox-

icating liquors are sold at retail, to-wit: in less than five gallons at a time or to sign or become surety on any bond required by law of a retail liquor dealer.

SEC. 2. Whoever violates any of the provisions of section 1 of this act shall be deemed guilty of a misdemeanor ^{Penalty.} and for the first offense shall be fined in any sum not less than one hundred (100) dollars nor more than five hundred (500) dollars or to be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months and any money paid, advanced or loaned in violation of this act, for any license, by any such person, persons, firm or corporation mentioned in section one (1) of this act shall be forfeited to the city, county or state, as the case may be.

Passed by the Senate February 26, 1909.

Passed by the House March 10, 1909.

Approved March 11, 1909.

CHAPTER 85.

[S. B. 361.]

FIXING THE SALARY OF THE STATE LAW LIBRARIAN.

AN ACT fixing the salary of the State Law Librarian.

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

SECTION 1. The salary of the State Law Librarian ^{Salary.} shall be twenty-four hundred (2,400) dollars per annum.

Passed by the Senate March 3, 1909.

Passed by the House March 9, 1909.

Approved March 11, 1909.

CHAPTER 86.

[S. B. 197.]

RELATING TO TRIALS.

AN ACT relating to practice and proceedings in the trial of actions, and amending section 1 of chapter 81 of the Session Laws of 1903.

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

[Am'd. § 1,
ch. 81, p. 119,
L. '03; § 221,
Code of '81;
§ 4993 Bal.;
§ 607 Pierce.]

SECTION 1. That section 1 of chapter 81 of the Session Laws of 1903, relating to the practice and proceedings in the trial of actions is hereby amended to read as follows:

Section 1. That section 221 of an act entitled "An act to regulate the practice and proceedings in civil actions, approved December 1, 1881, (the same being section 4993 of Ballinger's Annotated Codes and Statutes of the State of Washington, and section 607 of Pierce's Code) be and the same is hereby amended to read as follows: Sec. 221. When a jury has been sworn, the trial shall proceed in the following manner:

Statement of
case.

(1) The plaintiff shall briefly state the cause of action and the evidence by which he expects to sustain it. The defendant may in like manner state the defense, and the evidence he expects to offer in support thereof, but nothing in the nature of comments or argument shall be allowed in opening a case. It shall be optional with the defendant whether he states his case before or after the close of the plaintiff's evidence.

Burden of
proof.

(2) The plaintiff, or the party upon whom rests the burden of proof in the whole action, must first produce his evidence; the adverse party will then produce his evidence.

Rebuttal.

(3) The parties then will be confined to rebutting evidence, unless the court shall consider that justice requires that evidence in the original case may then be offered.

Charge to
jury.

(4) The court must reduce the charge to be given the jury to writing, and at the conclusion of the evidence he shall read his written charge to the jury. Either party may request such instructions as he deem material to the

case, and the court may hear them upon the propriety of the requested instructions before finally settling the charge that he will give. If a stenographer shall be in attendance upon the trial of the cause, the court shall have the right to dictate the charge he desires to give to such stenographer, and to have the stenographer reduce the same to writing for him and a copy for each of the parties plaintiff and defendant. And the cost thereof shall be taxed as other costs in the action. When the charge shall have been given by the court, the plaintiff, or party having the burden of proof, may, by himself, or one counsel, address the court and jury upon the law and facts in the case, after which the adverse party may address the court and jury in like manner, by himself and one counsel or by two counsel, and be followed by the party or counsel of the party first addressing the court. No more than two speeches on behalf of plaintiff or defendant shall be allowed. After the argument shall have been concluded, the jury shall retire to consider their verdict, and shall take with them to the jury room, among other matters proper to be taken to their jury room for further consideration by them, the written charge given them by the court. Either party, at any time before the hearing of a motion for a new trial may except to the instructions given by the court, or any part thereof.

Charge may be dictated.

Argument.

Written charges in jury room.

Passed by the Senate February 9, 1909.

Passed by the House March 8, 1909.

Approved March 11, 1909.

CHAPTER 87.

[S. B. 350.]

PERMITTING ALL OFFENSES TO BE PROSECUTED BY
INFORMATION.

AN ACT to amend section 6802 of Ballinger's Annotated Codes and Statutes of Washington, relating to the prosecution of crimes by information.

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

[Am'd. §6802,
Bal.; § 2077,
Pierce.]

SECTION 1. That section 6802 of Ballinger's Annotated Codes and Statutes of Washington be and the same hereby is amended to read as follows: Sec. 6802. All public offenses may be prosecuted in the superior courts by information.

Information.

Passed by the Senate March 3, 1909.

Passed by the House March 10, 1909.

Approved March 11, 1909.

CHAPTER 88.

[S. B. 360.]

RELATING TO DRAINAGE IN SECOND, THIRD AND FOURTH
CLASS CITIES.

AN ACT amending sections 2 and 3 of an act entitled "An act to provide for the drainage of cities of the second, third and fourth class, by the construction of sewers and drains," approved March 10, 1891, and declaring an emergency.

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

[Am'd. § 2.
ch. 160, p.
406, L. '91.]

SECTION 1. That sections 2 and 3 of an act entitled "An act to provide for the drainage of cities of the second, third and fourth class, by the construction of sewers and drains," approved March 10, 1891, be and the same are hereby amended to read as follows: Sec. 2. When a city is susceptible of one mode of drainage, the city may, after

determining the proper location therefor, and after determining the size, dimensions and the material to be used, provide for the construction of one trunk or main sewer at the cost and expense of the city. And when the city is not susceptible of one mode of drainage the city council may from time to time, as the public convenience and necessity may require, determine, locate and establish sewer districts and construct in each a trunk or main sewer for the drainage thereof at the cost and expense of the property located within the district.

Trunk sewers.

Assessment district.

SEC. 2. The city council may, on proper application, establish in connection with a main sub-sewer districts for the purpose of drainage into a main sewer. The application may be made by petition signed by persons owning a majority of the land to be included within the sub-sewer district. The petition must set forth the following facts: 1. That the petitioners own a majority in quantity of the lands included within the boundaries stated therein. 2. That the petitioners desire to have a sub-sewer district created and established, embracing therein the lands included within the boundaries set forth in the petition, and to have constructed therein a sewer of the dimensions and of the material stated in the petition, and the same shall be described and stated with reasonable certainty. 3. The commencement, intermediate line and course and ending, of the sub-sewer to be constructed: *Provided*, That the city council may, by resolution and ordinance in the manner provided for the establishing local improvement districts in cities of the third and fourth classes, establish such sewer, drainage or sub-sewer districts.

[Am'd. § 3, ch. 160, p. 407, L. '91.]

Sub-districts.

SEC. 3. An emergency exists and this act shall take effect immediately.

Emergency.

Passed by the Senate March 5, 1909.

Passed by the House March 9, 1909.

Approved March 11, 1909.

CHAPTER 89.

[S. B. 385.]

APPROPRIATION FOR NATIONAL GUARD.

AN ACT appropriating the sum of sixty-one thousand eight hundred ten and thirty-six hundredths dollars from the military fund for maintenance of the National Guard, providing furniture, fixtures and equipment for state armories situated in Spokane, Seattle and Tacoma, paying certain assessments levied against military lands.

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

Appropriation.

SECTION 1. That there be and is hereby appropriated out of the military fund the sum of \$61,810.36 for maintenance of the National Guard, providing furniture, fixtures and equipment for state armories situated in Spokane, Seattle and Tacoma and paying certain assessments levied against military lands in Seattle and Spokane.

Passed by the Senate March 10, 1909.

Passed by the House March 10, 1909.

Approved March 12, 1909.

CHAPTER 90.

[S. B. 231.]

RELATING TO HIGHWAYS.

AN ACT to amend section 32 of an act entitled "An act to provide for laying out, establishing, altering, changing the width of, or vacating any county road, and providing for assessment, payment of damages, and providing for appeals," approved March 7, 1890, and declaring an emergency.

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

SECTION 1. That section 32 of an act entitled "An act to provide for laying out, establishing, altering, changing the width of, or vacating any county road, and providing for assessment, payment of damages, and providing for appeals," approved March 7, 1890, be and the same is hereby amended to read as follows: "Sec. 32. Any county

[Am'd. § 32,
p. 603; § 3803
Bal.; § 7854
Pierce.]

road, or part thereof, which has heretofore been, or may hereafter be authorized, which remains unopen for public use for a space of five years after the order is made or authority granted for opening the same, shall be, and the same is hereby vacated, and the authority for building the same barred by lapse of time: *Provided, however,* That the provisions of this section shall not apply to any highway, street, alley or other public place dedicated as such in any plat, whether the land included in said plat be within or without the limits of any incorporated city or town, nor to any land conveyed by deed to the state or to any town, city or county for roads, streets, alleys or other public places.”

Road
abandoned.
when.

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

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 12, 1909.

CHAPTER 91.

[S. B. 345.]

RELATING TO THE DUTIES OF THE STATE BOARD OF TAX COMMISSIONERS.

AN ACT requiring the State Board of Tax Commissioners to take charge of and superintend the enforcement of “An act relating to the sale of intoxicating liquors, fixing the state license fee, and providing a punishment for the violation thereof,” approved March 15, 1907.

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

SECTION 1. The State Board of Tax Commissioners shall have the power and it shall be their duty to take charge of and superintend the enforcement of “An act relating to the sale of intoxicating liquors, fixing the state license fee, and providing a punishment for the violation thereof,” approved March 15, 1907.

Tax com-
mission to
enforce ch.
194, p. 419,
L. '07.

Passed by the Senate March 10, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 92.

[S. B. 367.]

ESTABLISHING CERTAIN STATE ROADS.

AN ACT providing for the establishment of certain state roads.

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

Roads named
in ch. 116, p.
213, L. '07,
established.

SECTION 1. The following described roads having been examined and all surveys necessary to a determination as to their feasibility and utility have been made by the State Highway Commissioner under the provisions of chapter 116, Laws of Washington, A. D., 1907, and the report of the Highway Commissioner being favorable, the same are hereby declared to be state roads and shall be known and described as hereinafter set forth.

No. 4. SEC. 2. Lincoln county extension of State Road No. 4, the same being a road beginning at the mouth of the Sans Poil river on the north bank of the Columbia river in Ferry county, and extending thence southerly by the most practicable route to the town of Wilbur on the Central Washington Railroad in Lincoln county, Washington.

No. 18. State Road No. 18, beginning at Alder in Pierce county and running in a southerly direction by the way of Elbe to a point in State Road No. 5 near Kosmos in Lewis county.

No. 7. Extension over the existing county roads of State Road No. 7 westerly to Renton, and thence to and along the west shore of Lake Washington to the city of Seattle, and the extension of State Road No. 7 easterly by the way of Swauk and Peshastin creeks and the Wenatchee valley to the city of Wenatchee; thence to a point on the sixth standard parallel north in Douglas county near the town of Waterville; thence easterly over the existing county roads as nearly as practicable through the towns of Coulee City and Wilbur and the city of Spokane, to

the Idaho line at the point where it intersects the north bank of the Spokane river.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 93.

[S. B. 253.]

AMENDING RAILWAY COMMISSION ACT.

AN ACT relating to railroads, express, telephone and telegraph companies, and providing for the regulation thereof, and amending sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 27, 31, 32, 37 and 38 of an act entitled "An act relating to railroads and express companies and providing for the regulation thereof, and amending sections 2, 3, 4, 6, 12, 13, 15, 20 and 22 (and 23) of an act entitled 'An act to establish a railroad commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented, and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government and the carrying into effect of the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and demurral charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor,' approved March 7, 1905, being chapter 81 of the laws of the legislature of the State of Washington passed in the year 1905; and to authorize the commission to provide for proper railroad connections and sidings; to provide proper and reasonable charges or penalties to be paid by shippers for failure to promptly load and unload cars; to provide proper and reasonable charges or penalties to be paid by railroads to shippers for failure to promptly furnish cars and equipment after demand therefor, or to promptly and expeditiously deliver cars and freight to the consignee, and to make all necessary rules and regulations to carry such provision into effect; to authorize and empower said commission to ascer-

tain the value of all railroad property used in this state for the public convenience; to authorize the commission to make findings thereon and establishing rules of evidence governing the same; to authorize said commission to designate certain books and accounts to be kept by the railroad and express companies doing business in this state; providing for safety appliances and track inspection; authorizing said commission to investigate accidents; and to provide penalties for the violation of this act, and declaring an emergency," approved the 16th day of March, 1907, and being chapter 226 of the Laws of 1907, and to authorize the commission to regulate telephone and telegraph companies and their rates and charges, to prevent discrimination and extortion by such companies; and to authorize the Railroad Commission of Washington to make all necessary rules and regulations for the enforcement of this act; to provide for joint rates between telephone companies and between telegraph companies, and joint service between telephone and telegraph companies; authorizing the Railroad Commission of Washington to ascertain the value of the property of express, telephone and telegraph companies within the state, to make findings thereon and establish rules of evidence governing the same; authorizing the commission to provide books and accounts to be kept by such telephone and telegraph companies doing business in this state; providing for safety appliances for all railroad, express, telephone and telegraph companies, and to provide penalties for the violation of this act.

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

SECTION 1. That section 1 of an act entitled "An act relating to railroads and express companies and providing for the regulation thereof, and amending sections 2, 3, 4, 6, 12, 13, 15, 20 and 22 (and 23) of an act entitled 'An act to establish a railroad commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government and the carrying into effect of the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and de-

mural charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor,' approved March 7, 1905, being chapter 81 of the laws of the legislature of the State of Washington passed in the year 1905; and to authorize the commission to provide for proper railroad connections and sidings; to provide proper and reasonable charges or penalties to be paid by shippers for failure to promptly load and unload cars; to provide proper and reasonable charges or penalties to be paid by railroads to shippers for failure to promptly furnish cars and equipment after demand therefor, or to promptly and expeditiously deliver cars and freight to the consignee, and to make all necessary rules and regulations to carry such provisions into effect; to authorize and empower said commission to ascertain the value of all railroad property used in this state for the public convenience; to authorize the commission to make findings thereon and establishing rules of evidence governing the same; to authorize said commission to designate certain books and accounts to be kept by the railroad and express companies doing business in this state; providing for safety appliances and track inspection; authorizing said commission to investigate accidents; and to provide penalties for the violation of this act, and declaring an emergency," be and the same is hereby amended to read as follows: Sec. 1. That a railroad commission is hereby created, to be composed of three persons to be appointed by the governor. Within thirty days after this enactment shall go into effect, three commissioners shall be appointed, one of whom shall be designated as chairman, one for the term of six years, one for the term of four years and one for the term of two years; and thereafter the term of each commissioner shall be six years from the date of the expiration of the term of his predecessor. Each commissioner shall hold office until his successor shall have been appointed and qualified. A commissioner may be removed by the governor for any cause

[See ch. 81,
p. 145, L. '05,
and ch. 226,
p. 536, L. '07,
for portions
amended by
this act.]

Commission
created.

Governor may
remove.

which he shall deem sufficient, which power of removal shall be absolute, and there shall be no right to review of the same in any court whatsoever; the cause or causes for such removal shall be set forth by the governor in a written statement which shall immediately be filed with the secretary of state. The commissioners so appointed by this act shall be confirmed or approved by the senate.

Commissioner
to hold no
other office.

(a) No commissioner appointed under this act shall hold any other office under the government of the United States, or of this state, or of any county or municipal corporation within this state; and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

Vacancies.

(b) The governor shall fill all vacancies in the office of commissioner by appointment, and the person so appointed shall fill out the unexpired term of his predecessor.

Bond.

(c) Before entering upon the duties of his office each of said commissioners shall give a surety company bond (the cost of said bond to be paid by the state) in the sum of twenty thousand (\$20,000) dollars, payable to the State of Washington, conditioned upon the faithful performance of his duties, and shall take and subscribe to the usual oath of office prescribed by law for state officers, and shall in addition thereto swear that he is not directly or indirectly interested in any railroad, express, telephone or telegraph company, nor the bonds, stock, mortgages, securities, contracts or earnings of any railroad, express, telephone and telegraph company and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this act and all laws of the state concerning railroads, express, telephone or telegraph companies, which oath shall be filed with the secretary of state.

Oath.

Salary.

(d) Each of said commissioners shall receive an annual salary of four thousand dollars, payable in the same manner as the salaries of other state officers.

SEC. 2. That section 2 of said act be and the same is hereby amended to read as follows: Sec. 2. The com-

mission appointed shall meet at the state capitol and organize. A majority of said commissioners shall constitute a quorum to transact business: *Provided*, That one member of the commission may hold hearings for the purpose of taking testimony in cases pending before the commission. Said commission may appoint a secretary at a salary of not more than two thousand dollars per annum, an expert rate clerk and statistician at a salary of not to exceed three thousand dollars per annum, a civil engineer at a salary of not to exceed two thousand four hundred dollars per annum, a stenographer competent to report hearings at a salary of not to exceed fifteen hundred dollars per annum, an inspector of tracks and safety appliances at a salary of not to exceed three thousand dollars per annum, an expert accountant at a salary of not to exceed eighteen hundred dollars per annum and may appoint such clerks as may be necessary, at a salary of twelve hundred dollars per annum each, and such other persons as experts as may be necessary to perform the duties that may be required of them by this act. The secretary shall keep full and correct minutes of all transactions and proceedings of said commission, and perform such duties as may be required by the commission. The commission shall have power to make all needful rules for their government and proceedings. They shall be known collectively as "The Railroad Commission of Washington," and shall adopt and use an official seal. They shall be furnished with an office at the state capitol, and with necessary furniture, stationery and supplies to be paid for on the order of the governor. The commissioners shall reside at the state capital. The commissioners, secretary, stenographer, experts and clerks shall be entitled to receive from the state their actual necessary traveling expenses on the business of the commission, to be paid upon the presentation to the state auditor of an itemized statement thereof, with vouchers attached sworn to by the party who incurred the expense and approved by the commission.

Secretary.

Statistician.

Civil engineer.

Inspector of tracks.

Minutes.

Seal.

Office.

Traveling expenses.

(a) Said commission may hold sessions at any place Sessions.

in this state when deemed necessary to facilitate the discharge of their duties.

SEC. 3. That section 3 of said act be and the same is hereby amended to read as follows: Sec. 3. That the freight and passenger tariffs, charges for transportation of loaded or empty cars, whether said freight or cars be transported over one line of railroad or over two or more lines of railroad, charges for demurrage and reciprocal demurrage, as hereinafter defined, trackage, industrial and commercial spurs, railroad connections, sidings, equipment, facilities, train service, waiting rooms for passengers and rooms for freight and baggage at all stations of railroads, and charges for each kind and class of property, the quantity and character of baggage to be carried by each passenger, money, papers, packages and all other things to be charged for and received by each express company, on all such property, money, papers, packages and things which by the contract to carry are to be transported by said express company, to be demanded, collected, enforced or performed by railroad or express companies shall be just, fair, reasonable and sufficient.

Rates and facilities to be fair and sufficient.

Telegraph and telephone service.

That the rates, tolls, contracts and charges of telephone and telegraph companies for messages, conversations, services rendered and equipment and facilities supplied, whether such message, conversation or service to be performed be over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable and sufficient and the service so to be rendered to any person, firm or corporation, by any telephone or telegraph company, shall be rendered and performed in a prompt, expeditious and efficient manner, and the facilities and equipment furnished by it shall be safe, kept in good condition and repair and its appliances and service shall be modern, sufficient and efficient: *Provided, however,* That nothing in this act contained shall authorize the establishing of any joint rate or rule respecting any telephone or telegraph service as to any business originating in any city or town in which each company to be affected by such

Joint telephone or telegraph rates.

joint rate or rule has transmitting offices, and the said railroad commission of Washington is hereby vested with power and authority, upon complaint made as herein-after provided or by inquiry upon its own motion, after a full hearing to make any findings declaring an existing rate, toll, contract or charge, or the absence of any rate, toll or charge, joint or otherwise for the transportation of persons or property, loaded or empty cars, the transmission of any message, conversation or service rendered, whether such rate charged be for a service rendered over one line of railroad, telephone or telegraph line, or over two or more lines of railroad, two or more telephone lines, or two or more telegraph lines, or any regulation or rule whatsoever affecting said rate or charge, or that the minimum carload weight or capacity of any commodity, or any rule or charge affecting demurrage or reciprocal demurrage, or the sufficiency of trackage, industrial and commercial spurs, railroad connections, sidings, equipment, facilities, train service, accommodation in the shape of waiting rooms for passengers and rooms for freight and baggage, or any rule or regulation concerning the quantity or character of baggage to be carried for each passenger, or the sufficiency and efficiency of any facilities or equipment used by any of such companies, to be unreasonable, insufficient, inefficient or unjustly discriminatory, and declare and order what shall be a just and reasonable rate, toll or charge, joint or otherwise, minimum carload weight or capacity, provided by the rules or tariffs of any railroad, practice, rule, regulation or thing to be charged, imposed, enforced, performed or followed in the future in place of that found to be unreasonable, insufficient, inefficient or unjustly discriminatory, to order that additional trackage, industrial and commercial spurs, sidings, equipment and facilities, be constructed and furnished, that railroad connections be made, or to make any findings declaring an existing rate, toll or charge, for the transportation of persons, property, messages, conversations, or service rendered, or any classification which has

Complaint.

May find rate or service unreasonable or insufficient.

May establish rates and rules.

Notice of hearing.

been the subject of inquiry, after notice duly given to be sufficiently remunerative to the railroad, express, telephone or telegraph company or to be reasonable, proper and sufficient, and to order that the same be not changed, altered, abrogated or discontinued either by changing the rate, tolls, charges, or classifications, without first obtaining the consent of the commission authorizing such change to be made. The order of the commission shall of its own force

Order in effect, when.

take effect and become effective twenty days after notice thereof has been given to the railroad, express, telephone or telegraph company, affected thereby. Said order shall be served on such railroad, express, telephone or telegraph company by delivery of a certified copy thereof under the seal of the commission, either to the attorney for the railroad, express, telephone or telegraph company, or the said company itself. Service of said order upon any officer upon whom summons in civil actions might be served shall be sufficient service thereof. Any railroad, express, telephone or telegraph company affected by the order of the commission and deeming it to be contrary to law, may institute proceedings in the superior court of the state of Washington, in the county in which the hearing before the commission upon the complaint had been held, and have such order reviewed and its reasonableness and lawfulness inquired into and determined. Pending such review, the court having jurisdiction may in its discretion, suspend the order of the commission until the further order of the court pending such litigation, in which event the court may require a bond with good and sufficient security, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transportation, transmission or service any person or corporation shall be compelled to pay pending the review proceedings, in excess of the sum such person or corporation would have been compelled to pay if the order of the commission had not been suspended. Said action of review shall be taken by

Service of order.

Order of commission reviewed.

the said railroad, express, telephone or telegraph company, affected thereby, within twenty days after notice of said order, and if said action of review is not taken within said time, then in all litigation thereafter arising between the state of Washington and the said railroad, express, telephone or telegraph company or private parties, and the said railroad, express, telephone or telegraph company, the said order shall be deemed final and conclusive. If however, said action in review is instituted within said time the said railroad, express, telephone or telegraph company shall have the right of appeal or to prosecute by other appropriate proceedings, from the judgment of the superior court to the supreme court of the State of Washington, as in other civil cases. In all such proceedings, however, bonds shall be required conditioned as hereinbefore provided in addition to the usual appeal bond. The action in review of such order, whether by writ of review or appeal or otherwise, shall be heard by the court without intervention of a jury and shall be heard and determined upon the evidence and exhibits introduced before the commission and certified to by it. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Time of appeal from commission.

Appeals to supreme court.

Case to be decided on record.

(a) The commission may at any time upon notice to the railroad, express, telephone or telegraph company, and after opportunity to be heard as provided in section 6 of this act, rescind, alter or amend any order fixing any rate or rates, tolls, fare, charges, or classifications or any other order made by the commission; and certified copies of the same shall be served and take effect as other orders of the commission.

(b) In case any order of the commission made as herein provided shall not be appealed from or reviewed within the time hereby provided, any railroad, express, telephone or telegraph company or other person or corporation, affected or aggrieved by any order of the commission, and being dissatisfied with any order of the commission fixing any rate or rates, tolls, fares, joint or

May amend order or rule.

Rehearing.

otherwise, or fixing a division of any joint rate, or being dissatisfied with any rates, tolls, fares, charges, classifications, or any order fixing any regulation, practice or service, may, after the expiration of six months after the taking effect of such order, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the promulgation of such order, or by showing a result from the effect of such order injuriously affecting the petitioner which was not considered or anticipated at the time of the former hearing, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing.

Order on rehearing.

Upon the filing of such petition proceedings shall be had thereon as are provided in this act for other hearings, and appeals may be prosecuted the same as provided for other orders of the commission: *Provided, however,* That no injunction or restraining order shall issue staying any order of the commission based on or by reason of such petition for rehearing, and no order of the commission on such rehearing shall affect any right of action or penalty accruing under such original order, unless so ordered by the commission. The commission may prohibit or regulate the running of a road engine backward on a regular run.

May prohibit engine running backward.

Joint rates apportioned.

SEC. 4. That section 4 of said act be and the same is hereby amended to read as follows: Sec. 4. That when the rate, fare or charge substituted or established by the commission, as hereinbefore provided, shall be a joint rate, and the railroad, express, telephone or telegraph companies parties thereto, fail to agree upon the apportionment or division thereof among themselves within ten days after notice of such order, the commission may issue a supplemental order, declaring the portion of such joint rate to be received by each railroad, express, telephone or telegraph company party thereto, which shall take effect

of its own force as part of the original order, and such supplemental orders shall be subject to review by the said superior court within the time and in the manner hereinbefore provided for the review of original orders of the commission.

SEC. 5. That section 5 of said act be and the same is hereby amended to read as follows: Sec. 5. That if any railroad, express, telephone or telegraph company, or any officer or agent thereof, bound thereby, shall refuse or neglect to obey or perform any order of the commission mentioned in this act, the commission may apply by petition to the superior court of this state, in any county in this state, in or through which the said railroad, express, telephone or telegraph company is doing business, to enforce obedience to its order by writ of injunction or other appropriate process, and in addition thereto, the offending party shall, for each day of the continuance of said refusal or neglect, be subject to a penalty of two hundred and fifty dollars, which, together with the cost of suit, shall be recoverable by the commission in an action instituted by it on the relation of the State of Washington, in the superior court of the State of Washington, in any county in this state, in or through which said railroad, express, telephone or telegraph company runs or does business.

Enforcement
of orders.

SEC. 6. That section 6 be and the same is hereby amended to read as follows: Sec. 6. When complaint is made to the commission in writing by any person, firm, corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural, or manufacturing society, or any body politic or municipal corporation in this state that any freight or passenger tariff, or any toll, rate or charge for any message, conversation or service rendered or that the absence of any tariff, toll, rate or charge, joint or otherwise, for the transportation of passengers, loaded or empty cars, messages, conversations or service, whether the same be over the line of one railroad, express, telephone or telegraph company or over

Grounds of
complaint.

the lines of two or more such companies, or trackage, industrial and commercial spurs, railroad connections, sidings, or charge for the storing and handling of freight, rates of charge for all kinds or classes of property, money, packages, paper or other things to be charged for and received by each railroad, express, telephone or telegraph company which by the contract of carriage are to be transported, transmitted, carried or forwarded by said railroad, express, telephone or telegraph company between points within the state, are unreasonable or unjustly discriminatory, or that service is not being promptly and expeditiously rendered or that its facilities and equipment are not safe, kept in good condition and repair or are not sufficient, modern and efficient or that any train service of railroads, whether freight or passenger or the amount of trackage, industrial or commercial spurs, or waiting rooms for passengers, or rooms for freight or baggage at any station, or the cars furnished by said road are insufficient or improper, or that the minimum carload weight or capacity of any commodity prescribed by the rules and tariffs of any railroad is unreasonable, the commission shall thereupon give to the railroad, express, telephone or telegraph company to be affected thereby, ten days' written notice of the time and place when and where such complaint will be heard and the said railroad, express, telephone or telegraph company shall be entitled to be heard at such time and place to the end that justice may be done and the commission shall issue process to enforce the attendance of all necessary witnesses. All process herein provided for shall be served as in civil cases; issues shall be made up without delay as near as practicable as in civil cases; such complaint shall be in the name of the commission and all railroad, express, telephone and telegraph companies and carriers interested shall be made parties to the hearing, and on such hearing all complaints made concerning any rates, tolls, or charges or absence of rates, tolls or charges, joint or otherwise, sufficiency of train service, trackage, railway connections, sidings, equip-

Notice of hearing.

Process, how served.

ment, facilities, rules and regulations or other matters upon which complaints may be founded, may be joined in one hearing and no motion shall be entertained against such complaint for misjoinder of complaints or grievances, or misjoinder of parties, it being the intention of this act to authorize said commission to inquire into all grievances whereof complaint may have been made, or by inquiry upon its own motion, at one hearing, and by one order and judgment, decide and adjust the same, and in any review in the courts of the orders of the commission, the same rule shall apply and pertain with regard to the joinder of complaints, and parties, as herein provided: *Provided*, All grievances to be inquired into whether by complaint made to the commission or by inquiry upon its own motion, shall be set out in the complaint, which shall be served upon the railroad, express, telephone or telegraph company, together with notice of the time and place of hearing.

Allegations
to be set out.

(a) The commission is hereby authorized and empowered to adopt, promulgate, and issue rules and regulations governing the bulletining of trains, showing the time of arrival and departure of all trains, and the probable time of arrival of delayed trains; the conditions to be contained in and become a part of contracts for transportation of freight and passengers, express packages, messages, conversations, and service to be rendered; the hours which station rooms and offices shall be kept open, rules governing demurrage, reciprocal demurrage, the delivery of messages, and generally such rules as pertain to the comfort and convenience of the public. Such rules and regulations shall be promulgated and issued by the commission on its own motion and shall be served on the railroad, express, telephone and telegraph companies affected thereby, as other orders of the commission are served. Any railroad, express, telephone or telegraph company affected thereby and deeming such rules and regulations improper, unjust or contrary to law, may within twenty days from the date of such service of such

Bulletin of
trains.

Depots.

order upon it file objections thereto with the commission specifying the particular grounds of such objection. The commission shall upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto as the evidence may justify. The commission shall have the power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at any such hearing shall be denied admission.

Hearings
public.

(b) The chairman and each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to all official acts, and to issue subpoena for the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony. The superior court of the county in which any proceedings under this act may be instituted, shall have power to compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents and testimony as required by said subpoena. The said commission before which the testimony is to be given or produced, in case of the refusal of any witness to attend, or testify, or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner provided in this act, and that the fees and mileage of the witness has been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before said commission, in the cause or proceeding named in the notice and subpoena, and ask an order of the said court, compelling the witness to attend to and testify before the said commission; the court upon the petition of the commission shall enter an order directing the witness to appear before the said court,

Powers of
commissioner.

Superior
court to
compel at-
tendance of
witness.

at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by said commission, the court shall thereupon enter an order that said witness appear before said commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court. In all proceedings before the commission the commission shall have the right in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the commission.

(c) In case the decision or order of the commission concerning any freight or passenger tariff, rate, toll, or charge for the transportation of loaded or empty cars, transmission of messages or conversations, whether the same be over the line of one of such companies, or over the lines of two or more of such companies, fixing the minimum carload weight or capacity of any commodity, or for demurrage or reciprocal demurrage, or charge for the storing or handling of freight, rates of charge for any kind or class of property, money, packages, papers or other things to be charged for or received by any railroad, express, telephone or telegraph company inquired into by the commission on the written complaint of any person or number of persons shall be unsatisfactory to any of the persons so making written complaint, upon any matter embraced in such written complaint, such dissatisfied party shall have the right of appeal from the order of the commission to the superior court of the State of Washington in the county in which the hearing before the commissioners had been held. Said appeal shall be taken by serving on the commission or filing with it a notice of appeal specifying the order or portion of the order appealed from within twenty days from the rendition of such decision and the execution and filing within said time

Complainants
may appeal.

of a bond in the sum of one hundred dollars conditioned to pay the costs of such appeal, which bond shall go to the State of Washington. Upon receipt of such notice and bond the commission shall notify all persons interested in the subject matter of said appeal being taken. On said appeal the order or portion of order appealed from shall be tried by the superior court without the intervention of a jury and shall be heard and determined upon the evidence and exhibits introduced before the commission and certified to by it, and the said court shall render such decision concerning the matter complained of as the justice of the case may require.

SEC. 7. That section 7 of said act be and the same is hereby amended to read as follows: Sec. 7. In all actions between private parties and railroads, express, telephone and telegraph companies brought under this law, and in all actions for the enforcement of penalties provided for in this act, the rates, charges, classifications and orders prescribed by the commission as hereinbefore provided, shall be held conclusive, and deemed and accepted to be fair and just, unless such order be suspended by the order of the court as hereinbefore provided; but in every such action any judgment averse to the railroad, express, telephone or telegraph companies rendered after the commission has determined the rate, charge, classification or order, and while same is pending on writ of review or appeal, and prior to the final determination of such action under section 3 of this act determining the reasonableness of such rate, charge, classification or order, shall be provisional only, and enforcement thereof and process thereunder, shall be stayed pending the final determination of such writ of review or appeal. Upon final determination of such writ of review or appeal, if the judgment therein be in favor of the rate, toll, charge, classification or order prescribed by the commission, the judgment theretofore provisional, shall thereupon become absolute, but if the determination be against the rate, charge, classification or order prescribed by the commission, in such event the

Rates fixed by
commission
not subject
to collateral
attack.

judgment theretofore provisional, shall be set aside or modified by the court to meet the final determination thereof.

SEC. 8. That section 8 of said act be and the same is hereby amended to read as follows: Sec. 8. That whenever the commission under section 3 of this act, has determined any rate, regulation, order, classification or charge, in any appeal or writ of review brought by a railroad, express, telephone or telegraph company to determine the reasonableness of such rate, regulation, order, classification or charge, the burden of proof shall be upon said railroad, express, telephone or telegraph company to establish that such rate, regulation, order, classification or charge, established by the commission is unreasonable or unjustly discriminatory or insufficient.

Presumption
in favor of
rate fixed by
commission.

SEC. 9. That section 9 of said act be and the same is hereby amended to read as follows: Sec. 9. The superior court of the State of Washington, in any county in or through which the said railroad, express, telephone or telegraph companies are doing business shall have jurisdiction to enforce by proper decree, injunction or orders, the rates, classifications, rulings, orders and regulations made or established by the commission. The proceeding therefor shall be by equitable action in the name of the state and shall be instituted by the attorney general whenever advised by the commission that any railroad, express, telephone or telegraph company or person operating a line of railways, express, telephone or telegraph companies in the state is violating or refusing to comply with any rule, order, rate, classification or regulation made by the commission and applicable to such railway, express, telephone or telegraph company. It shall be the duty of the superior court in which such action is pending to require the issues therein to be promptly made up, and to give the same precedence over all other civil business of a different nature. If in such action the court finds that the said defendant has failed, without sufficient cause, to comply with the rule, regulation, order,

Superior
courts to en-
force orders
of com-
mission.

Contempt.

rate or classification so made and established, the court shall decree a mandatory injunction compelling obedience to and compliance with the rule, rate, order, regulation or classification by the defendant and its officers, agents, servants and employes, and may grant such other relief as may be deemed just and proper. Any violation of such decree shall render the defendant and every officer, agent, servant and employe of the defendant who is in any manner instrumental in such violation, guilty of contempt, and upon conviction thereof shall be fined in a sum not exceeding one thousand (\$1,000) dollars for each offense, or may imprison the person guilty of contempt until he shall sufficiently purge himself therefrom, and such decree shall continue and remain in effect and be in force until the rule, order, regulation, rate or classification shall be modified or vacated by the commission, but the defendant railroad, express, telephone or telegraph company may thereafter petition the commission for and obtain a modification of the decree by reason of any change of circumstances occurring after the decree such as to render the rule, order, regulation, rate or classification involved unreasonable or unjust. An appeal within the same time as other actions, shall be allowed to the supreme court from the decree of such actions, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court.

Schedule of rates to be furnished commission.

SEC. 10. That section 10 of said act be and the same is hereby amended to read as follows: Sec. 10. Each railroad, express, telephone or telegraph company shall, within thirty days after this act shall take effect, furnish to the commission a complete schedule of all rates, rules, orders, classifications or regulations then in force by it between all points in this state, and shall keep at each station, depot or office a copy thereof for inspection by all interested persons, during business hours, and thereafter shall note thereon any changes that may be made therein within ten days after such change shall be made.

SEC. 11. That section 11 of said act be and the same is hereby amended to read as follows: Sec. 11. The commissioners or either of them, or such person as they may employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad, express, telephone or telegraph company and to examine under oath any officer, agent or employe of such railroad, express, telephone or telegraph company, in relation to the business and affairs of the same. If any railroad, express, telephone or telegraph company shall refuse to permit the commissioners, or either of them, or any person authorized by them, to examine its books and papers, such railroad, express, telephone or telegraph company shall, for each offense, pay to the State of Washington not less than one hundred twenty-five dollars nor more than five hundred dollars for each day it shall so fail or refuse: *Provided*, That any person other than one of said commissioners who shall make any such demands shall produce his authority, from said commission, to make such inspection.

Inspection of books and records by commissioners.

Penalty for refusal to permit inspection.

(a) Any officer, agent or employe of any railroad, express, telephone or telegraph company who shall, upon proper demand, fail or refuse to exhibit to the commissioners, or either or any of them, or any person authorized to investigate the same, any book or paper of such railroad, express, telephone or telegraph company which is in the possession of, or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than one hundred twenty-five dollars and not to exceed five hundred dollars, or shall be imprisoned in the county jail not to exceed six months, or both such fine and imprisonment: *Provided*, That nothing in this act contained shall apply to the production or inspection of the contents of any telephone or telegraph message.

SEC. 12. That section 12 of said act be and the same is hereby amended to read as follows: Sec. 12. The com-

mission shall ascertain as early as practicable the original cost of construction and equipment, the amount expended in permanent improvements and the proportionate amount of such permanent improvements charged to construction, and to operating expenses respectively, the present as compared with the original cost of construction, and the cost of reproducing in its present condition each mile of railway in the state.

It shall also ascertain the amount and present market value of the capital stock and funded indebtedness of every railroad, express, telephone and telegraph line operating in this state.

It shall also ascertain the relative value of the use to which each railroad, express, telephone and telegraph company operating in this state is actually put in the carrying of intrastate and interstate business respectively.

It shall also ascertain the total market value of the line, equipment and property of each railroad, express, telephone and telegraph company operating in this state used for the public convenience within the state.

It shall also ascertain the time intervening between the expenditure of money in the cost of construction and the time when returns in the shape of dividends were first received by each of said companies.

It shall also ascertain the probable earning capacity of each railroad, express, telephone and telegraph company upon intrastate business under the rates now charged by such companies and the sum required to meet fixed charges and operating expenses on intrastate business by each of said companies.

It shall also ascertain the relative proportion of intrastate and interstate business, the relative proportion of the operating expenses connected therewith, and the relative proportion of the revenue which should be derived therefrom.

It shall also ascertain the density of intrastate traffic and the conditions which will tend to show whether such traffic is likely to continue, increase or diminish.

It shall also ascertain the density of population along

Cost of construction.

Value of capital stock.

Value of use.

Value of all property.

Earning capacity.

Intra and interstate business.

Population.

the line of each railroad, express, telephone and telegraph company within the state.

It shall also ascertain the existence of grades, curvatures and other physical conditions affecting the movement of traffic and business.

It shall also ascertain whether the expenditures already made in the construction and equipment of each railroad, express, telephone and telegraph line were such as were justified by the then existing conditions and such as might reasonably be expected in the immediate future.

Justifiable expenditures.

It shall also ascertain whether the money expended by each railroad, express, telephone and telegraph company is reasonable for present needs of the company and for such as may reasonably be expected in the immediate future.

It is, however, provided that it shall be discretionary with the commission to ascertain the whole or any part or parts of the matters and things above designated in this section at such time or times and in such order as to them may seem best.

When findings shall be made.

The commission is hereby authorized to cause a hearing or hearings to be held at such time or times and place or places as the commission may designate for the purpose of ascertaining the matters and things provided for in this section.

Time and place of hearings.

The commission shall before any hearing is had as to any railroad, express, telephone or telegraph company notify the company concerned of the time and place of such hearing, by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of such railroad, express, telephone or telegraph line within this state, which shall be a sufficient complaint to authorize the commission to inquire into the matters designated in this section as to such railroad, express, telephone and telegraph company.

Notice of hearing on value.

All railroad, express, telephone and telegraph companies concerned shall be entitled to be heard and introduce evidence at such hearing. The evidence introduced at

Evidence.

such hearing shall be reduced to writing and certified to by the commission under its seal of office.

Findings.

The commission shall make and render findings of fact in writing covering all matters in this section mentioned concerning which it is directed to inquire into, and shall make findings upon all matters concerning which evidence may have been introduced before it which shall tend to show the value of the property used by the railroad, express, telephone and telegraph companies for the public convenience.

Review of findings on same evidence.

Any railroad, express, telephone or telegraph company affected by the findings, or any of them, and considering itself aggrieved by the findings of the commission, or believing such findings, or any of them, to be contrary to the law or the evidence introduced, or that such findings are unfair, unwarranted or unjust, may institute proceedings in the superior court of the State of Washington in the county in which said hearing has been held, or, if held in more than one county, then in the county in which said hearing was commenced, and have such findings, or any of them, reviewed, and their correctness, reasonableness, and lawfulness inquired into and determined. Such review shall be heard by the court without the intervention of a jury and shall be heard upon the evidence and exhibits taken before the commission and certified to by it; and the court before which such hearing is had, in case it finds any such findings so sought to be reviewed unjust, incorrect, unreasonable, unlawful or not supported by the evidence, shall make new and correct findings to take the place of such as may not be sustained, unless such findings are set aside and reversed for error on the part of the commission in rejecting evidence properly proffered, in which case it shall remand said hearing to the commission with instructions to receive the evidence so proffered and rejected and make findings of fact on the evidence so proffered and that already received.

Appeals to supreme court.

Said railroad, express, telephone or telegraph company or the commission shall have the right to appeal or to prosecute by other appropriate proceedings from the su-

perior court to the supreme court of the State of Washington as in civil cases. In case the supreme court finds any findings so sought to be reviewed unjust, incorrect, unlawful or unreasonable, or not supported by the evidence, it shall either make and render proper findings or remand the same to the superior court with instructions to make proper findings on the evidence already submitted, unless the same is reversed for error in rejecting evidence properly proffered, in which case the hearing shall be remanded to the commission with instructions to receive the evidence so proffered and make findings on the evidence so proffered and rejected and that already received.

The findings of the commission so filed, or as the same may be corrected by the courts, when properly certified under the seal of the commission shall be admissible in evidence in any proceeding or hearing in which the public and the railroad, express, telephone or telegraph company affected thereby is interested, and such findings when so introduced, shall be conclusive evidence of the facts stated in such finding or findings as of the date of filing under conditions then existing, and such facts can only be controverted or contradicted by showing a subsequent change in conditions bearing upon the facts therein determined.

Findings conclusive evidence in collateral proceedings.

The commission shall also ascertain the amount paid for salaries to the officers of the railroads, express, telephone or telegraph companies, and the wages paid employes.

For the purpose of this section named the commission may employ sworn experts to inspect the books, papers, documents, contracts, reports of officers and agents, and any other documents or copies thereof, in the possession of the railroad, express, telephone or telegraph companies which will tend to show the expenditure of moneys in the cost of construction and equipment or the present value of such property; said information shall be printed from time to time in the annual reports of the commission; and all railroads now or hereafter constructed shall on demand furnish the commission profiles of its lines in this

Experts.

state in such form and according to such specifications as the commission shall direct.

Itemized
statement of
cost of con-
struction.

Any railroad, express, telephone or telegraph companies hereafter constructing any line, extension or siding in this state shall file with the commission an itemized statement showing the money expended in such construction, extension or siding in such form as the commission may prescribe. All railroads, express, telephone and telegraph companies doing business in this state shall also furnish the commission with an itemized statement in such form as the commission shall prescribe, showing any and all moneys expended by them in the purchase of equipment, and showing the cost of improvements and betterments in this state.

Further
hearings.

The commission shall hereafter, from time to time, cause further hearings to be had for the purpose of ascertaining the betterments, improvements, additions and extensions made by any such railroad, express, telephone or telegraph company since the date of any prior hearing and shall examine into all traffic movement and every matter and thing that would change, modify or affect any finding of fact previously made, and shall at such time make findings of fact supplemental to those theretofore made showing the amount expended in betterments, improvements, extensions and additions since such prior findings and the cost of reproducing the same, the value of the property used by such company at the time of such hearing, the relative value of the use to which such property is put in the performance of intrastate and interstate business respectively, the value of the property of such company in the state used for the public convenience of intrastate business. Such hearing shall be had upon the same notice, the examination conducted in the same manner, and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings: *Provided*, The findings made at such supplemental hearing shall be considered in connection with and as a part of the original findings except

in so far as such supplemental findings shall change or modify the findings made at the original hearing.

SEC. 13. That section 13 of said act be and the same is hereby amended to read as follows: Sec. 13. The said commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroad, express, telephone or telegraph companies and as often as it may be necessary furnish said blanks to each railroad, express, telephone and telegraph company. Any railroad, express, telephone or telegraph company receiving from the commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by proper officers of said company, shall be returned to said commission at its office within thirty days from the receipt thereof. The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by the companies subject to the provisions of this act, whose line or lines extend beyond the limits of this state which are operated partly within and partly without this state so that the same shall show any information required by the commission concerning the movement of traffic as well as the receipts and expenditures appertaining to those parts of such line which are subject to the provisions of this act. All interstate tariffs affecting traffic over the lines in the State of Washington shall be filed with the commission. The commission shall at all times have access to all accounts, records, and memoranda kept by the carriers subject to this act. In case of refusal on the part of any such railroad, express, telephone or telegraph company, receiver or trustee to keep such accounts, record and memoranda on the books and in the manner prescribed aforesaid by the commissioners, or upon proper demand to submit such accounts, records, and memoranda as are kept to the inspection of the commission or any of its authorized agents or examiners, such railroad, express, telephone

Blanks.

Accounts of carriers to be kept.

or telegraph company, receiver or trustee shall forfeit to the State of Washington the sum of \$500.00 for each such offense, and for each and every day of the continuance of such offense, such penalty or forfeiture to be recoverable in the same manner as other forfeitures provided for in this act.

Refusal to report.

(a) If any officer or employe of a railroad, express, telephone or telegraph company shall wilfully fail or refuse to fill out and return any blanks as above required, or wilfully refuse or fail to answer any question therein propounded, or fails to keep his books and accounts as herein provided or give a false answer to any such questions, where the fact inquired for is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor and shall on conviction thereof be fined for each day he shall fail to perform such duty, after the expiration of the time a sum not to exceed five hundred dollars, and the commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its directions, permission, or request in his failure, evasion or refusal.

Penalty.

Annual report.

(b) The said commission shall make and submit to the governor annual reports containing a full and complete account of the transactions of their office, together with the information gathered by such commission as herein required, and such other facts, suggestions, and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

Commission shall investigate freight rates.

(c) The said commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroad and express companies in Washington; and when the same are, in the opinion of the commission, excessive, or levied or laid in violation of the interstate commerce law, or the rules and regulations of the interstate commission, the officials of the railroads or the express companies are to be notified of the facts, and requested to re-

duce them or make the proper corrections as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the commission, the latter is instructed to notify the interstate commerce commission and to apply to it for relief.

(d) The commission may require from any railroad, express, telephone or telegraph company doing business in this state the production within this state, at such time and place as it may designate, any books, papers or accounts kept by said railroad in any office or place without the State of Washington, or certified copies in lieu thereof may be made by the commission, or under its direction.

Records to
be produced.

Such demand shall be served upon the railroad, express, telephone or telegraph company in the manner that orders and complaints are served on corporations under the provisions of the act establishing the railroad commission. Any railroad, express, telephone or telegraph company failing or refusing to comply with any such order shall, for each day it shall without good cause so fail or refuse, forfeit and pay the State of Washington a sum of not less than one hundred dollars nor more than five hundred dollars, to be recovered as other penalties are recovered under said act.

SEC. 14. That section 14 of said act be and the same is hereby amended to read as follows: Sec. 14. Each witness who shall appear before the commission by order of the commission, shall receive for his attendance three dollars per day and five cents per mile traveled by the nearest practicable route in going and returning from the place of meeting of said commission; said fees and mileage shall be paid as other accounts, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission: *Provided*, That no witness shall be entitled to any fees or mileage from the State of Washington when summoned at the instance of the railroad, express, telephone or telegraph companies. The claim by any witness that any testimony sought to [be] elicited may tend to incriminate the person giving it, shall not excuse said witness from testifying, but such evidence

Witness fees.

Depositions.

or testimony shall not be used against such person on the trial of any criminal proceedings excepting in a prosecution for perjury: *Provided*, The commission shall in all cases have the right to take depositions instead of compelling attendance of witnesses and to compel witnesses to attend and testify as upon a hearing before them. The sheriff or constable executing any process issued under the provisions of this act shall receive such compensation as may be allowed by the commission, not to exceed fees as now prescribed by law for similar services. The said commission shall have power to subpoena and compel the attendance of witnesses from any place within the state to attend upon said commission at its meetings at any place in the state.

Unjust discrimination.

SEC. 15. That section 15 of said act be and the same is hereby amended to read as follows: Sec. 15. If any railroad, express, telephone or telegraph company subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect, or receive from any person, firm or corporation, a greater or less compensation for services rendered, or to be rendered by it, than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad, express, telephone or telegraph company shall be deemed guilty of unjust discrimination, which is hereby prohibited.

Further defined.

(a) It shall also be unjust discrimination for any such railroad, express, telephone or telegraph company to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or to subject any particular description of traffic, message or conversation to any undue or unreasonable prejudice, delay or disadvantage in any respect whatever.

(b) Every railroad or express company which shall wilfully fail or refuse under such regulations as may be prescribed by the commission to receive and transport without delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad and every railroad which shall, under such regulations as

may be prescribed by the commission wilfully fail and refuse to transport and deliver without delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad shall be deemed guilty of unjust discrimination: *Provided*, Perishable freight of all kinds and livestock shall have precedence of shipment. And every telephone or telegraph company who shall wilfully fail or refuse under such regulations as may be prescribed by the commission to receive, transmit and deliver without discrimination or unnecessary delay the message, conversations or service of any connecting telephone or telegraph company, and any telephone or telegraph company which shall under such regulations as may be prescribed by the commission, wilfully fail or refuse to receive, transmit and deliver without discrimination or unnecessary delay any message, conversation or service destined to any point on or over the line of any telephone or telegraph company, to such connecting company, shall be deemed guilty of unjust discrimination.

Carrier to transport without delay.

Perishable freight.

(c) It shall be unjust discrimination for any railroad, express, telephone or telegraph company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers, messages or conversations, for a shorter than for a longer distance over the same line: *Provided*, That upon application to the commission any railroad, express, telephone or telegraph company may in special cases, to prevent manifest injury, be authorized by the commission to charge less for longer than for shorter distances for transporting persons, property, messages and conversations, and the commission shall from time to time prescribe the extent to which such designated railroad, express, telephone or telegraph company may be relieved from the operations of this provision: *Provided*, That no manifest injustice shall be imposed upon any citizen at intermediate points.

Long and short haul.

(d) Any railroad, express, telephone or telegraph company violating any provision of this section shall be deemed

Penalty. guilty of unjust discrimination and shall for each offense pay to the State of Washington a penalty of not less than one hundred dollars nor more than two thousand dollars.

Special privileges. (e) Nothing herein shall prevent the carriage, storage or handling of freight, messages or conversations free or at reduced rates for the state, or for any city, county or town government, or for charitable purposes, or to and from or in aid of fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets, nor to prevent railroads from giving free or reduced transportation to ministers of religion, or the inmates of hospitals, eleemosynary and charitable institutions, State National Guard or Militia when on official duty and students going to and returning from institutions of learning within the state; and nothing herein shall be construed to prevent railroads, telephone and telegraph companies from giving free transportation, message or conversation to any of its officers, agents, employes, attorneys, stockholders or directors, and to employes' families, and to ex-employes in search of employment and to injured employes and their families, and the families of employes killed in service: *Provided*, Such carriage may extend to employe's household goods and personal effects.

Live stock attendant. (f) Upon any shipment of live stock or other property of such nature as to require the care of an attendant the railroad company may furnish to the shipper or to some person or persons designated by him free transportation for such attendant or attendants, including return passage to the point at which the shipment originated: *Provided*, There shall be no discrimination with reference thereto between such shippers, and the commission shall have power to prescribe regulations in relation thereto.

Fraud. SEC. 16. That section 16 of said act be and the same is hereby amended to read as follows: Sec. 16. Any officer or agent of any railroad, express, telephone or telegraph company subject to this act, who by means of false billing, false weights, or by any other device, shall suffer or permit any person or persons to obtain transportation

for property or transmission of messages and conversations at less than regular rates then in force on such railroad, express, telephone or telegraph company, or who, by means of false billing, false classification, false weighing or by any device whatsoever shall charge any person, firm or corporation more for the transportation of property or transmissions of messages or conversations than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum not less than one hundred dollars nor more than one thousand dollars.

SEC. 17. That section 17 of said act be and the same is hereby amended to read as follows: Sec. 17. In case any railroad, express, telephone or telegraph company subject to this act shall do, cause to be done or permit to be done any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, the said railroad, express, telephone or telegraph company shall be liable to the person or persons, firm or corporation injured thereby for the damage sustained in consequence of such violation: *Provided, however,* That nothing in this act contained shall prevent a special contract providing for the mutual exchange of service from being entered into between any railroad company and any telegraph company where the telegraph line is along the railroad right-of-way and used by both such companies.

Company
liable in
damages.

SEC. 18. That section 18 of said act be and is hereby amended to read as follows: Sec. 18. If any railroad, express, telephone or telegraph company as aforesaid shall wilfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to comply with any and all lawful orders emanating from said railroad commission or any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay to the State of Washington a penalty of not more than two thousand dollars.

Punishment
not otherwise
provided for.

SEC. 19. That section 19 of said act be and the same is hereby amended to read as follows: Sec. 19. All of the

Penalties.
how recov-
ered.

penalties herein provided shall be recovered and suits therefor shall be brought in the name of the State of Washington, in the superior court of Thurston county, or in the superior court of any county in or through which said railroad, express, telephone or telegraph company may do business, by the attorney general or under his direction. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this act shall be paid into the treasury of the state.

Duty of
commission.

SEC. 20. That section 21 of said act be and is hereby amended to read as follows: Sec. 21. It is hereby made the duty of such commission to see that the provisions of this act, and all laws of this state concerning railroad, express, telephone and telegraph companies are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the state therefor recovered and collected. And said commission shall report all such violations, with the facts in their possession, to the attorney general or other officer charged with the enforcement of the laws, and request him to institute the proper proceedings and all suits between the state and any railroad, express, telephone or telegraph company shall have precedence over all the other suits pending therein.

Terms
defined.

SEC. 21. That section 22 of said act be and the same is hereby amended to read as follows: Sec. 22. The term "road," "railroad," "railroad companies," "railroad corporations" as used herein shall be taken to mean and embrace all corporations, companies, individuals and associations of individuals, their lessees or receivers, owning or operating any railroad or part of railroad in this state: *Provided, however,* That the provisions of this act shall not apply to street railroads, and "express companies" shall mean all corporations, companies and association of individuals, their lessees or receivers as shall do the business of express companies on any railroad in this state.

"Demurrage."

"Demurrage" as used in this act shall be defined as a charge or penalty to be paid to a railroad by a shipper for

delay after a reasonable time in loading a car or cars delivered to him for loading by the railroad; or to be paid by a consignee for delay on his part to unload a car or cars, within a reasonable time after delivery to him.

“Reciprocal demurrage,” as used herein, shall be defined as a charge or penalty to be paid the shipper by the railroad company for delay in furnishing, after a reasonable time after demand, any car or cars or facilities for shipment of freight, or for delay by the railroad company in promptly transporting and delivering to the consignee any freight received by it for delivery. “Reciprocal demurrage.”

“Telephone company” and “telephone line,” as used herein, shall be taken to mean and embrace all corporations, companies, individuals and associations of individuals, their lessees or receivers, owning and operating any telephone system or part of such system in this state; and “telegraph companies” and “telegraph lines,” as used herein, shall be taken to mean and embrace all corporations, companies, individuals, association of individuals, their lessees or receivers, owning or operating any telegraph line or system or part of such line or system within this state. “Telephone company.”

SEC. 22. That section 27 of said act be and the same is hereby repealed:

SEC. 23. That section 31 of said act be and the same is hereby amended to read as follows: Sec. 31. It shall be unlawful for any railroad or railway corporation or company owning and operating, or that may hereafter own or operate, a railroad in whole or in part in this state to knowingly or negligently use or operate any car, tender or locomotive that is defective, or any car or locomotive upon which the machinery or attachments thereto belonging are in any manner defective, or to knowingly operate its train over any defective or dangerous track, bridge or structure. Defective equipment.

It shall be unlawful for any railroad or railway corporation or company owning or operating or that may hereafter own or operate a railroad in whole or in part in this state, to use or operate any switching engine that is not Switch engine, how equipped.

properly equipped with foot boards on both ends not less than seven nor more than ten inches from the top of the rail to the bottom of the footboard, such footboards to be of the same length as the beam to which they are fastened and not to be more than two inches or less than one and one-half inches in thickness, with a toe board at least five inches wide, or that is not equipped with proper grab irons or uncoupling levers placed in lieu of such grab irons, such uncoupling levers to be securely fastened, and such grab irons or uncoupling levers to be placed in such position that men may stand upright on the footboards, excepting in cases of emergency and then only by consent of the railroad commission first had and obtained, or that is not equipped with head lamp on each end; or to use or operate an engine which by reason of defective pipes, cocks, valves or other causes will permit the escape of steam in such volume as to obstruct the view of the engine-men operating such engine; or to operate or move past and beyond any divisional repair point, any equipment that has defective sill steps, couplers or grab irons or defective flanges: *Provided*, That the railroad company may operate defective equipment from any place other than a divisional repair point to the nearest divisional repair point: *And provided further*, That any railroad company having at any divisional repair point defective equipment, may, upon repairing such defective equipment so that no defect longer exists in the sill steps, couplers, grab irons and flanges, make up such defective equipment into solid trains of defective equipment and move such solid trains to the general repair shops of such railway company, for the purpose of being repaired, but such train shall not be so made up and shall not move unless there be a sufficient number of air brakes in good working order to hold said train upon any grade to be encountered.

Solid trains
of defective
cars.

SEC. 24. That section 32 of said act be and the same is hereby amended to read as follows: Sec. 32. That every railroad corporation owning or operating a railroad or part of a railroad in this state shall on or before the first day of January, 1908, equip and furnish all cars owned or

leased and used by it in its service in this state with automatic couplers, coupling automatically which can be coupled and uncoupled without the necessity of men going between the ends of cars, and shall equip, furnish and operate all cars in its passenger service, and not less than 80 per cent. of such cars in its freight service with perfectly acting air brakes, and also with good and sufficient hand brakes, and in such a manner as to enable the engineer under ordinary conditions to control the speed of the train without the use of hand brakes, and no freight train shall after such date be run by any such railroad corporation over any part of its road lying within the state, unless the cars composing such freight train are so furnished and equipped. All freight cars shall be equipped and provided with proper grab irons, ladders and stirrups, securely bolted on so as to enable the employes to climb upon and off such cars with safety: *Provided, however,* That this section shall not apply to boarding and outfit cars when moved as work trains, or to trains consisting wholly of logging trucks and a passenger car or caboose, or to freight trains consisting of not to exceed 50 per cent. logging trucks.

All locomotives used in moving passenger trains excepting those assigned strictly to daylight runs shall be equipped with an electric headlight of approved design and capacity and it shall be unlawful to operate any locomotive on a passenger train (excepting a helper attached to the rear of the train, or a locomotive assigned to a daylight run, or in case of emergency occurring by reason of accident to the regular passenger locomotive) not so equipped after September 1st, 1909, or any locomotive used in main line road service not so equipped after February 1st, 1911, except as permitted by the railroad commission of Washington so to do; all frogs, switches and guard-rails on all railroads shall be so adjusted, filled, blocked and securely guarded as to protect and prevent the feet of persons being caught therein.

Collisions to
be reported.

SEC. 25. That section 37 of said act be and the same is hereby amended to read as follows: Sec. 37. It shall be the duty of the general manager, superintendent or other proper officer of any railroad operating in this state to make to the Railroad Commission of Washington at its office a monthly report under oath of all collisions of trains, or where any train or part of a train accidentally leaves the track, and of all accidents which may occur to its passengers or employes while in the service of such road and actually on duty, which report shall state the nature and cause thereof and the circumstances connected therewith: *Provided, however,* That neither said report nor any part thereof shall be admitted as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report; that the Railroad Commission of the State of Washington is hereby authorized to prescribe for such railroad a method and form for making the report in this section provided. And it is made the duty of the divisional superintendent or any other officer in charge of every operating division of any railroad within the state to notify the Railroad Commission at its office in Olympia by wire, of all accidents on such division resulting in death or injury to any passenger, employe or other person, immediately upon being informed of such accident.

Agent guilty,
penalty.

SEC. 26. That section 38 of said act be and the same is hereby amended to read as follows: Sec. 38. Any railroad divisional superintendent, agent, officer or employe of any railroad, or any agent, officer or employe of any express, telephone or telegraph company operating in this state who shall wilfully and knowingly violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding five hundred dollars.

Stop trains
before cross-
ing other
tracks.

SEC. 27. That said act be and the same is hereby amended by adding the following section to be known as section 40: Sec. 40. All railroads operating in this state shall cause their trains to come to a full stop at a distance not greater than five hundred feet, before crossing the

tracks of another railroad, crossing at grade, excepting at crossings where there are established and maintained signal towers, signalmen or gates. Any engineer in charge of any train violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars.

Passed by the Senate February 25, 1909.

Passed by the House March 5, 1909.

Approved March 11, 1909.

CHAPTER 94.

[H. B. 309.]

ADDITIONAL JUDGE FOR CHEHALIS COUNTY.

AN ACT providing for two judges of the superior court of the State of Washington, in and for Chehalis county, and fixing the term of office of the additional judge appointed, and providing for the election of a judge at the general election in November, 1910, and providing for the election of two judges at the general election in November, 1912, and every four years thereafter.

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

SECTION 1. That hereafter there shall be two judges Two judges. of the superior court of the State of Washington, in and for Chehalis county.

SEC. 2. The Governor shall upon the taking effect of this act appoint one additional judge for the said superior court, who shall hold his office from the time of his appointment until his successor is elected and qualified, which said successor shall be elected at the general election in November, 1910. One appointed.

SEC. 3. That at the general election in November, 1912, there shall be elected two judges of the superior court of the State of Washington for Chehalis county, whose term of office shall be four years from the second Monday in January, 1913, and every four years thereafter there shall Two elected when.

be elected at the succeeding general election, two judges of said superior court.

Passed by the House February 26, 1909.

Passed by the Senate March 8, 1909.

Approved March 11, 1909.

CHAPTER 95.

[H. B. 157.]

RELATING TO TIDE LANDS IN FRONT OF VANCOUVER.

AN ACT relating to the correction of the survey and supplemental plat of the tide and shore lands in front of and adjacent to the city of Vancouver, Washington, and declaring an emergency.

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

Vancouver
tide lands.

SECTION 1. The State Harbor Line Commission is hereby authorized and directed to correct the survey and supplemental plat of the tide and shore lands of the first class along the Columbia river in front of and adjacent to the city of Vancouver, Washington, so that the shore line of said plat shall correspond with the meander line established by the United States government survey.

Emergency.

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

Passed by the House February 16, 1909.

Passed by the Senate March 2, 1909.

Approved March 11, 1909.

CHAPTER 96.

[H. B. 257.]

AUTHORIZING COUNTIES TO JOIN WITH CITIES IN BUILDING BRIDGES.

AN ACT to amend an act authorizing any county in the State of Washington to join with any city of the first, second or third class in such county in paying for the construction of any bridge, trestle or any structure which crosses any stream or body of water, in constructing roads, streets, avenues or public highways which cross any stream or body of water when such stream or body of water is within or partly within such city, and such highway extends beyond such city limits, approved March 13, 1901, extending the provisions of said act to towns.

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

SECTION 1. That an act entitled An act authorizing any county in the State of Washington to join with any city of the first, second or third class in such county in paying for the construction of any bridge, trestle or any structure which crosses any stream or body of water, in constructing roads, streets, avenues or public highways which cross any stream or body of water when such stream or body of water is within or partly within such city, and such highway extends beyond such city limits, approved March 13, 1901, be amended to read as follows: Section 1. That any county within the State of Washington, by and through its county commissioners, and any city or town, by and through its legislative body, and the State of Washington, or any two of such bodies, be, and they are hereby authorized to join in paying for the construction of any bridge, trestle, or any structure which crosses any stream or body of water, when such bridge is a connection between any street or county road, or is a connection between any streets that form connections with county roads, when such stream or body of water is within or partly within such city or town: *Provided*, That nothing in this act shall affect pending suits or actions or rights

[Am'd. § 1,
ch. 70, p. 120,
L. '01.]

State or
county join-
ing with city.

or [of] parties thereto, but such suits or actions shall be determined as though this act had not been passed.

Passed by the House February 23, 1909.

Passed by the Senate March 4, 1909.

Approved March 11, 1909.

CHAPTER 97.

[A. S. B. 6.]

SCHOOL CODE.

AN ACT establishing, providing for the maintenance of, and relating to, a general and uniform public school system for the State of Washington, providing penalties for the violation of the provisions of this act, and repealing all acts and parts of acts in conflict with the provisions of this act.

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

TITLE I.—SYSTEM OF PUBLIC INSTRUCTION.

[SUB.] CHAPTER 1.—THE STATE.

SECTION 1. A general and uniform system of public schools shall be maintained throughout the State of Washington, and shall embrace common schools (including high and elementary schools, schools for special help and discipline, schools or departments for special instruction), technical schools, the University of Washington, the State College of Washington, state normal schools, state training schools, schools for defective youth, and such other educational institutions as may be established by law and maintained at public expense.

SEC. 2. The administration of the public school system shall be intrusted to a Superintendent of Public Instruction, a State Board of Education, to regents or trustees for educational institutions, to county superintendents of common schools, to boards of directors and district clerks.

School
system.

Adminis-
tration.

[SUB.] CHAPTER 2.—OFFICERS—THEIR POWERS AND DUTIES.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

SECTION 1. A Superintendent of Public Instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his office for the term of four years, and until his successor is elected and qualified.

State Superintendent.

SEC. 2. The Superintendent of Public Instruction shall receive an annual salary of three thousand dollars, payable monthly, upon warrant of the State Auditor, drawn upon the State Treasurer, in the same manner as other state officers are paid.

Salary.

SEC. 3. The powers and duties of the Superintendent of Public Instruction shall be:

Powers and duties.

First. To have supervision over all matters pertaining to the public schools of the state.

Second. To report biennially to the Governor on or before the first day of November preceding the regular session of the legislature, of which report five thousand copies shall be printed and delivered to the Superintendent of Public Instruction, who shall furnish one copy to be deposited in the state library, one copy to each county superintendent of schools and one copy to each district library. Said report shall contain a statement of the general condition of the public schools of the state, with full statistical tables by counties showing the number of schools and the attendance, the state and county funds apportioned, amount received from special tax and from other sources, amount expended for salaries of teachers, the salaries paid by the several counties to the county superintendent of schools and the amount paid for incidentals and expenses; the amount paid for building and providing school houses with furniture and apparatus, the amount of bonded and other school indebtedness, with the rate of interest paid thereon, the reports of all state educational institutions, or such portions of them as he may think advisable, together with such other facts as he

Biennial report.

may deem of general interest. He shall also include in his report a statement of plans for the management and improvement of the schools.

Blanks.

Third. To prepare and have printed such blanks, forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of teachers, and such other blanks and books as may be necessary for the discharge of the duties of teachers and officers charged with the administration of the laws relating to the common schools, and to distribute the same to the county superintendents.

Travel.

Fourth. To travel, without neglecting his other official duties as Superintendent of Public Instruction, for the purpose of attending educational meetings or conventions within this or adjoining states, of visiting schools, of consulting county superintendents or other school officers.

Fifth. To submit to the State Auditor a monthly statement of his expenditures for traveling expenses.

To print laws.

Sixth. To cause to be printed with an appendix of appropriate forms and instructions for carrying into execution the laws relating to public schools, and to distribute to each county superintendent a sufficient number of copies to supply each district officer, and to cause the same to be printed and distributed as often as any change in the laws shall make it of sufficient importance, in his opinion, to justify the same.

Seventh. To act as *ex-officio* president of the State Board of Education.

Annual convention of County Superintendents.

Eighth. To hold, annually, a convention of the county superintendents of the state at such time and place as he may deem convenient, for the discussion of questions pertaining to supervision and the administration of the school laws and such other subjects affecting the welfare and interests of the common schools as may be brought before it. Said convention shall continue in session not less than two days nor more than three days at the option of the Superintendent of Public Instruction. It shall be the duty of every county superintendent in this state to attend said convention during its entire session, and any county super-

intendent who attends the convention shall receive actual traveling expenses in attending said convention.

Ninth. He shall file all papers, reports and public documents transmitted to him by the school officers of the several counties of the state, each year separately. Copies of all papers filed in his office, and his official acts, may be certified by him and attested by his official seal, and when so certified shall be evidence equally and in like manner as the original paper.

To file papers.

Tenth. To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report of such facts arranged in such form as he may prescribe, and he shall furnish blanks for such reports; and it is hereby made the duty of every president, manager or principal, to fill up and return such blanks within such time as the Superintendent of Public Instruction shall direct.

School reports.

Eleventh. To keep in his office a directory of all boards of regents and trustees of state educational institutions, of the faculties of said institutions, and of all teachers receiving certificates to teach in the common schools of this state.

Official school directory.

Twelfth. To issue certificates as provided by law.

Certificates.

Thirteenth. To keep in his office at the capital of the state, all books and papers pertaining to the business of his office, and to keep and preserve in his office a complete record of statistics, and all matters pertaining to the educational interests of the state, as well as a record of the meetings of the State Board of Education.

Records.

Fourteenth. To decide all points of law which may be submitted to him in writing by any county superintendent, or that may be submitted to him by any other person, upon appeal from the decision of any county superintendent; and he shall publish his rulings and decisions from time to time for the information of school officers and teachers; and his decision shall be final unless set aside by a court of competent jurisdiction.

To decide points of law.

Fifteenth. To administer oaths and affirmations in the discharge of his official duties.

Administer oaths.

Sixteenth. To deliver over to his successor, at the expiration of his term of office, all records, books, maps, documents and papers of whatever kind belonging to his office or which may have been received by him for the use of his office.

Manual.

Seventeenth. To prepare and from time to time to revise a State Manual of Washington, which shall be sold at actual cost of publication and distribution, said manual to contain a sketch of the history of the state, an outline of the constitution of the state, excerpts from the school code, the courses of study and rules for the general government of the common schools, a map of the state, and a map of the topography of the state, and such other matter as the State Superintendent or the State Board of Education from time to time shall determine.

Copies of
papers.

Eighteenth. To make a certified copy of papers filed in his office and of his official acts, attested by his official seal. He shall charge for such certified copy fifteen cents per folio, and all money so received shall be immediately paid to the State Treasurer and credited to the general fund of the state.

Nineteenth. To perform such other duties as may be required by law.

Assistant
Superin-
tendent.

Deputy.

Other
assistance.

SEC. 4. The Superintendent of Public Instruction is hereby authorized to appoint one Assistant Superintendent of Public Instruction, who shall be the holder of not less than a first grade certificate; a Deputy Superintendent of Public Instruction, who shall also act as an inspector of schools, who shall be the holder of not less than a first grade certificate; a stenographer, and also to employ such other assistance as the needs of his office shall require from time to time, and for the payment of whose services appropriations shall have been made by the legislature of this state.

[SUB.] CHAPTER 3.—STATE BOARD OF EDUCATION.

State Board
of Education.

SECTION 1. The State Board of Education shall consist of the Superintendent of Public Instruction, the president of the University of Washington, the president of the State College of Washington, the principal of one

of the state normal schools elected by the principals of the state normal schools, and three persons holding life diplomas issued under the authority of this state and actively engaged in educational work, appointed by the Governor, one of whom shall be a superintendent of a district of the first class, one a county superintendent of schools, one a principal of a fully accredited four-year high school.

The appointed and elected members of the board shall hold their office for two years from the date of appointment and shall serve until their successors are appointed and qualified.

SEC. 2. The Superintendent of Public Instruction shall be *ex-officio* president of the board, and shall furnish all necessary record books and blanks for its use, and shall represent the board in directing the work of high school inspection.

President of board.

SEC. 3. The Deputy Superintendent of Public Instruction shall be *ex-officio* secretary of said board, but shall not be entitled to a vote in its proceedings. He shall keep a correct record of its proceedings in a good and well-bound book, which shall be kept in the office of the Superintendent of Public Instruction. He shall also, upon request, furnish to the executive head of any or all of the state institutions of higher education a certified copy of such proceedings.

Secretary of board.

SEC. 4. The State Board of Education shall hold an annual meeting at the capital of the state on the third Tuesday of June of each year, and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the Superintendent of Public Instruction. The persons serving as members of the State Board of Education shall be reimbursed for the actual expenses incurred in the performance of their duties, which expenses shall be paid by the State Treasurer on warrants of the State Auditor, out of funds not otherwise appropriated, upon the certificate of the Superintendent of Public Instruction: *Provided*, That members of the board who are not under salary to

Annual meeting of board.

whom special committee work is assigned shall be paid for such services five dollars per day.

Powers and
duties.

SEC. 5. The State Board of Education shall have power, and it shall be its duty:

First. To approve the preparatory requirements for entrance to the University of Washington, the State College of Washington, and the State Normal Schools of Washington.

Courses of
study for
normal
schools.

Second. To approve courses for the state normal schools, for the Department of Education of the University of Washington, and the State College of Washington, and for all normal training departments of higher institutions within the State of Washington which may be accredited and whose graduates may become entitled to receive teachers' life diplomas or professional certificates.

Accredited
schools.

Third. To investigate the character of the work required to be performed as a condition of entrance to and graduation from normal schools, colleges, universities and other institutions of higher education and to prepare an accredited list of those higher institutions of learning of this and other states whose graduates may be awarded teacher's certificates by the Superintendent of Public Instruction without examination except upon the State Manual of Washington: *Provided,* That the entrance and graduation requirements of all colleges and universities whose diplomas are accredited must be equal to those of the University of Washington; and the requirements for normal schools shall be equal to the advanced course of the state normal schools of this state.

Accredited
certificates.

Fourth. To prepare an accredited list of state life certificates and life diplomas issued in other states by examination, upon which certificates may be issued in this state without examination, except in Washington State Manual: *Provided,* That the requirements to obtain such certificates and diplomas must be equal to the requirements for a life certificate in this state.

Secondary
schools.

Fifth. To examine and accredit secondary schools: *Provided,* That no private academy shall be placed upon

the accredited list so long as secret societies are allowed to exist among its students.

Sixth. When requested by any institution of higher learning situated within the state maintaining a normal training department the board shall send an inspector, qualified for such service, to examine the equipment of such department and to ascertain the extent and character of the courses provided and the preparatory requirements for admission to them, which requirements must include the completion of a high school course or its equivalent, and particularly the qualifications and experience of the instructors and supervisors who are responsible for the work of this department.

Private schools with normal departments.

The inspector shall make a detailed report, including declaration of his opinion of the adequacy of the department for the work of educating and training teachers, which report shall be placed on file in the office of the Superintendent of Public Instruction.

If any such normal training department is ascertained to be equipped and manned adequately for the education and training of teachers and to be under reliable and responsible management and upon a basis of efficiency equal to that of the normal schools maintained by the state it shall be the duty of the board to accredit such department and to grant life diplomas to graduates who present diplomas certifying that the holders have completed the courses approved by the board when the applicants have complied with the other requirements for life diplomas. It shall be the further duty of the board to inspect all accredited normal training departments each year.

Seventh. To prepare an outline course or courses of study for the primary, grammar and high school departments of the common schools, and to prescribe such rules for the general government of the common schools as shall secure regularity of attendance, prevent truancy, secure efficiency and promote the true interests of the common schools.

Course of study for common schools.

Eighth. To prepare a uniform series of questions to be used by the county superintendents in the examination of

Questions for examination.

teachers, and to determine rules and regulations for conducting the same, and to prepare questions for the examination of applicants for state elementary certificates, and life diplomas.

Answers. *Ninth.* To prepare answers to all examination questions which are prepared by the board.

Eighth grade examination questions. *Tenth.* To prepare uniform questions for use in the examination of the pupils of the schools of the state completing the grammar school course of study, and to prescribe uniform rules and regulations for the conducting of such examination.

Appeals. *Eleventh.* To hear and decide appeals as provided by law.

Harmony in courses. SEC. 6. The board shall arrange such courses and adopt and enforce such regulations as will place the state institutions in harmonious relations with the common schools and with each other, and unify the work of the public school system.

Seal. SEC. 7. The State Board of Education shall adopt a seal, which shall be kept in the office of the Superintendent of Public Instruction.

TITLE II.—HIGHER AND SPECIAL INSTITUTIONS OF EDUCATION.

[SUB.] CHAPTER 1.—UNIVERSITY OF WASHINGTON.

University. SECTION 1. The State University, as heretofore located and established in the city of Seattle, county of King, shall be designated and named the University of Washington.

Purpose. SEC. 2. The aim and the purpose of the University of Washington shall be to provide for students of both sexes, on equal terms, a liberal instruction in the different branches of literature, science, art, law, medicine, military science and such other departments of instruction as may be established therein from time to time by the board of regents. Tuition in the University of Washington, except as may be provided by the board of regents with reference to the arts or to special courses of study, shall be free to

all *bona fide* residents of this state. Non-residents of this state shall be admitted to the said university on such terms as may from time to time be prescribed by the board of regents: *Provided*, That no student shall be admitted to any department of the university who is under the age of sixteen years. The said university shall, as far as practicable, begin its course of study in its literary and scientific departments at the points where the same are completed in the public high schools of this state. No student shall be admitted except upon examination satisfactory to the faculty of the university: *Provided, however*, That students shall be admitted without examination upon presentation of certificates from those public high schools and other educational institutions in this state whose courses of study shall have been approved by said faculty of the university, and accredited by the State Board of Education: *Provided*, That said faculty shall have power to specify the preparation required for admission to any department of the university.

SEC. 3. The government of the University of Washington shall be vested in a board of regents to consist of seven members, who shall be appointed by the Governor of the state, by and with the advice and consent of the Senate, and who shall hold their offices respectively for a term of six years from the second Monday in March next succeeding their appointment and until their successors shall be appointed and shall qualify: *Provided*, That regents now serving upon such board shall continue as such during the terms for which they were respectively appointed. Four members of said board shall constitute a quorum for the transaction of business. Whenever there shall be a vacancy in the said board of regents, from any cause whatever, it shall be the duty of the governor to fill such office by appointment, and the person or persons so appointed shall continue in office until the close of the legislature next thereafter, or until others are appointed and qualified in their stead. Each regent before entering upon the duties of his office must qualify by taking the usual oath of office before some officer authorized by law to administer the

Board of
regents.

same and file a copy of said oath with the Secretary of State.

Organiza-
tion.

SEC. 4. The board shall organize by electing from its membership a president and an executive committee, of which committee the president shall be *ex-officio* chairman. The board shall hold regular quarterly meetings, and during the interim between such meetings the executive committee may transact business for the whole board: *Provided*, That the executive committee may call special meetings of the whole board when such action is deemed necessary.

Powers of
board.

SEC. 5. The board of regents may adopt by-laws or rules and regulations for its own government. The powers and duties of the board of regents are as follows:

First. The said board shall have full control of the university and its property of various kinds, and shall employ the president, members of the faculty, assistants and employes of the institution, who shall hold their positions during the pleasure of said board of regents.

Course of
study.

Second. It shall be the duty of the board of regents, with the assistance of the faculty of the university, to prescribe the course of study in the various departments of the institution and to publish the annual catalogue.

Diplomas.

Third. The said board shall grant to every student, upon graduation, a suitable diploma or degree, such student having been recommended for such honor by the faculty. The board shall also have power, upon recommendation of the faculty, to confer the usual honorary degrees upon other persons than graduates of this university in recognition of their learning or devotion to literature, art or science; but no degree shall ever be conferred in consideration of the payment of money or other valuable thing. The said board is also empowered, upon recommendation of the faculty, to grant normal diplomas which shall entitle the holder to teach in any public school in the state for a period of five years; and to grant university life diplomas to candidates who shall give satisfactory evidence of having taught successfully for twenty-four months: *Provided*, That all candidates for the nor-

mal diploma and life diploma shall have satisfactorily completed not less than twelve semester hours in the Department of Education.

Fourth. The board of regents is authorized to receive such bequests and gratuities as may be granted to the said university and to invest or expend the same according to the terms of said bequests or gratuities. The said board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, bequests or gratuities, and shall make full report of the same in the customary biennial report to the Governor, or more frequently if required by law. Gifts.

Fifth. The board of regents is authorized and empowered to give and execute, on behalf of the State of Washington, the bonds and other papers required by the war department for the safe keeping of the arms and equipments loaned by the United States to the University of Washington. Bonds to
U. S.

Sixth. The board of regents shall transmit, on the first day of January preceding each regular session of the legislature, to the Governor a printed report of all the doings since their last report, not exceeding three hundred in number, giving full information of the receipt and expenditure of money, furnish an estimate of the needs of the institution, and give such information as will be helpful to the state authorities in providing for the said institution. Report.

Seventh. The members of said board of regents shall serve without compensation. Each regent, however, shall be paid his actual traveling expenses in going to and coming from any meeting of said board, and such claims for expenses shall be audited on vouchers issued by the president and secretary of said board the same as any other claims are audited. Expenses of
board.

SEC. 6. The faculty of the University of Washington shall consist of the president and the professors, and the said faculty shall have charge of the immediate govern- Faculty.

ment of the institution under such rules as may be prescribed by the board of regents.

Religion.

SEC. 7. The University of Washington shall never be under the control of any religious or sectarian denomination or society whatever.

Legal
advisor.

SEC. 8. The Attorney General of the state shall be the legal advisor of the president and the board of regents of the university, and he shall institute and prosecute or defend all suits in behalf of the same.

Buildings.

SEC. 9. It shall be the duty of the board of regents herein provided for, as soon after their organization as practicable, and as soon as there shall be an appropriation therefor in the hands of the state treasurer in any amount sufficient to warrant the beginning the erection of the several buildings herein provided for, or any wing or section of the same, to enter into contracts with one or more contractors for the erection and construction of such suitable buildings and improvements for the institution created by this chapter as in their judgment shall be deemed best, or the funds aforesaid shall warrant, all things considered; such contract or contracts to be let after open public notice and competition under such regulations as shall be established by said board to the person or persons who offer to execute such work on the most advantageous terms: *Provided*, That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: *And provided further*, That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose.

SEC. 10. The board provided for in this chapter shall have power in their discretion to employ skilled architects and superintendents to prepare plans and specifications, and to supervise the construction of any of the buildings provided for in this chapter, and to fix the compensation for such services subject to the provisions and restrictions of this act.

SEC. 11. Whenever there shall be any money in the hands of the State Treasurer to the credit of any of the specific funds set apart for that institution created by this chapter, deemed sufficient by the board to commence the erection of any of the necessary buildings or improvements, or to pay the necessary running or other expenses of said institution, the State Auditor, on the request in writing of said board, shall, and it is hereby made his duty to draw his warrant in favor of the treasurer of said board and upon the state treasury against the specific fund belonging to said institution in such sum not exceeding the amount on hand in such specific fund at such time as said board may deem necessary: *Provided*, That said board shall draw said money as it may be necessary to disburse the same.

Money in special funds.

[SUB.] CHAPTER 2.—STATE COLLEGE OF WASHINGTON.

SECTION 1. The State College, Experiment Station and School of Science of the State of Washington, as heretofore located at Pullman, Whitman county, shall be an institution of learning open to the children of all residents of this state, and to such other persons as the board of regents may determine, under such rules and regulations as may be prescribed by the board of regents; shall be non-sectarian in character, and devoted to practical instruction in agriculture, mechanical arts, and natural sciences connected therewith, as well as a thorough course of instruction in all branches of learning upon agricultural and other industrial pursuits.

State college.

No student shall be admitted except upon examination satisfactory to the faculty of the State College: *Provided, however*, That students shall be admitted without examination upon presentation of certificates from those public high schools and other educational institutions in this state whose courses of study shall have been approved by said faculty of the State College and accredited by the State Board of Education: *Provided further*, That said faculty shall have power to specify the preparation required for admission to any department of the State College.

Admission.

Visitors.

SEC. 2. The Governor of the State of Washington, the Superintendent of Public Instruction, members of the legislature, and county commissioners shall be *ex-officio* visitors of said college. But said visitors shall have no power granted to control the action of the board of regents or to negative its duties as defined by law.

Course of instruction.

SEC. 3. The course of instruction of said college shall embrace the English language, literature, mathematics, philosophy, civil and mechanical engineering, chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology, political economy, rural and household economy, horticulture, moral philosophy, history, mechanics, and such other courses of instruction as shall be prescribed by the board of regents. One of the objects of said college shall be to train teachers of physical science, and thereby further the application of the principles of physical science to industrial pursuits; to collect information as to schemes of technical instruction adopted in other parts of the United States and in foreign countries, and to hold farmers' institutes at such times and places and under such regulations as the board of regents may determine: *Provided*, That no student shall be admitted to any department of the State College who is under the age of sixteen years.

Laboratories.

Military tactics.

Elementary science.

SEC. 4. The board of regents shall provide that all instruction given in the college shall, to the utmost practicable extent, be conveyed by means of practical work in the laboratory, and shall provide in connection with said college the following laboratories: One physical laboratory or more, one chemical laboratory or more, and one biological laboratory or more, and suitably furnish and equip the same. Said board of regents shall provide that all male students shall be trained in military tactics. Said board of regents shall establish a department of elementary science, and in connection therewith provide instruction in the following subjects: Elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing and land surveying. Said board of regents shall establish a department of said college

to be designated as the department of agriculture, and in connection therewith shall provide instruction in the following subjects—*First*: Physics, with special application of its principles to agriculture. *Second*: Chemistry, with special application of its principles to agriculture. *Third*: Morphology and physiology of plants, with special reference to the commonly grown crops and their fungus enemies. *Fourth*: Morphology and physiology of the lower forms of animal life, with special reference to insect pests. *Fifth*: Morphology and physiology of the higher forms of animal life, and in particular of the horse, cow, sheep and swine. *Sixth*: Agriculture, with special reference to the breeding and feeding of live stock, and the best mode of cultivation of farm produce. *Seventh*: Mining and metallurgy. And it shall appoint demonstrators in each of these subjects, to superintend the equipment of a laboratory and to give practical instruction in the same. Said board of regents shall establish an agricultural experiment station in connection with the department of agriculture of said college, appoint its officers and prescribe such regulations for its management as it may deem expedient. Said board of regents may establish other departments of said college, and provide courses of instruction therein, when those are, in its judgment, required for the better carrying out of the object of the college.

SEC. 5. The management of said college and experiment station, the care and preservation of all property of which the institution shall become possessed, the erection and construction of all buildings necessary for the use of said college and station, and the disbursement and expenditure of all money provided for by this chapter, shall be vested in a board of five regents, said five members of the board of regents shall be appointed in the manner provided by law; said regents and their successors in office shall have the right to cause all things to be done necessary to carry out the provisions of this chapter. The board of regents provided for in this chapter, shall be appointed by the Governor, by and with the consent of the Senate, one for a term of two years, two for a term of

Agriculture.

Board of regents.

four years, and two for a term of six years; and each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the State of Washington, with two or more sufficient sureties, residents of the state, in the penal sum of not less than five thousand dollars (\$5,000) each, conditioned for the faithful performance of his duties as such regent: *Provided*, That all appointments made to fill vacancies caused by death, resignation or otherwise, shall be for the unexpired term of the incumbent whose place shall have become vacant. All other appointments made subsequent to the appointment of the first board of regents provided for in this act shall be for the term of six years and until the appointment and qualification of a successor to each appointee: *Provided further*, That regents now serving upon such board shall continue as such during the term for which they were respectively appointed.

Bond.

Officers of
board.

SEC. 6. The board of regents shall meet and organize by the election of its president and treasurer from their own number, on the first Wednesday in April of each year. The person so elected as treasurer shall, before entering upon the discharge of his duties as such, execute a good and sufficient bond to the State of Washington with two or more sufficient sureties, residents of the state, in the penal sum of not less than forty thousand dollars (\$40,000), conditioned for the faithful performance of his duties as such treasurer, and that he will faithfully account for and pay over to the person or persons entitled thereto all moneys which shall come into his hands as such officer, which bond shall be approved by the Governor of the state, and shall be filed with the Secretary of State. The president of the college shall be secretary of the board of regents, and shall perform all the duties pertaining to that office, but shall not have the right to vote. The secretary shall in like manner as the treasurer give a bond in the penal sum of not less than five thousand dollars (\$5,000), conditioned for the faithful performance of his duties as such officer.

Bond of
treasurer.Bond of
secretary.

SEC. 7. The president of said board shall be the chief executive officer, shall preside at all meetings thereof, except that in his absence the board may appoint a president *pro tempore*, and sign all instruments required to be executed by said board. The treasurer shall be the financial officer of said board, shall keep a true account of all moneys received and expended by him. The secretary shall be the recording officer of said board, shall attest all instruments required to be signed by the president, and shall keep a true record of all the proceedings of said board, and do all other things required of him by said board.

Duties of
Officers.

SEC. 8. The regents shall have the power, and it shall be their duty, to enact laws for the government of said State College, Experiment Station and School of Science: *Provided*, The board of regents shall maintain at least one experimental station in the western portion of the state.

Rules.

SEC. 9. The board of regents shall direct the disposition of any moneys belonging to or appropriated to the agricultural college, experiment station and school of science, established by this act, and shall make all rules and regulations necessary for the management of the same, adopt plans and specifications for necessary buildings, and superintend the construction of said buildings, and fix the salaries of professors, teachers and other employes, and tuition fees to be charged in said college.

Disburse-
ment of
moneys.

SEC. 10. The agricultural experiment station provided for in this act in connection with the state college shall be under the direction of said board of regents of said college for the purpose of conducting experiments in agriculture according to the terms of section one (1) of an act of congress approved March 2, 1887, and entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto." The said college and experiment station shall be entitled to receive all the benefits and donations made and given to similar institutions of learning in other states and territories of the United

Experiment
station.

[See ch. 314,
p. 440, 24
St. at L.; 1
Fed. St. Ann.
p. 9-12.]

[See ch. 130,
p. 503, V. 12
St. at L.; 2
Fed. St. Ann.
p. 850-853.]

States by the legislation of the congress of the United States now in force, or that may be enacted, and particularly to the benefits and donations given by the provisions of an act of congress entitled "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and mechanic arts," approved July 2, 1862, and all acts supplementary thereto, including the acts entitled "An act to establish agricultural experiment stations in connection with colleges established in the several cities [states] under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," which said last entitled act was approved March 2, 1887; also, "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July 2, 1862," which said last mentioned act was approved August 30, 1890.

Acceptance
of Federal
aid.

SEC. 11. The assent of the Legislature of the State of Washington is hereby given, in pursuance of the requirements of section nine (9) of said act of congress, approved March 2, 1887, to the granting of money therein made to the establishment of experiment stations in accordance with section one (1) of said last mentioned act, and assent is hereby given to carry out, within the State of Washington, every provision of said act.

Quorum of
board.

SEC. 12. The meetings of the board of regents may be called in such manner as the board may prescribe, and the majority of said board shall constitute a quorum for the transaction of business; but a less number may adjourn from time to time. No vacancy in said board shall impair the rights of the remaining board. A full meeting of the board shall be called at least once a year.

Oath.

SEC. 13. Each member of the board of regents created by this chapter shall, before entering upon his duties, take and subscribe an oath to discharge faithfully and honestly his duties in the premises, and to perform strictly and im-

partially the same to the best of his ability; said oath shall be filed with the Secretary of State.

SEC. 14. The regents shall be allowed their actual and necessary traveling expenses in going to and returning from all the necessary sessions of the board; and also their necessary expenses while in actual attendance upon the same. Expenses.

SEC. 15. The board of regents shall, on or before the first day of November of each year, make a full and true report in detail of all their acts and doings during the previous year, their receipts and expenditures, the exact status of their institution, and other information they may deem proper and useful, or which may be called for by the Governor, which said report shall be made to the Governor, who shall transmit the same to the succeeding session of the Legislature. A copy of said report shall be furnished to the Superintendent of Public Instruction. Report.

SEC. 16. The treasurer of said board shall make disbursement of the funds in his hands on the order of the board, which order shall be countersigned by the secretary of the board, and shall state on what account the disbursement is made. Money. how paid.

SEC. 17. No employe or member of the board created by this chapter shall be interested pecuniarily, either directly or indirectly, in any contract for any building or improvement of said institution, or for the furnishing of supplies for the same.

SEC. 18. The Governor of the state shall be *ex-officio* advisory member of the board provided for in this chapter, but shall not have the right to vote, nor be eligible to office therein. Governor.

SEC. 19. The board of regents shall grant to every student, upon graduation, a suitable diploma or degree, such student having been recommended for such honor by the faculty. The board shall also have power, upon recommendation of the faculty, to confer the usual honorary degrees upon other persons than graduates of this college in recognition of their learning or devotion to literature, Diplomas.

art or science; but no degree shall ever be conferred in consideration of the payment of money or other valuable thing. The said board is also empowered, upon recommendation of the faculty, to grant normal diplomas which shall entitle the holder to teach in any public school in the state for a period of five years; and to grant life diplomas to candidates who shall give satisfactory evidence of having taught successfully for twenty-four (24) months: *Provided*, That all candidates for the normal diploma and life diploma shall have satisfactorily completed not less than twelve semester hours in the Department of Education.

Buildings.

SEC. 20. It shall be the duty of the board of regents herein provided for, as soon after their organization as practicable, and as soon as there shall be an appropriation therefor in the hands of the State Treasurer in any amount sufficient to warrant the beginning the erection of the several buildings herein provided for, or any wing or section of the same, to enter into contracts with one or more contractors for the erection and construction of such suitable buildings and improvements for the institution created by this chapter as in their judgment shall be deemed best, or the funds aforesaid shall warrant, all things considered; such contract or contracts to be let after open public notice and competition under such regulations as shall be established by said board to the person or persons who offer to execute such work on the most advantageous terms: *Provided*, That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: *And provided further*, That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose.

SEC. 21. The board provided for in this chapter shall have power in their discretion to employ skilled architects

and superintendents to prepare plans and specifications, and to supervise the construction of any of the buildings provided for in this chapter, and to fix the compensation for such services subject to the provisions and restrictions of this act.

SEC. 22. Whenever there shall be any money in the hands of the State Treasurer to the credit of any of the specific funds set apart for that institution created by this chapter, deemed sufficient by the board to commence the erection of any of the necessary buildings or improvements, or to pay the necessary running or other expenses of said institution, and any proper indebtedness has been incurred, the State Auditor upon receipt of properly audited vouchers, shall, and it is hereby made his duty to draw his warrants for the payment thereof upon the State Treasurer against the specific fund belonging to said institution in such sum, not exceeding the amount on hand in such specific fund at such time, provided proper appropriations have been made therefor.

[SUB.] CHAPTER 3.—STATE NORMAL SCHOOLS.

SECTION 1. The State Normal School at Cheney, the State Normal School at Bellingham, the State Normal School at Ellensburg, and such other state normal schools as may hereafter be established, shall each be under the management and control of a board of three trustees, to be known as "Board of Trustees of the State Normal School at" Said trustees shall be appointed by the Governor, by and with the advice and consent of the Senate.

Normal schools.

SEC. 2. All trustees of the state normal schools serving at the time of the passage of this act shall continue to hold their respective offices as such trustees for the full term for which they were appointed; and thereafter all trustees shall be appointed for six years, except in cases of appointments to fill vacancies, in which cases the appointment shall be made for the unexpired term of the trustee whose office has become vacant. In case of the establishment of any additional state normal schools, unless otherwise ex-

Board of trustees.

pressly provided by law, the Governor shall appoint one trustee for two years, one for four years and one for six years.

Officers of
board.

SEC. 3. Each board of normal school trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. Each board shall have power to adopt by-laws for its government and for the government of the school, which by-laws shall not be inconsistent with the provisions of this act, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business.

Powers of
boards.

SEC. 4. Each board of normal school trustees shall have power, and it shall be its duty — *First*: To elect a principal and such other teachers, assistants and employees as the necessities of the school may require for a period not exceeding four years. *Second*: For good and lawful reasons to discharge any or all such teachers and employees. *Third*: To adopt the necessary text books, and to provide books of reference for the use of students and teachers, and to provide for the proper care of the same. *Fourth*: To have charge of the erection of all buildings pertaining to the school, unless otherwise expressly provided, and to have the care and management of all buildings and other property belonging to the school. *Fifth*: To audit all accounts against the school, and to certify all bills, which may be allowed, to the State Auditor, who shall draw warrants on the State Treasurer for such amounts as he shall find to have been properly or legally allowed. *Sixth*: To purchase all supplies for the use of the school, to provide a library suited to its wants, to provide for lectures on subjects pertaining to education and the art or science of teaching, and to do such other things not forbidden by law as may become necessary for the good of the school.

Boarding
houses

SEC. 5. Each board of normal school trustees shall have power to establish and maintain a boarding house or houses for the accommodation of students, to employ a

matron and such other assistance as may become necessary to conduct the same, to make such rules for its government and management as they may deem necessary, and to charge such rates for board and entertainment as will make such boarding house or houses self-sustaining.

SEC. 6. Each board of normal school trustees shall hold two regular or stated meetings each year, at such times as may be provided in its by-laws, and such special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Meetings.

SEC. 7. The principal of each state normal school shall have a general supervision of the school, shall see that all laws and rules of the board of trustees are observed by teachers and students, that the course or courses of study prescribed are faithfully pursued, shall assign students to their proper classes or grades, and unless otherwise specially provided, he shall designate the work to be performed by each teacher. He shall, at the close of each school year, make a detailed annual report to the board of trustees, containing a classified catalogue of all students that have been enrolled during the year, and such other information as he may deem advisable or as the board may require, and it shall be his duty to superintend the printing of the same. It shall also be his duty, when required by the board of trustees, to attend county institutes and other educational gatherings, and to lecture upon educational topics that are calculated to enhance the interests of popular education or of his school. The board of trustees shall audit and allow all his necessary expenses incurred in traveling. Principal.

SEC. 8. A model school or training department shall be provided for each state normal school contemplated by this act, in which all students, before graduation, shall have actual practice in teaching for not less than eighteen weeks under the supervision and observation of critic and training teachers. A manual training department for each school under its control shall also be provided, and a suitable teacher employed for each. Model
training
school.

SEC. 9. Every diploma of graduation from a state normal school, or certificate issued therefrom, shall be signed by the president of the board of trustees and by the principal of the normal school at which the holder graduated, and by the State Superintendent of Public Instruction; and all diplomas and certificates shall be stamped with the seal of the State Superintendent of Public Instruction. Every diploma and certificate shall specifically state what course of study the holder has taken, and for what length of time said diploma or certificate is valid as a certificate to teach in the schools of the state.

SEC. 10. No charge shall be made against any student for tuition in any of the normal schools contemplated by this act. All students shall be required to furnish satisfactory evidence of good moral character, and any student may be suspended or expelled from any state normal school contemplated by this act who is found to be immoral, or who has refused to comply with its rules and regulations for its government.

SEC. 11. The State Board of Education shall prescribe courses of study for the normal schools of the state as follows: (1) An elementary course of two years; (2) a secondary course of two years; (3) advanced courses of two and three years; (4) a complete course of five years; (5) an advanced course of one year for graduates from colleges and universities. Upon the satisfactory completion of any one of these courses a student shall be awarded an appropriate certificate or diploma as follows: Upon the completion of the elementary course, a certificate to be known as an elementary normal school certificate, which shall authorize the holder to teach in any elementary school for a period of two years; upon the completion of the secondary course a certificate to be known as a secondary normal school certificate, which shall authorize the holder to teach in the common schools of the state for a period of three years; upon the completion of any advanced course a diploma to be known as a normal school diploma, which shall authorize the holder to teach in the common schools of the state for a period of five

years, and upon satisfactory evidence of having taught successfully for three years such person shall receive a life diploma countersigned by the Superintendent of Public Instruction. Upon the completion of the work of the junior year any student may be given a secondary normal school certificate by vote of the faculty: *Provided*, That no one shall receive a diploma or secondary normal school certificate who has not attained the age of nineteen years, and attended the same state normal school one full school year of thirty-six weeks: *Provided further*, That no one shall receive a secondary normal school certificate or a normal school diploma who has not given evidence of ability to teach and govern a school by successful practice in the training department for a period of not less than eighteen weeks. The State Board of Education shall also prescribe uniform terms of admission to, and graduation from, the state normal schools, and shall define the qualifications for admission to each of the several courses.

SEC. 12. The board of trustees may provide out of the funds appropriated for the purpose, such text-books and supplies as are needful for successfully carrying into effect the courses of study prescribed. Each student upon admission to the school may be required to pay into the library fund of the school a sum not to exceed ten dollars, one-half of which shall be applied to the support of the general library and reading room, and the remaining half shall be kept as indemnity for loss or damage of books belonging to the school in the hands of the student, and shall be returned to him after deducting such amount as may be justly charged for all loss or damage beyond reasonable wear. Text books.

SEC. 13. No person shall be admitted to any state normal school as a student who has not attained the age of sixteen years, if a male, or fifteen years if a female until by an entrance examination or otherwise he or she shall have established the fact that he or she is qualified to enter some one of the grades or courses provided for in the course of study. Admission.

Meeting of Principals. SEC. 14. It shall be the duty of the principals of the several state normal schools contemplated by this act to meet once annually to consult with each other relative to matters concerning their school work, and to discuss methods of teaching and plans of management.

Report. SEC. 15. Each board of normal school trustees shall biennially on or before the first day of October next preceding each regular session of the state legislature of this state, make, through its secretary, a report to the Governor of the state, which report shall be included with and constitute a part of the biennial report of the Superintendent of Public Instruction. Said normal school report shall embrace a statement of the receipts and expenditures of the schools, and the purpose for which all moneys have been expended; a classified catalogue of all students enrolled in each of said schools; a directory of all graduates of each school properly classified; the course or courses of study pursued in the several schools, and such other information as may be deemed advisable.

Contracts. SEC. 16. No normal school trustee shall be awarded any contract for the erection, repair or the furnishing of any building belonging to any state normal school contemplated by this act, nor for the furnishing of supplies or materials for the same; and no such trustee shall act as agent for any publishing house proposing to furnish books for such school. Any trustee who shall violate any of the above named provisions shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and his office as such trustee shall be declared vacant.

[SUB.] CHAPTER 4.—WASHINGTON STATE TRAINING SCHOOL.

Reform school. SECTION 1. The reform school at Chehalis, in Lewis county, shall be known as the Washington State Training School.

Admission. SEC. 2. The said school shall be for the keeping and reformatory training of all youths between the ages of eight and eighteen years who are residents of the State of Washington and who are committed to said institution by a court of competent jurisdiction.

SEC. 3. When a boy of sane mind between the ages of eight and sixteen years or a girl of sane mind between the ages of eight and eighteen (18) years shall, in any court of record in this state, be found guilty of any crime except murder, or manslaughter, or highway robbery, or who for want of proper paternal care is growing up in mendicancy or vagrancy, or is incorrigible, or has been expelled from a public school, and complaint thereof is made and properly sustained, the court may if in its opinion the accused is a proper subject therefor, instead of entering judgment cause an order to be entered that said boy or girl be sent to the State Training School, in pursuance of the provisions of this act, and a copy of said order under seal of said court shall be sufficient warrant for carrying said boy or girl to the said school and for his or her commitment to the custody of the superintendent thereof.

Boy or girl
convicted
of crime.

SEC. 4. The State Board of Control shall have full charge of the management of the said State Training School. It shall have power to adopt rules and regulations for its government, and shall prescribe, in a manner consistent with the provisions of the laws of this state, the duties of the persons connected with the management of the institution.

Control of.

SEC. 5. The State Board of Control shall employ a competent person who shall be known as the Superintendent of the Washington State Training School. He shall be the executive head of the said institution, and he shall hold his office during the pleasure of the State Board of Control.

Superin-
tendent.

SEC. 6. The Superintendent of the said State Training School shall have power to appoint all assistants and employees required for the management of the institution placed in his charge, the number of said assistants and employees to be determined and fixed by the State Board of Control. The Superintendent may at his pleasure discharge any person therein employed.

Assistants
and
employees.

SEC. 7. All branches taught in the first eight grades of the public schools shall be taught in the State Training

Courses of
study.

School. The inmates shall be taught and trained in morality, temperance, frugality, and they shall also be instructed in the different trades and callings of the two sexes, as far as possible, in the scope of the institution.

[SUB.] CHAPTER 5.—STATE SCHOOL FOR THE DEAF AND THE BLIND.

School for defective youth.

SECTION 1. The State School for the Deaf and the Blind at Vancouver shall be under the direction of the State Board of Control, and the funds for its maintenance shall be appropriated by the Legislature of the State of Washington.

Term.

SEC. 2. The regular term of said school shall begin on the second Wednesday of September, and close on the second Wednesday of the following June.

Admission.

SEC. 3. The institution shall be free to residents of the State of Washington who are between the ages of six and twenty-one years, and who are deaf and blind, or either deaf or blind: *Provided*, That they are free from loathsome or contagious diseases.

Control of.

SEC. 4. The State Board of Control may admit to this school deaf or blind children from other states, but the parents or guardians of such children will be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children.

Superintendent.

SEC. 5. The superintendent shall be appointed by the State Board of Control, for a term of four years, subject to removal at the discretion of the Board of Control. Said superintendent must be not less than 30 nor more than 70 years of age and must be practically acquainted with the school management and class instruction of the deaf and the blind, having had at least ten years actual experience in teaching in schools for the deaf and the blind. The superintendent shall have power to appoint all subordinates. The State Board of Control shall have power to fix the number of employes and the salary paid each and may discharge any employe at its discretion.

Census.

SEC. 6. It shall be the duty of the clerks of all school districts in the State of Washington at the time for mak-

ing the annual reports to report to the school superintendent of their respective counties the names of all deaf, mute, or blind youth residing within their respective districts who are between the age of six and twenty-one years.

SEC. 7. It shall be the duty of each county school superintendent to make a full and specific report of such deaf, mute or blind youth to the county commissioners of his county at the regular meeting of said commissioners held in August in each year. He shall also, at the same time, transmit a duplicate copy of said report to the State Board of Control and the superintendent of the School for the Deaf and the Blind.

Report of defective youth.

SEC. 8. It shall be the duty of the parents or the guardians of all such deaf or blind youth to send them each year to the said state school for the deaf and the blind. The county superintendent shall take all action necessary to enforce this section or [of] this act: *Provided*, That if satisfactory evidence shall be laid before the county superintendent that any deaf or blind youth is being properly educated at home or in some suitable institution other than the State School for the Deaf and the Blind, the county superintendent shall take no other action in such case further than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth shall continue to receive a proper education.

Parents of defective children.

SEC. 9. If it appears to the satisfaction of the county commissioners that the parents of any such deaf or blind youth within their county are unable to bear the expense of sending and returning them to said state school, it shall then be the duty of the commissioners to send and return them to and from said school or to maintain them at said school during vacation at the expense of the county.

Expense.

SEC. 10. Any parent, guardian, school superintendent or county commissioner who shall, without a proper cause, fail to carry into effect the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the

Misdemeanor.

county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars, in the discretion of the court.

[SUB.] CHAPTER 6.—STATE INSTITUTION FOR FEEBLE MINDED.

SECTION 1. The State Institution for Feeble Minded now located at Medical Lake shall be under the direction of the State Board of Control, and funds for its maintenance shall be appropriated by the Legislature of the State of Washington.

Institution
for feeble
minded.

Admission to.

SEC. 2. The institution shall be free to residents of the State of Washington who are between the ages of six and twenty-one years, and who are idiotic or feeble minded: *Provided*, That they are free from loathsome or contagious diseases: *Provided, also*, That children who are idiotic, epileptic or afflicted in any particular that renders them unfitted for companionship with other children shall be segregated and provided with suitable accommodations and care in separate wards or buildings: *Provided further*, That expert medical service shall be provided for this institution.

Admissions
to.

SEC. 3. The State Board of Control may admit to this institution feeble minded children from other states, but the parents or guardians of such children must be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children.

Census.

SEC. 4. It shall be the duty of the clerks of all school districts in the State of Washington at the time for making the annual reports to report to the school superintendent of their respective counties the names of all feeble minded youth residing within their respective districts who are between the age of six and twenty-one years.

Report of
feeble
minded
youth.

SEC. 5. It shall be the duty of each county school superintendent to make a full and specific report of such defective youth to the county commissioners of his county at the regular meeting of said commissioners held in August in each year. He shall also, at the same time, transmit

a duplicate copy of said report to the State Board of Control.

SEC. 6. It shall be the duty of the parents or the guardians of all such defective youth to send them each year to the said state institution for feeble minded. Parents of. The county superintendent shall take all action necessary to enforce this section of this act: *Provided*, That if satisfactory evidence shall be laid before the county superintendent that any defective youth is being properly educated at home or in some suitable institution other than the State Institution for Feeble minded, the county superintendent shall take no other action in such case further than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth shall continue to receive a proper education.

SEC. 7. If it appears to the satisfaction of the county commissioners that the parents of any such defective youth within their county are unable to bear the expenses of sending and returning them to said state school, it shall then be the duty of the commissioners to send and return them to and from said school. Expense.

SEC. 8. Any parent, guardian, school superintendent or county commissioner who shall, without a proper cause, fail to carry into effect the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars, in the discretion of the court. Misdemeanor.

TITLE III.—GENERAL COMMON SCHOOL SYSTEM.

[SUB.] CHAPTER 1.—GENERAL PROVISIONS.

SECTION 1. Common schools shall include schools that are maintained at public expense in each school district and under the control of boards of directors. Common schools. Every common school, not otherwise provided for by law, shall be open to the admission of all children between the ages of six and twenty-one years residing in that school district.

SEC. 2. All common schools shall be taught in the English language, and instruction shall be given in the following branches, viz.: Reading, penmanship, orthography, written arithmetic, mental arithmetic, geography, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, history of the United States, and such other studies as may be prescribed by the State Board of Education. Attention must be given during the entire course to the cultivation of manners, and the fundamental principles of honesty, honor, industry and economy, to the laws of health, physical exercise, ventilation and temperature of the school room, and not less than ten minutes each week must be devoted to the systematic teaching of kindness to not only our domestic animals, but to all living creatures.

SEC. 3. A school day shall consist of six hours for all pupils above the primary grades, exclusive of an intermission at noon; but any board of directors may fix as a school day for their district a less number of hours than six: *Provided*, That for pupils belonging to the primary grades the school day shall not be less than four hours, exclusive of an intermission at noon, and for pupils belonging to grades above the primary grade the minimum school day shall not be less than five hours, exclusive of an intermission at noon. In the absence of any by-law or order of the board of directors defining the school day for their district, any teacher may dismiss all pupils belonging to the primary grades after an attendance of four hours, exclusive of said intermission. The school month shall consist of twenty days, or four weeks of five days each, and the term "school year," for all matters pertaining to experience in teaching and for all matters pertaining to the granting of or renewing of certificates, shall consist of not fewer than nine school months.

SEC. 4. The school year shall begin on the first day of July and end with the last day of June.

SEC. 5. No teacher, pupil or janitor shall be permitted to attend school from any house in which smallpox, vario-

Subjects
taught.

School day.

Month.

Year.

loid, scarlet fever, diphtheria or any other contagious or infectious diseases are prevalent. No teacher, pupil or janitor shall be permitted to return to school from any house where the above mentioned diseases, or any form of them, have prevailed, until three weeks shall have elapsed from the beginning of convalescence of the patient, or upon the certificate of a registered physician in good standing that there is no danger of contagion. In case of whooping cough, chicken pox and measles, certified by a physician to be not of a malignant character, this rule shall not apply to teachers, pupils or janitors who have had the diseases and have entirely recovered from them: *Provided*, That no pupil, teacher or janitor can attend school or be employed who is afflicted with pulmonary tuberculosis. Diseases.

SEC. 6. All pupils who may attend the common schools shall comply with the regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools. Continued and willful disobedience or open defiance of authority of the teacher shall constitute good cause for expulsion from school. Admission to.

SEC. 7. All school districts in this state shall maintain school during at least six months each year. Minimum term.

SEC. 8. Whenever the word "he" or "his" occurs in this act, referring to either the members of the city board of directors, county superintendents of common schools, city superintendents, directors, clerks, State Board of Education or other school officers, it shall be understood to mean also "she" or "her," and any woman possessing all of the qualifications of an elector except as to sex, and possessing all of the other qualifications required by law for such offices, shall be eligible to hold such offices. Sex.

SEC. 9. All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence. Religion.

[SUB.] CHAPTER 2.—DIVISION OF TERRITORY.

ARTICLE I.—KINDS OF DISTRICTS.

County districts. SECTION 1. For purposes of supervision and administration, each county in the state shall constitute one county school district.

First class. SEC. 2. Any school district in this state containing a city of the first class or of the second class, or containing a city having the population requisite for a city of the first class or of the second class, as shown by any regular or special census, shall be a school district of the first class.

Second class. SEC. 3. Any school district in this state containing a city of the third class or of the fourth class, or containing a city having the population requisite for a city of the third or of the fourth class, as shown by any regular or special census, shall be a school district of the second class.

Third class. SEC. 4. All other school districts shall be school districts of the third class.

Consolidated districts. SEC. 5. Any school district which has been formed by the consolidation of two or more school districts shall be designated as a consolidated school district.

Joint district. SEC. 6. Any school district composed of territory in two or more counties shall be designated as a joint school district.

Union high school district. SEC. 7. Any school district established for the purpose of maintaining a high school by the union of two or more contiguous districts in the same county, shall be designated as a union high school district.

ARTICLE II.—CORPORATE EXISTENCE AND POWERS.

Designation. SECTION 1. The term "School District," as used in this act, is declared to mean the territory under the jurisdiction of a single board designated as a Board of School Directors, and shall be organized in form and manner as hereinafter provided, and shall be known as _____ (here insert name of city in case of districts of first or second class) School District No. _____, _____ County, State of Washington: *Provided*, That all school districts now existing as shown by the records of the county superintendent are hereby recognized as legally organized dis-

tricts, subject to the classification of Article I of this chapter.

SEC. 2. A school district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes, and in that name and style may sue and be sued, purchase, hold and sell such personal and real estate, and enter into such obligations as are authorized by law; and the title to all school buildings or other property, real or personal, owned by any such school district shall, upon the organization of a district under the provisions of this act, vest immediately in the new district, and the board of directors of such school district shall have exclusive control of the same for all purposes herein contemplated.

Powers of district.

SEC. 3. Each incorporated city in the state shall be comprised in one school district, and shall be under the control of one board of directors: *Provided*, That nothing in this section shall be so construed as to prevent the extension of such city district a reasonable distance beyond the limits of such city: *And provided further*, That nothing in this section shall be so construed as to change or disturb the boundaries of any school district organized prior to the incorporation of any city, except in cases of incorporation of cities lying partly in two or more school districts organized prior to the incorporation of such city, or the extension of the boundaries of cities beyond the limits of the school districts in which they are situated, or in cases where two or more cities unite, as provided by law: *And provided further*, That the fact of the issuance of bonds by school districts, heretofore or hereafter, shall not prevent the formation of new school districts, whether or not such bonds have been redeemed, cancelled, or paid in whole or in part and shall not prevent the transfer or uniting with another school district of a portion or the whole of a district where bonds have been or may hereafter be issued.

Incorporated cities one district.

SEC. 4. That any school district may purchase, under the provisions of law governing the sale thereof, a school house site or sites of not less than three acres nor more than

Sites.

ten acres each, of any school lands of the State of Washington.

[SUB.] CHAPTER 3.—FORMATION, ALTERATION, AND CONSOLIDATION OF DISTRICTS.

ARTICLE I.—FORMATION OF NEW DISTRICTS.

Petition.

SECTION 1. For the purpose of organizing a new district, a petition in writing shall be made to the county superintendent, signed by at least five heads of families residing within the boundaries of the proposed new district, which petition shall describe the boundaries of the proposed new district and give the names of all the children of school age residing within the boundaries of such proposed new district, at the date of presenting said petition.

Notice of hearing.

SEC. 2. The county superintendent shall give notice to the parties interested by causing notices to be posted at least twenty (20) days prior to the time appointed by him for considering said petition, in at least three of the most public places in the proposed new district, and one on the school house door of each district affected by the proposed change, and in one of the most public places of the territory affected by the proposed change. On the day fixed in the notice, he shall proceed to hear said petition, and if he deem it advisable to grant the petition he shall make an order establishing said district and describing the boundaries thereof and shall certify his action to the board of county commissioners at their next regular meeting.

School in new district.

SEC. 3. No new district formed by the subdivision of an old one shall be entitled to any share of public money belonging to the old district until a school has actually been taught one month in the new district and unless within eight months from the order of the county superintendent granting such new district a school is opened, the action making a new district shall be void, and all elections or appointments of directors or clerks made in consequence of such action, and all rights and office of parties so elected or appointed shall cease and determine, and all taxes which may have been levied in such old district shall be valid and binding upon the real and personal property of such new

district, and shall be collected and paid into the school fund of the old district.

SEC. 4. When a new district is formed from one or more old districts it shall be entitled to a just share of the school money to the credit of the one or more old districts, from which the new district is formed, at the time the petition was granted to establish the new district. And the county superintendent (or in case of an appeal, the board of county commissioners), shall divide such money and also such money as may, for the current year, afterward be apportioned to the said one or more old districts, according to the number of school children resident in the new district, as may be ascertained by a census taken for that purpose: *Provided*, That the new district shall be entitled to all school district tax levied within the boundaries of the new district, for the current year in which the new district is formed. And if such tax, or any part of it has already been collected and placed to the credit of the aforementioned one or more old districts, it shall be the duty of the county treasurer, upon the order of the county superintendent, to transfer the money received from such special tax to the credit of the new district.

Distribution
of funds.

SEC. 5. At the hearing for the formation of a new school district, the county superintendent shall, in case the petition is granted, hear testimony offered by any person or school district interested therein, for the purpose of finding and determining the amount and value of all school property of whatever nature involved in the proposed action, the nature and amount and value of all bonded, warrant and other indebtedness of the original school district or districts out of whose territory such new district is formed, including all legal uncompleted obligations then existing, and in so doing shall consider the amount of such outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements, and the location of such improvements, and shall make an equitable adjustment of all property, debts and liabilities among the districts involved.

Hearings on
value of
property.

He shall make a full record of all such findings and terms

Findings. of adjustment and the decision of said county superintendent shall be final unless appealed from in the manner provided by law, in which case the decision of the board of county commissioners shall be final.

Levy to pay indebtedness. SEC. 6. When a new school district is formed in the manner provided by this article it shall be the duty of the county commissioners to provide by appropriate levies on the property of such new district, in the manner provided by law, for the payment of such indebtedness as may be imposed upon it by the decision of the county superintendent, or in case of appeal by the board of county commissioners.

ARTICLE II.—ALTERATIONS OF BOUNDARIES OF SCHOOL DISTRICTS.

Alteration of boundaries. SECTION 1. For the purpose of transferring territory from one district to another or enlarging the boundaries of any school district, a petition in writing shall be presented to the county superintendent, signed by a majority of heads of families residing in the territory which it is proposed to transfer or include, or in case there be no family resident in such territory then by the board of directors in one of the districts affected by such proposed change, which petition shall describe the change which it is proposed to have made. It shall also state the reason for desiring said change, and the number of children of school age if any residing in the territory to be transferred. For such proposed transfer of territory the notices shall be posted and the hearing and appeal shall be the same as for the formation of a new district.

Hearings on. SEC. 2. At the hearing for the alteration of any school district the county superintendent shall, in case the petition is granted, hear testimony offered by any person or school district, for the purpose of finding and determining the value and amount of any school property of whatever nature involved in the proposed action, the nature and amount and value of all bonded, warrant and other indebtedness of each school district affected by the action, including all legal uncompleted obligations then-existing, and in so doing shall consider the amount of

such outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements and the location of such improvements, and shall make an equitable adjustment of all property, debts and liabilities among the districts involved.

He shall make a full report of all such findings and terms of adjustment and the decision of said county superintendent shall be final unless appealed from in the manner provided by law, in which case the decision of the board of county commissioners shall be final.

SEC. 3. In case of the alteration of any school district, in the manner provided by this article, it shall be the duty of the board of county commissioners to provide by appropriate levies on the property of such district, in the manner provided by law, for the payment of such indebtedness as may be imposed upon it by the decision of the county superintendent, or in case of appeal, by the board of county commissioners.

Indebtedness,
levy for.

ARTICLE III.—ALTERATION OF BOUNDARIES BY EXTENSION OF CITY LIMITS.

SECTION 1. Whenever an incorporated city shall extend its limits in the manner provided by law, so as to include all or a part of one or more school districts, the territory so included shall not be deemed annexed for school purposes until the 30th day of June next succeeding the date of annexation for municipal purposes, at which time the county superintendent shall declare the territory added to the limits of said city to be a part of the school district embracing said city: *Provided*, That when a school house is located within the territory annexed for municipal purposes, and yet remains the most accessible school for a part of the school district left outside of the territory so annexed to such incorporated city, the county superintendent may annex all or any part of such school district to the school district embracing such city.

Limits of
city ex-
tended.

SEC. 2. At the time of declaring any territory to be added to the limits of a school district embracing an incorporated city, as provided in section 1 of this article,

Adjustment
of property.

the county superintendent shall make an equitable adjustment of all property, including current funds and taxes, and of all debts and liabilities between the districts involved, and shall certify his action to the board of county commissioners. Before making said adjustment, he shall give not less than ten days' written notice to the directors of each district affected by such change, fixing the time and place of the hearing before him.

Hearings.

SEC. 3. At such hearing the county superintendent shall hear testimony offered by any person or school district interested therein pertaining to the value and amount of any school property, of whatever nature, including current funds and taxes, involved in the proposed action, the assessed value of all taxable property in said districts, the nature, amount and value of all bonded, warrant and other indebtedness of each school district affected by the action, including all legal uncompleted obligations then existing; and whenever the territory so added to the school district embracing such incorporated city, shall include a part only of the school districts from which such territory shall be taken, he shall consider the amount of outstanding indebtedness, of each of said school districts, incurred for current expenses, the amount incurred for permanent improvements and the location of such improvements, for the purpose of making such equitable adjustment of all property, debts and liabilities among the districts involved. He shall make a full report of his findings and terms of adjustment, and the decision of said county superintendent shall be final unless appealed from in the manner provided by law, in which case, the decision of the board of county commissioners shall be final.

Corporate
existence
continued
until indebt-
edness paid.

SEC. 4. Whenever the territory so added to a school district, embracing an incorporated city, shall include the whole of the school district from which such territory was taken, such district shall retain its corporate existence so far as necessary for that purpose, until its indebtedness as determined by such adjustment shall have been paid in full, and the officers of the district embracing such incorporated city to which its territory shall have been added

shall have the power, and it shall be their duty, to provide, by appropriate levies upon such old district or districts, for the payment of such indebtedness: *Provided*, That when such payment of indebtedness is fully made, the clerk of the district shall enter the fact upon the records of the district, and report the same to the county superintendent of schools.

ARTICLE IV.—FORMATION OF CONSOLIDATED DISTRICTS.

SECTION 1. Upon receipt of a petition signed by five heads of families of two or more adjoining districts in the same county the county superintendent may organize and establish a consolidated school district. The posting of notices, the hearing, and the appeal shall be the same as in the change of territory from one district to another. Petition.

SEC. 2. When two or more districts are consolidated by the provisions of this act, or where two or more districts are consolidated by the uniting of two or more incorporated cities or towns, as provided by law, all the directors of the several districts so consolidated shall constitute the board of directors of the new district so formed, and shall have all the powers and authority conferred by the laws of this state upon school district directors, until the next annual school election in said district, at which time there shall be elected three directors for said district, in the manner provided by law, who shall hold their respective offices as provided for the officers of new districts. Board of directors.

SEC. 3. Whenever, by reason of detachments of territory subsequent to the formation of a consolidated district, the boundaries of such district shall become practically co-extensive with the boundaries of a district prior to the formation of such consolidated district, it shall be the duty of the county superintendent to report such fact to the Superintendent of Public Instruction at the time of making his annual report, and said district shall no longer be entitled to the bonus hereinafter provided for consolidated districts. Bonus discontinued when.

SEC. 4. When two or more districts are consolidated, only one of which contains an incorporated city, the di-

Board in city
continues.

rectors of the district which contains such incorporated city shall become the directors for the consolidated district as soon as the consolidation is legally completed.

Number
given to new
district.

SEC. 5. The county superintendent of any county in which new districts are formed by the uniting of two or more districts, or by the incorporating of any city or town lying partly in two or more school districts, shall upon being notified of such action by the board of directors of such new district, proceed to designate such new district by a number not the same as that of either component district or of any existing district, and to make a record of the boundaries thereof, and he shall certify such facts to the board of county commissioners; to the county treasurer, and to the clerk of the new district formed.

Public
property.

SEC. 6. All school districts formed by the uniting of two or more districts, as provided for in this act, shall be entitled to the public property of the school districts so united and to all current funds in excess of outstanding indebtedness other than bonded indebtedness, and the county superintendent shall transfer all such excess funds to the new district in accordance with this provision and shall certify such transfer to the county treasurer: *Provided*, That for the purpose of apportionment the consolidated district shall be considered one district: *Provided further*, That for the purpose of apportionment the consolidated district shall be credited with two thousand days' attendance in addition to actual attendance for each district, less one, so consolidated.

Corporate
existence
continued un-
til debts
paid.

SEC. 7. Each school district composing said consolidated district shall retain its corporate existence so far as necessary for that purpose until its indebtedness has been paid in full, and the county commissioners shall have the power and it shall be their duty to provide by appropriate levies upon such old district or districts for the payment of such indebtedness: *Provided*, That when such payment of indebtedness is fully made the clerk of the district shall enter the fact upon the records of the district and report the same to the county superintendent of schools.

SEC. 8. When two or more school districts shall be united by the provisions of this act, the boards of directors of the several districts shall, within thirty days thereafter, meet and organize the new board by the election of one of their number as president of the board. They shall elect a clerk for said district and the clerks of the several districts so united shall deliver to said clerk all books, papers and records belonging to their respective offices. The clerk of the new district thus formed shall immediately notify the county superintendent of the organization of the board of the new district.

ARTICLE V.—FORMATION OF JOINT SCHOOL DISTRICTS.

SECTION 1. When the public good requires it, a school district may be formed of contiguous territory lying in two or more counties, and such districts shall be known as joint school districts. They shall be designated by a separate number for each county in which any portion of their territory may lie.

Joint dis-
tricts.

SEC. 2. For the purpose of forming such joint districts, a petition shall be presented, drawn and signed as prescribed for the formation of other school districts, and a copy of such petition shall be presented to the county superintendent of each county affected by the formation of such proposed joint district.

Petition.

SEC. 3. The superintendents of all counties affected by the formation of the proposed joint district shall confer and shall mutually agree upon the time and place of investigating said petition, and upon such agreement each shall notify the school electors of the district or districts of his county affected by the formation of the proposed joint district, by posting notices as required in the formation of other school districts, one of which notices shall be posted upon the school house door of each district affected by the formation of the proposed joint district, and one of which shall be posted in some conspicuous place in the territory which it is proposed to include in the proposed joint district, in each county; and at the time and place

Superin-
tendents to
confer.

mentioned in said notices the several superintendents shall meet and jointly investigate all matters pertaining to the formation of the proposed joint district.

Board of
directors.

SEC. 4. If at the investigation provided for in the preceding section the several county superintendents shall mutually agree that said district should be formed, they shall appoint a board of directors to serve until the next regular election, and the directors appointed shall qualify within ten days. At the next regular election a board of directors shall be elected as provided in the case of other new districts.

District in
county where
school house
is.

SEC. 5. Every director or clerk of the joint district shall file his certificate of election and oath of office with the county superintendent of the county in which the school house is located, and his signature with the treasurer of the same county.

Vacancies,
how filled.

SEC. 6. Vacancies in the office of director of a joint district shall be filled by appointment by the county superintendent in whose county the officer vacating resided while serving, and a copy of such appointment, with the oath endorsed thereon, shall be filed in the office of each county superintendent.

Transfers of
territory af-
fecting, how
made.

SEC. 7. After a joint school district has been formed, all transfers of territory to and from said district shall be made by mutual agreement and joint action between the county superintendents of the several counties in which the territory of said joint district shall be embraced, and all notices of such transfers shall be signed by all superintendents in whose counties the territory of the joint district shall lie.

Boundaries
kept in both
counties.

SEC. 8. The superintendents of the several counties affected by the formation of any joint school district shall make and keep a correct transcript of the entire boundary of such district, and shall certify the same to the county treasurer and county auditor of each county and all transfers of territory to or from such joint district shall likewise be certified to such officers, said certificates being signed by all county superintendents in whose counties any

part of the territory of such joint district shall be located. A map of all joint districts formed under the provisions of this section shall be filed with the Superintendent of Public Instruction within thirty days after the formation of such districts. Said maps shall indicate the number by which the district is designated in each county, and it shall also show the location of the school house in such district, if there be one. Said map shall be certified to by all county superintendents in whose counties any part of such joint district shall be embraced.

SEC. 9. For the purpose of the apportionment of state school funds the district shall be considered as belonging to the county in which the school building is located: *Provided*, That the county treasurer in whose county the school house is not located shall transfer quarterly all moneys to the treasurer of the county where the school house is located, and the same shall be placed to the credit of said joint district.

Apportionment of funds to.

SEC. 10. At the hearing for the formation of a joint school district, the county superintendents shall, in case the petition is granted, hear testimony offered by any person or school district interested therein, for the purpose of finding and determining the amount and value of all school property of whatever nature involved in the proposed action, the nature and amount and value of all bonded, warrant and other indebtedness of the original school district or districts out of whose territory such joint district is formed, including all legal uncompleted obligations then existing, and in so doing shall consider the amount of such outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements, and the location of such improvements, and shall make an equitable adjustment of all property, debts and liabilities among the districts involved.

Hearings on joint districts.

They shall make a full record of all such findings and terms of adjustment and the decision of said county superintendents shall be final.

SEC. 11. When a joint school district is formed in the manner provided by this article, it shall be the duty of the

Levies to
cover indebt-
edness.

board of county commissioners to provide by appropriate levies on the property of such joint district, in the manner provided by law, for the payment of such indebtedness as may be imposed upon it by the decision of the county superintendents.

Reports.

SEC. 12. All reports from joint districts shall be made in full to the county superintendent of each county affected thereby: *Provided*, That any county superintendent may order the segregation of any items of such report so as to show separately the numbers or amounts from each county affected thereby.

ARTICLE VI.—FORMATION OF UNION HIGH SCHOOL DISTRICTS.

Petition for.

SECTION 1. Whenever the residents of two or more adjacent or contiguous school districts in the same county may wish to unite for the purpose of establishing a union high school, the clerks of the districts, by order of the boards of directors, shall, upon a written or printed petition of five or more heads of families of their respective districts, each submit in writing a statement of the proposed union of such districts together with the question of the advisability of the formation of such union school district to the county superintendent of schools, who shall within fifteen days report in writing to the said clerks his approval or disapproval, his action to be based upon an investigation made by him to determine whether or not either school district so applying already maintains or is capable itself of maintaining a high school without uniting with another district, or with other districts, or whether or not the educational and other conditions of the districts desiring to so unite are such as to insure the maintenance of a high school in fact according to the provisions of this article.

Vote on.

SEC. 2. If the county superintendent shall approve of the formation of the proposed union high school district each of said clerks shall call a meeting of the voters of such school districts at some convenient place by posting written or printed notices in like manner as is provided for calling annual school district elections. If a majority of the voters of each district shall vote to unite for the

purposes herein stated, the clerk of each district so proposing to unite shall, within ten days after the election, notify the county superintendent of the holding of and the result of the election, and the county superintendent shall, immediately after the receipt of said notices, designate such union high school district as "Union High School District No.——, —— county," and shall so notify the clerks of the several districts so uniting.

SEC. 3. The boards of directors of the several districts so voting to unite shall constitute the board of directors of such union high school district, and shall within ten days after the elections at which the districts voted to unite meet and organize by electing one of their number president of the board, and selecting their clerk for such union high school district, and the clerk and president chosen at such meeting shall hold their respective offices until the next annual school district election and until their successors are elected and qualified; and the election of president and clerk shall occur annually thereafter, on the second Saturday next succeeding the date at which the newly elected school district officers shall enter upon the discharge of their duties: *Provided*, That in union districts consisting of three or more school districts the board of directors of said union district shall be composed of the chairman of the several boards of directors of the districts comprised in such union district.

Board of directors.

SEC. 4. The clerk of the union high school district shall within ten days after the organization of the district, by the election of a president and clerk, notify the county superintendent of the organization of said district, and the county superintendent shall also, within ten days after receiving notice of the organization of the district, notify the county treasurer and county auditor of the fact of its organization, together with the numbers of the constituent districts and the names of the directors and clerk.

Notice of formation.

SEC. 5. After the formation of a union high school district the boundaries of the same may be enlarged in the manner prescribed for the formation of the said union high

Boundaries enlarged, how.

school district: *Provided*, That the board of directors of the union high school district shall not be reorganized but that the chairman of the district, or the chairmen of the districts, so united to the union high school districts shall be added to the board of directors of the union high school until the next ensuing annual school election.

Grades
taught.

SEC. 6. The directors of such union districts shall determine what grade or grades above the grammar grade of the state common school course of study shall be pursued and maintained in such schools: *Provided*, That the course of study for all high school grades shall not be inconsistent with the laws of this state; and shall be such as the Superintendent of Public Instruction shall approve. If local conditions admit of it the directors of any union high school district may, at their discretion, admit pupils residing in such union district, belonging to a grade lower than the high school grades, but no pupil belonging to a grade lower than the seventh shall ever be admitted to any such union high school. The teacher or teachers of such union high schools shall keep such records and make such reports as are required of teachers in the districts composing such union districts, and shall make such other reports as may be required by the Superintendent of Public Instruction.

Powers of
board.

SEC. 7. The board of directors and clerk provided for in the preceding section, shall, in all matters relating to the union high schools of such district, possess all the powers herein provided for other school district officers, including the power to recommend special levies of taxes for the purpose of furnishing transportation to and from school and other additional school facilities for the union district, or for the payment of teachers' wages, or for the purchase of fuel, supplies, globes, maps, charts, books of reference or other appliances for teaching, or for any or all of these purposes. They shall discharge all the duties and be governed by the laws herein provided for school district officers.

SEC. 8. Each union high school district shall be entitled to and shall receive apportionments from the state

annual school fund in the manner provided by law for the apportionments from the state annual fund to other school districts.

Apportionments.

SEC. 9. In case any resident taxpayer shall feel aggrieved at the formation of a union high school district, or at the refusal of the county superintendent to approve of its formation, he shall be entitled to an appeal as provided in this act.

Appeals.

SEC. 10. When five or more years have elapsed from the date upon which two or more school districts united for the purpose of forming a union high school district, any or all of the said districts may withdraw from the said union. No district, however, can be legally withdrawn until a majority of the votes cast at a special election called by the directors of the district which proposes to withdraw are in favor of withdrawal. The liabilities and assets of the union high school district shall be justly apportioned by the county superintendent between the district which has voted to withdraw and the remaining portion of the union high school district.

Dissolution.

ARTICLE VII.—MISCELLANEOUS.

SECTION 1. In case any school district shall have fewer than five children of school age or shall not have maintained at least the minimum amount of school required by law, during the past preceding school year, or in case of territory which is not now a part of any school district, or in which there are no children of school age, the county superintendent shall have power to attach such territory to some contiguous school district or school districts without being petitioned to do so: *Provided*, That if any school district so disorganized shall have any outstanding bonds, warrants or other indebtedness, the assessable property of such district shall be holden for the payment of such indebtedness.

Territory transferred without petition.

SEC. 2. In all cases involving the alteration of school district boundaries, the county auditor shall certify the action of the county superintendent or the county commissioners to the county assessor.

Assessor notified.

Size of district.

SEC. 3. In forming new districts, or transferring territory from one district to another, or changing boundaries of districts, no school district shall contain less than four sections of land, unless said district can support six months' school per year after such change of territory: *Provided*, That the county superintendent may establish a district with less than four sections on a petition signed by eighty per cent. of all the heads of families of the proposed district, by and with the consent of the Superintendent of Public Instruction.

[SUB.] CHAPTER 4.—OFFICERS—THEIR POWERS AND DUTIES.

ARTICLE I.—COUNTY SUPERINTENDENT OF SCHOOLS.

County superintendent.

SECTION 1. A county superintendent of schools shall be elected in each county of the state at each general election, whose term of office shall begin on the first Monday in September next succeeding his election and continue for two years and until his successor is elected and qualified. He shall take the oath of office and shall give an official bond in a sum to be fixed by the board of county commissioners. He may appoint a deputy, who shall qualify in the same manner as the county superintendent, and perform the duties of the office, subject, however, to revision by the county superintendent: *Provided*, That in any county having more than one hundred school districts, the county superintendent, with the approval of the board of county commissioners, may appoint such clerical assistance as may be necessary to perform the work of his office properly. The county commissioners of each county shall fill any vacancy that may occur in the office of county superintendent until the next general election.

Deputy.

Who eligible.

SEC. 2. No person shall be eligible to hold the office of county superintendent of schools who shall not at the time of his election or appointment have taught in the public schools of this state two school years of nine months each, and who shall not at the time of such election or appointment hold a first grade or higher certificate.

County auditor to put name on ballot, when.

SEC. 3. The county auditor shall not place the name of any person upon the official ballot as a candidate for the

office of county superintendent of schools unless such person shall have filed in the office of the county auditor, at least twenty days before the date at which the election is to be held, proof of having taught in the schools of the state one school year of nine months, together with a copy of the certificate required by this act.

SEC. 4. Each county superintendent shall have the power and it shall be his duty— Powers and duties.

First. To exercise a careful supervision over the common schools of his county, and to see that all the provisions of the common school laws are observed and followed by the teachers, supervisors and school officers.

Second. To visit the schools in his county, counsel with directors and teachers, and assist in every possible way to advance the educational interests of his county. Visits.

Third. To distribute promptly all reports, laws, forms, circulars, and instructions which he may receive for the use of the schools and the teachers, and to execute the instructions and decisions of the Superintendent of Public Instruction, as provided by law.

Fourth. To enforce the outline course of study adopted by the State Board of Education, or the course of study adopted by any other lawful authority, and to enforce the rules and regulations required in the examination of teachers.

Fifth. He shall prepare an outline course of study for the books adopted in districts of the third class when the needs of the county demand: *Provided,* That said outline course of study shall be in harmony with the course adopted by the State Board of Education of this state. Course of study.

Sixth. To keep on file and preserve in his office the biennial reports of the Superintendent of Public Instruction and of the county superintendent of his county.

Seventh. To keep in good and well-bound books, to be furnished by the county commissioners, records of his official acts. Records.

Eighth. To preserve carefully all reports of school officers and teachers, and at the close of his term of office

to deliver to his successor all records, books, documents and papers belonging to the office, taking a receipt for the same, which shall be filed in the office of the county auditor.

Administer
oaths.

Ninth. To administer oaths and affirmations to school directors, teachers and other persons, on all official matters connected with or relating to schools, but he shall not make or collect any charge or fee for so doing.

Record of
contract to
teach.

Tenth. To keep in a suitable book an official record of all persons under contract to teach in the schools of his county showing the number of the school district, the date of the contract, the names of the contracting parties, and the date of the expiration of the teacher's certificate and the grade thereof, the salary paid, and the date of commencing school, with the length of term in weeks, which data shall be immediately reported to the county auditor.

Report.

Eleventh. To make an annual report to the Superintendent of Public Instruction on the first day of August of each year, for the school year ending June 30, next preceding. The report shall contain an abstract of the reports made to him by the district clerks, and such other matters as the Superintendent of Public Instruction shall direct. And it shall be the duty of the county commissioners and county auditor in every county wherein the county superintendent is about to retire from office to withhold the warrant of his salary for the month of July until they shall have received a certificate from the Superintendent of Public Instruction that the annual report of such county superintendent has been made in a satisfactory manner; and it shall be the duty of the Superintendent of Public Instruction to transmit such certificate to the auditor immediately upon receiving such satisfactory report.

Record of
boundaries
of districts.

Twelfth. To keep in his office a full and correct transcript of the boundaries of each school district in the county, including joint districts. In case the boundaries of said districts are conflicting or incorrectly described, he shall change, harmonize and describe them, and at their next regular meeting he shall certify his action to the

county commissioners of his county, and shall file with them a complete transcript of the boundaries of all school districts affected by his action, which shall be entered upon the journal of said board and become a part of their records. The county superintendent shall, on request, furnish the district clerks with descriptions of the boundaries of their respective districts.

Thirteenth. To appoint school district officers in districts of the second and of the third class, to fill vacancies caused by death, resignation, failure to hold election, failure to qualify before the day for taking office, and absence from the district for a period of ninety days or failure to attend four consecutive meetings of the board without a reasonable excuse; to appoint school officers for any new districts: *Provided*, That when any new district is organized, such of the school officers of the old district as reside within the limits of the new one shall be such school officers of the new one, and the vacancies in the old district shall be filled by appointment.

Appoint district officers.

Fourteenth. To apportion school funds as provided in Chapter 5, Title III, of this act.

Apportion funds.

Fifteenth. To grant such temporary certificates and to conduct such examination of teachers and make such records thereof as may be prescribed by law: *Provided*, That he shall give ten days' notice of such examination by publication in some newspaper of general circulation published in his county, or if there be no newspaper, then by posting up hand bills, or otherwise.

Grant temporary certificates.

Sixteenth. To hold teachers' institutes according to law, and to conduct such other meetings of the teachers of his county as may be for the best interests of the schools.

Institutes.

Seventeenth. To hold each year, if he deem it advisable, one or more directors' meetings, the expense of which shall be audited and paid by the county commissioners: *Provided*, That such expense shall not exceed the sum of one hundred dollars in any one year.

Directors' meetings.

Eighteenth. To suspend any teacher who may be teaching in his county, against whom he files charges, and in

Suspend teachers.

case if such suspension he shall immediately notify the Superintendent of Public Instruction of his action, and shall clearly and fully state his reasons for said action.

To sell registers.

Nineteenth. To furnish registers and clerks' record books to all districts of his county upon a requisition from the school district clerk, and he shall receive pay for such books by warrants drawn against the said school district by the county auditor. At the end of each quarter of the fiscal year he shall turn over to the treasurer of his county all moneys derived from the sale of such books, together with a detailed statement of the sources from which said funds were derived. He shall also at the same time send a copy of said statement to the Superintendent of Public Instruction.

Twentieth. To forthwith enforce the provisions of section 14, article 7 [5], chapter 4, of Title III of this Code, and to notify the Superintendent of Public Instruction whenever any school board of such county shall fail to comply with the provisions required.

Teachers' and officers' reports.

SEC. 5. The county superintendent shall require all reports of school district officers, teachers and others to be made promptly as required by law. He shall see that the teacher's register is kept in accordance with law and the instructions of the Superintendent of Public Instruction, and that the records of the school district clerks are properly kept. He shall require the oath of office of all school district officers to be filed in his office, and shall furnish a directory of all such officers to the county treasurer, upon blanks furnished by the Superintendent of Public Instruction, as soon as the election or appointment of such officers is determined and their oaths placed on file.

Office open.

SEC. 6. He shall keep his office open for the transaction of official business such days each week (at least one day each week) as the duties of the office may require, and shall keep posted on the door of his office a notice of said office days and hours of such days.

Office at county seat.

SEC. 7. The county commissioners shall provide the county superintendent with a suitable office at the county

seat, and all necessary blanks, books, stationery, postage, printing and other expenses of his office shall be paid by the county treasurer out of the county funds upon a sworn statement made quarterly and allowed by the county commissioners: *Provided*, That, as to the necessity for the printing and issuance of circulars of information pertaining to the schools of his county, for the use of schools, school officers and teachers, the county superintendent shall determine.

SEC. 8. For all actual and necessary travel in the performance of their official duties and in attendance on the convention of county superintendents, called by the Superintendent of Public Instruction, county superintendents shall be allowed actual traveling expenses. Expenses.

ARTICLE II.—DISTRICT OFFICERS—GENERAL PROVISIONS.

SECTION 1. Directors of school districts shall be elected at the regular annual school elections. No person shall be eligible to the office of school director who is not able to read and write the English language. Directors.

SEC. 2. Every board of directors, unless otherwise specially provided by law, shall have power and it shall be its duty: Powers and duties.

First. To employ, for not more than one year, and for sufficient cause to discharge teachers, and to fix, alter, allow and order paid their salaries and compensation. The directors, except in districts of the first class, shall make with each teacher employed by them a written or printed contract, which shall be in conformity with the laws of this state, and every such contract shall be made in duplicate, one copy of which shall be retained by the school district clerk, and the other shall be delivered to the teacher after having been approved and registered by the county superintendent as by law required. Employ teachers.

Second. To enforce the rules and regulations prescribed by the Superintendent of Public Instruction and the State Board of Education for the government of schools, pupils and teachers, and to enforce the course of study lawfully prescribed for the schools of their district.

Third. To rent, repair, furnish and insure school houses, to employ janitors, laborers and mechanics.

Fourth. To cause all school houses to be properly heated, lighted and ventilated, and to cause all school premises to be maintained in a cleanly and sanitary condition.

Fifth. To purchase personal property in the name of the district and to receive, lease and hold for their district any real or personal property.

Suspend or
expel pupils.

Sixth. To suspend or expel pupils from school who refuse to obey the rules thereof, and they shall exclude from school all children under six years of age.

Free text
books.

Seventh. To provide free text-books and supplies to be loaned to the pupils of the school, when in their judgment the best interests of their district will be subserved thereby, and to prescribe such rules and regulations as they shall deem necessary to preserve such books and supplies from unnecessary damage.

Eighth. To require all pupils to be furnished with such books as may have been adopted by the lawful authority of this state, as a condition to membership in the schools.

Ninth. To exclude from schools and school libraries all books, tracts, papers and other publications of an immoral or pernicious tendency.

Night schools.

Tenth. To authorize the school room to be used for summer or night schools, or for public, literary, scientific, religious, political, mechanical and agricultural meetings, under such regulations as the board of directors may adopt.

Transportation
of
pupils.

Eleventh. To provide and pay for transportation of children to and from school when in their judgment the best interests of their district will be subserved thereby, but, in case transportation is provided, the directors shall not be compelled to transport children who live within two miles of the school house.

U. S. flag.

SEC. 3. Every board of directors of the several school districts of this state shall procure a United States flag, and shall display said flag upon or near each public school

building during school hours, except in unsuitable weather, and at such other times as to said board may seem proper.

SEC. 4. Every school district shall be liable for any debts legally due, contracted under the provisions of this act, and for judgments against the district, and such district shall pay such judgment or liability out of the proper school funds to the credit of the district. Debts.

SEC. 5. Any board of directors shall have power to make arrangements with adults wishing to attend school, or with the directors of another district for the attendance of such children in the school of either district as may be best accommodated therein: *Provided*, That in case such arrangements are not made, or children from school districts not adjoining desire to attend school in their district, they may charge reasonable tuition for such attendance: *Provided further*, That all such money collected by any school district officer for the use of the district shall, within thirty days after the date of its collection, be turned over to the county treasurer and placed to the credit of the district. Tuition.

SEC. 6. Any board of directors shall have power to make such by-laws for their own government, and the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this act, or the instructions of the Superintendent of Public Instruction or the State Board of Education. By-laws.

SEC. 7. The board of directors of each school district shall have custody of all school property belonging to the district, and shall have power, in the name of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold by vote of the district and all conveyances of real estate made to the district shall vest title in the district; said board, in the name of the district, shall have power to transact all business necessary for maintaining school and protecting the rights of the district. Convey property.

SEC. 8. It shall be unlawful for any director to have any pecuniary interest, either directly or indirectly, in the Director to have no interest in contracts.

purchase of school sites or in the erection of school houses, or in the warming, ventilating, furnishing, repairing or insuring of the same, or to be in any manner interested in or connected with the furnishing of supplies for the maintenance of schools, or to receive or accept any compensation or reward for services rendered as director or be employed for hire by said district or by any person having a contract with said district: *Provided*, That nothing in this section shall be construed to prevent a director elected as clerk from acting as purchasing agent for his district, or from receiving such compensation for performing the duties of school district clerk as are now or may hereafter be provided by law.

Limit of indebtedness.

SEC. 9. It shall be unlawful for any board of directors to contract indebtedness against their district in any one year in any sum or sums exceeding the aggregate of the amount due to said district during the year from state funds, the amount of school district tax levied for the year and the estimated receipts from other sources, unless said indebtedness be authorized by a vote of the electors of said district.

SEC. 10. Every school officer shall immediately deliver to his successor in office all books, papers and moneys pertaining to his office.

Oath.

SEC. 11. Every person elected or appointed to any office mentioned in this article shall, before entering upon the discharge of the duties thereof, take an oath or affirmation to support the constitution of the United States and the State of Washington, and to promote the interest of education, and to faithfully discharge the duties of his office according to the best of his ability. In case any officer has a written appointment or commission, his oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officers are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office as herein provided

shall, when properly made, be filed with the county superintendent of schools.

SEC. 12. Every school district director or clerk shall, on assuming the duties of his office, place his signature, certified to by some school district officer, on file in the office of the county auditor.

Signature to
be filed.

SEC. 13. The board of directors of any school district of this state may proceed to condemn and appropriate sufficient land for a school house site not to exceed five acres in extent; such condemnation proceedings shall be in accordance with the laws of this state providing for appropriating private property for public use.

Eminent
domain.

SEC. 14. Whenever any board of directors of school districts of the third class shall be authorized, by the electors of their district, to erect a school building, it shall be the duty of such board, before entering into any contract for the erection of any buildings, to obtain the approval of the county superintendent of the county in which the building is to be erected, of the plans and specifications for the building to be erected.

Buildings by
contract.

ARTICLE III.—DIRECTORS OF DISTRICTS OF THE FIRST CLASS.

SECTION 1. The directors of school districts of the first class shall consist of five members who shall be known as the board of directors. They shall be elected by ballot by the qualified electors of the district, and shall hold their office for a term of three years and until their successors are elected and qualified.

Board of
directors of
first class
districts.

When a district of the second or third class shall become a district of the first class the existing directors shall serve until the annual election preceding the expiration of the term for which they were elected and shall appoint two additional directors who shall serve until the next annual school election in said district. At such annual election three directors shall be elected, one for one year, one for two years and one for three years.

In case vacancies are to be filled, and the successor or successors are to be elected to fill an unexpired term or

Vacancies,
how filled.

terms, the ballot shall specify the term for which each such director is to be elected.

Time of election.

SEC. 2. The regular district election in each district of the first class shall be held on the first Saturday of December in each year, and such election shall be held in the manner provided in Article one, Chapter thirteen of this title.

Must qualify, when.

SEC. 3. All persons elected as members of the board of directors of districts of the first class shall, within ten days thereafter, appear before the officer authorized to administer oaths, take and subscribe the usual oath of office and deliver the same to the county superintendent of schools; in case any person elected shall fail so to do, his election shall be void and the vacancy occasioned thereby shall be filled by the board as hereinafter provided. The

Term of office.

term of office of persons so elected shall begin on the first Monday of the month of January following their election. At the first meeting of the members of the board in the month of January of each year, they shall elect a president and vice-president from among their number who shall serve for a term of one year or until their successors are elected and qualified. In the event of the temporary absence or disability of both the president and vice-president, the board of directors may elect a president *pro tempore* who shall discharge all the duties of president during such temporary absence or disability. They shall also at their regular meeting in the month of January in each year elect a secretary at such salary as they may deem just; said secretary shall not be a member of the board of directors, and may be removed by the board at any time.

Officers of board.

Vote, how taken.

SEC. 4. The election of the officers of the board of directors, the city superintendent, the secretary, teachers, janitors and all other officers of such district shall be by *viva voce* vote upon a call of the roll of all the members, and no person shall be declared elected unless he receives a majority vote of all the members of the board.

President to preside.

SEC. 5. It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe.

SEC. 6. It shall be the duty of the vice-president to perform all the duties of president in case of his absence or disability.

Vice
president.

SEC. 7. It shall be the duty of the secretary to be present at all the meetings of the board, to keep an accurate journal of the proceedings, to take charge of its books and documents, to countersign all warrants for school moneys drawn upon the county treasurer by order of the board; he may be authorized by the board of directors to purchase needed supplies for the schools, and shall also act as superintendent of buildings, and may be charged with the special care of the school buildings and other property of the district; he shall also perform such other duties as the board may direct.

Secretary.

SEC. 8. Before entering upon the discharge of his duties, the secretary of the board shall give bonds in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars (\$5,000), with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he will support the constitution of Washington and faithfully perform the duties of his office. He shall, from time to time, as he may be required by the board, make a complete and detailed record of his transactions as secretary, which shall be combined with his annual report, to be published in the manner determined by the board.

Bond of
secretary.

SEC. 9. The regular meetings of the board of directors shall be held monthly or oftener at such a time as the by-laws of the board may prescribe, but special meetings may be held from time to time as circumstances may demand, at the call of the president or on petition of a majority of the members of the board, and all meetings shall be open to the public unless otherwise specially ordered.

Meetings of
board.

SEC. 10. The board of directors shall maintain an office where all regular meetings shall be held, and all records, vouchers and other important papers belonging to the board may be preserved, and shall at all times be open for inspection of resident taxpayers.

Office.

SEC. 11. The moneys of such school districts shall be paid out only upon warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: *Provided*, That when, in the judgment of the board of directors, the warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by section 14 of this article, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn. And the secretary of said board shall be authorized to draw and sign said warrants.

SEC. 12. The board of directors shall have power to fill, by election, any vacancy which may occur in its body, but the election to fill such vacancy shall be valid only until the next regular district election, and the ballots and returns shall be designated as follows: "To fill unexpired term."

SEC. 13. A majority of all members of the board of directors shall constitute a quorum, but a less number in attendance at any regular meeting shall have, and a quorum at any special meeting shall have, power to compel the attendance of absent members, in such manner and under such penalties as the board may see fit to prescribe; and the absence of any member from four consecutive regular meetings of the board, unless on account of sickness or by resolution of the board, shall vacate his position in the board, which fact shall be passed upon by the board of directors and spread upon their records.

SEC. 14. All accounts shall be audited by a committee to be styled the "auditing committee," and no expenditure greater than \$300 shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of

(Tit. III, ch. 4, art. III.)

the board: *Provided*, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department; and the accounts and the records of said board shall at all times be subject to the inspection and examination of the county superintendent of said county, whose duty it shall be, annually, to examine said records and check said accounts, and report in writing to the board of county commissioners the nature and state of said accounts, and any facts that may be required concerning said records.

SEC. 15. When, in the opinion of the board, the cost of any furniture, supplies, building, improvements or repairs will equal or exceed the sum of \$300, it shall be the duty of the board to give due notice by publication, in at least one daily newspaper published within said district, and if there be no daily, then in one or more weekly papers, in three regular consecutive issues, of the intention to receive bids therefor; and the board shall determine the specifications for such bids which shall be public: *Provided*, That the board may, without giving such notice, make improvements or repairs to the property of such district through their shop and repair department.

Bids for supplies.

SEC. 16. Every board of directors of a school district of the first class shall, in addition to the general powers enumerated in Article 4, Chapter 4, of this title, have the power:

Powers of board.

First. To employ for a term of not exceeding three years, a city superintendent of schools of the district, and for cause to dismiss him; and to fix his duties and compensation.

City superintendent.

Second. To prescribe a course of study and a program of exercises which shall not be inconsistent with the course of study prepared by the State Board of Education for the use of the common schools of this state.

Course of study.

Third. To make necessary by-laws for more effectively carrying out the provisions of this act, and for facilitating the work of the board, as required by law.

By-laws.

Fourth. To adopt and enforce such rules and regula-

Night
schools.

tions as may be deemed essential to the well being of the schools, and to establish and maintain such grades and departments, including night, high, kindergarten, manual training and industrial schools, and schools or departments for the education and training of any class or classes of defective youth, as shall, in the judgment of the board, best promote the interests of education in that district.

Term.

Fifth. To employ, and, for cause, to dismiss teachers, and janitors; to determine the length of time over and above eight (8) months that school shall be maintained, such length of time to give a consecutive vacation of not less than three months between June first of any year and September 15th of the same year; to fix the time for annual opening and closing of schools, and for the daily dismissal of primary pupils before the regular time for closing schools.

Sixth. To employ attorneys, an architect, inspectors of construction, superintendents of buildings and janitors, and a superintendent of supplies and other employes, and to prescribe their duties and fix their compensation.

Assistant
superin-
tendents.

Seventh. To employ, and, for cause, dismiss one or more assistant city superintendents and to define their duties and fix their compensation.

Eighth. To employ, and, for cause dismiss, supervisors of instruction, and to define their duties and fix their compensation.

Repair shop.

Ninth. To maintain a shop and repair department, and to employ a foreman and the necessary help for the maintenance and conduct thereof.

Free text
books.

Tenth. To provide free text-books and supplies for all children attending school, when so ordered by a vote of the electors; or, if free text-books are not voted by the electors, to provide books for children of indigent parents, on the written statement of the city superintendent that the parents of such children are not able to purchase them.

Vaccination.

Eleventh. To require successful vaccination as a condition of school membership and to provide free vaccination to all who are unable to pay for the same: *Provided, however,* That a pupil showing a certificate by a reputable

(Tit. III, ch. 4, art. III.)

physician that the condition of such child or pupil is such that it would be injurious to its health and possibly dangerous to its life: *And provided further*, That a child or pupil showing certificate by a reputable physician to the effect that vaccination has failed to take effect, such child or pupil shall have access to the school and vaccination shall not be a condition to school membership to such child or pupil.

Twelfth. To require of the officers or employees of the district to give a bond for the faithful discharge of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district.

Surety bonds
to be given.

Thirteenth. To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

Secret
fraternities.

Fourteenth. To appoint a practicing physician, resident of the school district, who shall be known as the School District Medical Inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district; he or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the Board of Education and Board of Health.

Medical
inspector.

SEC. 17. The board of directors shall annually in May of each year, cause to be taken an enumeration of all persons between the ages of five and twenty-one years residing in the district, said enumeration shall be made on blanks or books provided by the district and shall contain such items as the Superintendent of Public Instruction shall require, including the following: The names of all persons, male and female, between the ages of five and twenty-one years residing in the district on the first day of May last past; the date of birth of such child; the names and residences of the parents or guardians of all such children. The census shall be taken by the secretary and such enumerators as he shall select, subject to the approval of the board or its

Census.

proper committee. The enumerators shall receive such compensation as the board may deem just. Each enumerator shall verify by oath the correctness of his report. The secretary of the district shall report to the county superintendent of schools on or before the 15th day of the ensuing July, the total number of males and the total number of females enumerated, together with a complete list containing the detailed information herein required of all defective youth residing in said district.

May sell
property.

SEC. 18. The board of directors shall have power to sell any of the property of the district which is no longer required for school purposes at public or private sale upon such terms as they may direct if the value thereof be less than two thousand dollars. The question of the sale of school property which may be found by the board of directors to be unsuitable for school purposes, and to be of greater value than two thousand dollars, shall be submitted to a vote of the electors of the district, either at a general election or at a special election called to be held for that purpose, as may be directed by the board of directors, and if a majority of the voters of the district voting thereon shall be for the sale of the property the directors may make the sale at public auction. The sale must be made for cash and good title will be conveyed by deed of the school district, executed by the president or the vice-president and the secretary of the board.

Tax levy.

SEC. 19. The board of directors shall annually, at a meeting next preceding the annual tax levy for state and county purposes, report to the board of county commissioners an estimate of the amount of funds, in addition to estimated receipts from the state and county apportionments for said district, required for the support of the schools, for the purchase of school sites, the erection and furnishing of school buildings, the payment of interest upon all bonds issued for school purposes, and the creation of a sinking fund for the payment of such indebtedness, if any, and the county commissioners are hereby authorized and required to levy and collect such additional amount of funds, the same as other taxes: *Provided*, That for the

(Tit. III, ch. 4, art. IV.)

purpose of the purchase of school sites and the erection of buildings the board of directors of a district of the first class in cities having a population of fifty thousand or less, may annually expend a sum not exceeding \$50,000; in cities having a population greater than 50,000 and less than 100,000, a sum not exceeding \$100,000; in cities having a population greater than 100,000 and less than 200,000, a sum not exceeding \$200,000, and for every additional 50,000 of population beyond 200,000 a further sum of \$50,000: *And provided further*, That when any greater expenditure shall be required for said purposes, in any one current school year, the question shall be submitted to a vote of the electors of the district at the time and place the board of directors may appoint. The board of directors shall, previous to such election, designate in one daily paper published in the district, if there be one, if not, then in such weekly papers as may be selected by the board, the place or places where such election shall be held, the locality of the site or sites required and the proposed cost of the buildings to be erected thereon.

Limits of expenditures.

SEC. 20. The tax levied for school purposes in districts of the first class shall in no one year exceed one (1) per cent of the assessed value of all the taxable property in the district: *Provided*, That when any greater expenditure shall be deemed necessary in any one current school year by the directors, the question shall be submitted to a vote of the electors of the district at the time and place appointed by the board of directors; and notice thereof shall be given as provided in section 19 hereof, which notice shall specify the amount of taxes proposed to be raised in excess of the said one (1) per cent., and if a majority of the electors voting thereon at said election shall be in favor of such additional tax, the entire amount so authorized shall be levied and collected. No levy, however, shall exceed two (2) per cent. of all the taxable property of said district.

Limit of tax levy.

ARTICLE IV.—DIRECTORS OF DISTRICTS OF THE SECOND CLASS.

SECTION 1. Directors of school districts of the second class shall consist of three members. They shall be elected

Number of directors.

Term. by ballot by the qualified electors of the district, and shall hold their office for a term of three years and until their successors are elected and qualified. In case vacancies are to be filled and a successor or successors to be elected to fill an unexpired term or terms, the ballot shall specify the term for which each director is to be elected.

Time of election. SEC. 2. The regular district election in each district of the second class shall be held on the first Saturday in March of each year, and such election shall be held in the manner provided in Article 1, Chapter 13, of this title.

Vacancies. SEC. 3. In case the electors of any district of the second class shall neglect or fail to elect directors as hereinbefore provided, the county superintendent may declare vacant the office of any director at the expiration of his term; and in case of a vacancy in the board of directors from any cause, the county superintendent, in conjunction with the other directors if there be two, shall fill such vacancy by appointment until the fourth Monday following the next annual election.

Must qualify. SEC. 4. All persons elected as members of the board of directors of districts of the second class shall, within ten days thereafter, appear before an officer authorized to administer oaths, take and subscribe the usual oath of office and deliver the same to the county superintendent of schools, and in case any person elected shall fail so to do, his election shall be void and the office shall be deemed vacant.

Commencement of term. Clerk. SEC. 5. The term of office of directors of districts of the second class shall begin on the fourth Monday next succeeding their election, on which day the directors shall meet at the hour of two o'clock p. m., and shall at once organize by electing one of their members as chairman of the board. They shall also elect a person to act as clerk who may or may not be a member of the board of directors. The chairman and clerk shall both immediately enter upon the discharge of their duties and shall serve for a period of one year: *Provided*, That if any such clerk shall fail to discharge his duties in accordance with law, the board

(Tit. III, ch. 4, art. IV.)

of directors may, at any time, remove such clerk and elect another person to fill the unexpired term.

SEC. 6. The regular meetings of the board of directors shall occur on the first Friday of each month, and they may hold such other special or adjourned meetings as they may from time to time determine, or as may be specified in their by-laws. Special meetings may be called by the chairman or by any two members of the board.

Meetings.

SEC. 7. Every board of directors of districts of the second class, in addition to the powers and duties enumerated in Article 4, Chapter 4, of this title, shall have the power and it shall be their duty to provide and pay for such materials, supplies and libraries, as may be necessary for the schools, and to purchase such maps, charts and other apparatus as may be deemed necessary for the use of their schools.

Additional powers.

SEC. 8. The board of directors shall annually at a meeting preceding the annual tax levy for state and county purposes, report to the board of county commissioners an estimate in detail of the amount of funds which will be required by their district for all purposes for the ensuing year, and the county commissioners are hereby authorized and required to levy and collect such amount, after deducting the estimated receipts from the state and county apportionment for said districts, said estimate to be furnished by the county superintendent of schools. The levy in any one year shall not exceed one (1) per cent. of the assessed value of all the taxable property of the district: *Provided*, That when any greater expenditure in any one current school year shall be deemed necessary, the question shall be submitted to a vote of the electors of the district at the time and place and in the manner provided for calling special elections. The notice of such election shall specify the amount of taxes proposed to be raised in excess of the said one (1) per cent. and if a majority of the electors voting thereon at said election shall be in favor of such additional tax, the entire amount so authorized shall be levied and collected. No tax, however, shall exceed two (2) per cent. of all the taxable property of said

To estimate funds required.

Limit of levy.

district. In case any board of directors shall fail to make and report the said estimate to the board of county commissioners on or before the first day of September, it shall be the duty of the county school superintendent to make such estimate, which will be accepted in lieu of the directors' estimate.

School sites.

SEC. 9. The board shall build or remove school houses, purchase or sell lots or other real estate when directed by a vote of the district to do so: *Provided*, That a school house already built on a site which has been selected by a majority vote of the legal school electors of a district shall not be removed to a new site without a two-thirds vote of the school electors voting at an annual or special election; nor shall a school house site that has been selected by a majority vote of the legal school electors, but upon which no school house has been built, be changed except by a two-thirds vote of the legal school electors voting at an annual or special school election as hereinbefore provided.

Time of
employing
teachers.

SEC. 10. No board of directors shall employ any teacher or teachers whose term or terms of service begin after the first Monday in August, until after the directors elected at the annual school election in said year shall have entered upon the discharge of their duties.

Superin-
tendent.

SEC. 11. In all districts of the second class the board of directors shall elect a superintendent, or a principal who shall hold a valid teacher's certificate. The said superintendent, or principal shall have supervision over the several departments of the school and the board of directors may contract with him for a term of one year, or a term of two years as may be deemed best in their judgment.

Minimum
term.

SEC. 12. In all districts of the second class the minimum school term for each year shall be six months.

ARTICLE V.—DIRECTORS OF DISTRICTS OF THE THIRD CLASS.

Number of
directors.

SECTION 1. Directors of school districts of the third class shall consist of three members. They shall be elected by ballot by the qualified electors of the district, and shall hold their office for a term of three years and until their

(Tit. III, ch. 4, art. V.)

successors are elected and qualified. At the first annual election in all new districts three directors shall be elected for one, two and three years respectively, and the ballot at such election shall specify the term for which each is to be elected. At each election after the first, one director shall be elected for a term of three years. In case vacancies are to be filled and a successor or successors to be elected to fill an unexpired term or terms, the ballots shall specify the term for which each director is to be elected.

Term of office.

SEC. 2. The regular district election in each district of the third class shall be on the first Saturday in March of each year, and such election shall be held in the manner provided in Article 1, Chapter 13, of this title.

Time of election.

SEC. 3. In case the electors of any district of the third class shall neglect or fail to elect directors as hereinbefore provided, the county superintendent may declare vacant the office of any director at the expiration of his term; and in case of a vacancy in the board of directors from any cause, the county superintendent shall fill such vacancy by appointment until the fourth Monday following the next annual election.

Vacancies.

SEC. 4. All persons elected as members of the board of directors of districts of the third class shall, within ten days thereafter, appear before an officer authorized to administer oaths, take and subscribe the usual oath of office and deliver the same to the county superintendent of schools, and in case any person elected shall fail so to do, his election shall be void and the office shall be deemed vacant.

Must qualify.

SEC. 5. The term of office of directors of districts of the third class shall begin on the fourth Monday next succeeding their election, on which day the directors shall meet at the hour of two o'clock p. m., and shall at once organize by electing one of their members as chairman and another as clerk, who shall each immediately enter upon the discharge of his duties, and shall serve for the period of one year: *Provided*, That if any such clerk shall fail to discharge his duties, in accordance with law, the board of di-

Commencement of term of office.

rectors may, at any time, remove such clerk and elect another of their number to fill the unexpired term.

Meetings.

SEC. 6. A regular meeting of each board of directors of districts of the third class shall be held on the first Saturday of February, May, August and November, and they may hold such other special or adjourned meetings as they may from time to time determine, or as may be specified in their by-laws. Special meetings may be called by the chairman or by any two members of the board.

Additional powers.

SEC. 7. Every board of directors of districts of the third class shall, in addition to the powers and duties enumerated in Article 4, Chapter 4, of this title, have power and it shall be their duty to provide and pay for such materials, supplies and libraries, as may be necessary for the schools, and to purchase such maps, charts and other apparatus as may have the written approval of the county school superintendent.

Principal.

SEC. 8. In all districts where the number of children of school age is sufficient to require the employment of more than one teacher, the board shall designate one of such teachers as principal, and such principal shall have general supervision over the several departments of such school. The school or schools in such districts shall be graded in such a manner as the directors thereof shall deem best suited to the conditions of such districts.

Superintendent.

SEC. 9. The directors of any districts wherein schools are maintained in two or more buildings shall elect a superintendent who may be a teacher in the schools of such district and such superintendent shall have general supervision over the schools in such district in accordance with the rules and regulations of the board of directors.

Report of principal.

SEC. 10. It shall be the duty of the principal or superintendent of any school maintaining two or more departments to report to the Superintendent of Public Instruction such facts relating to the grading, course of study, enrollment, attendance and other matters pertaining to such schools as he may require on blanks for that purpose.

When may employ teachers.

SEC. 11. No board of directors shall employ any teacher or teachers whose term or terms of service begin

(Tit. III, ch. 4, art. V.)

after the first Monday in August, until after the directors elected at the annual school election in said year shall have entered upon the discharge of their duties.

SEC. 12. The board of directors shall annually at a meeting preceding the annual tax levy for state and county purposes, report to the board of county commissioners an estimate in detail of the amount of funds which will be required by their district for all purposes for the ensuing year, and the county commissioners are hereby authorized and required to levy and collect such amount, after deducting the estimated receipts from the state and county apportionment for said districts. The levy in any one year shall not exceed one (1) per cent. of the assessed value of all the taxable property of the district: *Provided*, That when any greater expenditure in any one current school year shall be deemed necessary, the question shall be submitted to a vote of the electors of the district at the time and place and in the manner provided for calling special elections. The notice of such election shall specify the amount of taxes proposed to be raised in excess of the said one (1) per cent. and if a majority of the electors voting thereon at said election shall be in favor of such additional tax, the entire amount so authorized shall be levied and collected. No tax, however, shall exceed two (2) per cent. of all the taxable property of said district. In case any board of directors shall fail to make and report the said estimate to the board of county commissioners on or before the first day of September, it shall be the duty of the county school superintendent to make such estimate which will be accepted in lieu of the directors' estimate.

Estimate
funds
required.

Limit of
levy.

SEC. 13. The board shall build or remove school houses, purchase or sell lots or other real estate, when directed by a vote of the district to do so: *Provided*, That a school house already built on a site which has been selected by a majority vote of the legal school electors of a district shall not be removed to a new site without a two-thirds vote of the school electors voting at an annual or special election; nor shall a school house site that has been selected by a majority vote of the legal school electors, but upon which

School sites.

no school house has been built, be changed except by a two-thirds vote of the legal school electors voting at an annual or special school election as hereinbefore provided.

Plans and specifications for school houses.

SEC. 14. Whenever any board of directors shall be authorized by the electors of their district, to erect a school building, it shall be the duty of such board, before entering into any contract for the erection of any buildings, to obtain the approval of the county superintendent, of the plans and specifications for the building to be erected, including also the heating, lighting, ventilating and safety thereof.

ARTICLE VI.—DISTRICT CLERK.

Clerk.

SECTION 1. Every school district clerk in districts of the second and the third class shall within ten days after any change in the office of chairman or clerk, notify the county superintendent of such change in the organization of the board.

Duties.

SEC. 2. The duties of the district clerk shall be as follows:

Records.

First. To attend all meetings of the boards of directors; but if he shall not be present the board of directors shall select one of their number to act as clerk, who shall certify the proceedings of the meeting to the clerk of the district, to be recorded by him. He shall keep his records in a book to be furnished by the board of directors, and he shall preserve copies of all reports made to the county superintendent, and safely preserve and keep all books and documents belonging to his office, and shall turn the same over to his successor.

Receipts and expenditures.

Second. To keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the district clerk must present his record book for public inspection, and shall make a statement of the financial condition of the district and of the action of the directors, and such record must always be open for public inspection.

Census.

Third. To take annually in May of each year, an exact census of all children and youth between the ages of five and twenty-one years who were *bona fide* residents of

the district on the first day of May of that year. He shall designate the name and sex of each child, and the date of its birth; the number of weeks it has attended school during the school year, and its postoffice address. Parents or guardians must be required to sign a certified statement of the correctness of this report: *Provided*, That Indian children not living under the guardianship of white persons, or who have not severed their tribal relations shall not be included in said census. He shall also list separately all defective youth between the ages of five and twenty-one and give such information concerning them as may be required.

Fourth. To make to the county superintendent on or before the 15th day of July his annual report verified by affidavit upon blanks to be furnished by the Superintendent of Public Instruction. It shall contain such items of information as said Superintendent of Public Instruction shall require, including the following: A full and complete report of all children enumerated; the number of schools or departments taught during the year; the number of children, male and female, enrolled in the school, and the average daily attendance; the number of teachers employed, and their compensation per month; the number of days school was taught during the past school year, and by whom; and the number of volumes, if any, in the school district library; the number of school houses in the district, and the value of them; the aggregate value of all school furniture and apparatus belonging to the district, and the clerk shall keep on file a duplicate copy of said report.

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report.

Fifth. To carry out all orders of the board of directors made at any regular or special meeting, and to keep an accurate account of all expenses incurred by him in his district in keeping the school house in repair, in providing for necessary janitor work, and in providing school supplies, and for other expenses incurred by him on account of the school, which accounts must be audited by the board of directors, and paid out of the district school fund.

Accounts to
be audited.

Notices. *Sixth.* To give the required notice of all annual or special elections; also to give notice of the regular and special meetings of the board of directors as herein authorized.

Report name of teacher. *Seventh.* To report to the county superintendent at the beginning of each term of school the name of the teacher and the proposed length of the term, and to supply the teacher with the school register furnished by the county school superintendent.

Warrants. *Eighth.* To sign all warrants ordered to be issued by the board of directors and to report to the county treasurer on or before the first Monday of each calendar month all the warrants drawn by the directors of his district, giving date, number and fund on which each warrant is drawn.

Compensation. SEC. 3. The district clerk shall receive three dollars per day for the time actually and necessarily spent in taking the census and making his report, and he shall receive such other reasonable compensation for other services as the directors shall allow, said accounts to be audited and paid by the directors out of the funds of the district: *Provided,* That no account for services rendered by any district clerk shall be audited or allowed by any board of directors, or any warrant issued for the payment of any such accounts, until he shall have filed with the board of directors a certificate of the county superintendent of his county that all reports required by law have been properly made; and it shall be the duty of the county superintendent to make and transmit to the clerks of such districts as have made all the reports as required by law, on or before the last Saturday of the months of January, April, July and October of each year, the certificates required by this section.

ARTICLE VII.—TEACHERS.

Qualified teacher. SECTION 1. No person shall be accounted as a qualified teacher within the meaning of the school law, who is not the holder of a valid teacher's certificate or diploma issued by lawful authority of this state.

SEC. 2. Every teacher who shall be teaching at the close of the school year, or who shall teach the last term of any school year, in any school district, shall make a report to the county superintendent immediately upon the close of such school year or term for the entire time taught in said school district since the beginning of the school year. Copies of all reports made by teachers shall be furnished to the clerk of the district, to be by him filed in his office. No board of directors shall draw any order or warrant for the salary of any teacher for the last month of his or her service, until the reports herein required shall have been made, and the same approved by the county superintendent: *Provided*, That in all schools acting under the direction of the city superintendent the report of such superintendent shall be accepted by the county superintendent and the directors, in lieu of the teacher's reports, and that when there is no city superintendent, the report of the principal shall be accepted in lieu of the teacher's report.

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SEC. 3. Every teacher shall keep a school register in the manner provided for, and no board of directors shall draw any order or warrant for the salary of any teacher for the last month of his service in the school at the end of any term or year, until they shall have received a certificate from the district clerk countersigned by the county superintendent that the said register has been properly kept, the summaries made and the statistics entered, or until, by personal examination, they shall have satisfied themselves that it has been done.

Register.

SEC. 4. Teachers shall faithfully enforce in the schools the course of study and regulations prescribed, and shall furnish promptly all information relating to the schools which may be requested by the county superintendent.

Enforce course of study.

SEC. 5. No teacher shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless the holder of a legal teacher's certificate in full force and effect for the full period covered by said contract.

Employed only on written order.

Holidays.

SEC. 6. No teacher shall be required to teach school on Saturdays, Labor Day, Thanksgiving Day and the day immediately following Thanksgiving Day, Christmas, New Year's, Washington's Birthday, Memorial Day, or Fourth of July: *Provided*, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught.

Authority of teacher.

SEC. 7. Every teacher shall have the power to hold every pupil to a strict accountability in school for any disorderly conduct on the way to and from school, or on the grounds of the school, or during the intermission or recess: to suspend from school any pupil for good cause: *Provided*, That such suspension shall be reported to the directors as soon as practicable for their decision.

Principles to be taught.

SEC. 8. It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship.

ARTICLE VIII.—COUNTY AUDITOR.

Auditor.

SECTION 1. The duties of the county auditor herein-after defined shall relate only to districts of the third class unless otherwise expressly provided.

Accounts.

SEC. 2. The county auditors of the several counties of this state shall audit all accounts of the several school districts of their respective counties, the same as other accounts are audited with the other departments of the county.

Warrants.

SEC. 3. He shall countersign and register warrants for the payment of all teachers' salaries, supplies, apparatus, and accounts against the districts upon the written order of the majority of the members of the school board of each district.

Teacher must be qualified.

SEC. 4. No warrant shall be countersigned and registered for the payment of any teacher who is not qualified

within the meaning of the law of this state, nor unless a written contract be filed with the county superintendent in accordance with the provisions of the law.

SEC. 5. No warrants for maps, charts and apparatus shall be countersigned and registered until the order shall have been approved by the county superintendent.

Superintendent to approve orders.

SEC. 6. He shall not countersign and register the warrant in payment of the last month's salary of teachers in districts of the third class until he shall receive due notice from the county superintendent that the teacher's final report has been made to the said county superintendent.

Reports must be made.

ARTICLE IX.—COUNTY TREASURER.

SECTION 1. The county treasurer of each county of this State shall be *ex-officio* treasurer of the several school districts of their respective counties, and it shall be the duty of each county treasurer:

Treasurer's duties.

First. To receive and hold all moneys belonging to such school districts, and to pay them out only upon warrants legally issued.

Second. To certify to the county superintendent of common schools and the auditor of his county, quarterly of each year at the time of the state apportionment, the amount of all school funds in his possession subject to apportionment on the last day of the preceding month, which certificate shall specify the source or sources from which said moneys were derived.

Certify funds quarterly.

Third. To make annually, on or before the fifteenth day of July, a report to the county superintendent and auditor of his county, which report shall show the amount of school funds on hand at the beginning of the school year last past belonging to each school district; the amount of funds placed to the credit of each school district during the school year ending June 30, last past, and the sources from which said funds were derived; the amount of warrants registered during the year, the amount of funds disbursed upon warrants of each school district during the year, and for what purpose they were paid out; the amount of funds remaining in his possession at the close of the

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school year subject to be paid out upon warrants, and the fund to which said moneys belong; also the amount of all unpaid warrants or bonds appearing upon his register at the close of the school year.

Register of
warrants.

Fourth. He shall keep a register of all school district warrants presented to him for payment, which register shall show the number of the warrant, the date of issue and the date on which it was registered, the amount, and the purpose for which it was issued, to whom issued and to whom paid, and the amount of interest, if any, accruing on said warrant before payment. Whenever any school district warrant shall be presented to the county treasurer for payment if properly signed, he shall pay the same out of the proper fund of the district upon which it was issued, if there be funds in his possession for that purpose; but if there be no funds in his possession for that purpose he shall endorse upon the back of said warrant the words, "Presented and not paid for want of funds," together with the date of said endorsement, and thereafter said warrant shall bear interest as provided by law. All warrants shall be paid in the order of their presentation to the county treasurer; and it is hereby made the duty of the county treasurer to advertise, quarterly, all warrants which he is prepared to pay, in the same way in which he is required to advertise county warrants, and after the date fixed in said notice, warrants shall cease to draw interest.

Endorsement
on warrants.

Monthly
report.

Fifth. He shall prepare and submit to the secretary of each district of the first class, and to the clerk of each district of the second class in his county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh day of said month.

Canceled
warrants.

Sixth. After each quarterly settlement with the county commissioners the treasurer of each county shall submit a statement of all cancelled warrants of districts of the first or second class to the secretary or clerk of such district, which statement shall be verified to the county auditor. The cancelled warrants of each district shall be preserved separately and shall at all times be open to inspection by the

(Tit. III, ch. 4, art. XII [X].)

secretary or clerk or by any authorized accountant of such district.

Seventh. He shall remit all moneys derived from the sale of school registers, and school clerks' record books to the State Treasurer, as other moneys are required to be remitted, and the State Treasurer shall place such moneys to the credit of the general fund of the State.

ARTICLE XII[X]—COUNTY BOARDS OF EDUCATION.

SECTION 1. There shall be in each county of this state a county board of education, which shall consist of five (5) members, including the county superintendent of common schools, who shall be *ex-officio* chairman of the board; the other members of said board shall be appointed by the county superintendent on the first Monday of September following his election and shall hold office for a term of two years: *Provided*, That in the event of a vacancy in said board from any cause the county superintendent shall fill the same for the remainder of the school year by appointment.

Who constitute.

SEC. 2. Every member of the county board of education shall be the holder of a valid teacher's certificate for this state, and the members other than the county superintendent shall receive five dollars per day for the time spent in the performance of their official duties, and they shall also receive actual necessary traveling expenses, and the same shall be paid out of the funds of the county.

Compensation.

SEC. 3. Every county board of education shall have power and it shall be its duty:

Duties of board.

First. To grade the manuscripts of the pupils who take the state examination for the purpose of securing eighth grade, or grammar school certificates.

Second. To adopt text books for use in the public schools of school districts of the second division, as defined in Chapter 7, Title 3 [III] of this act, of said county.

Text books.

Third. To assist the county superintendent in the preparation of manuals, courses of study, rules and regulations for the circulating libraries, and to perform such other duties as may be required by him.

Rules. *Fourth.* To adopt rules and regulations for the schools of the county, not inconsistent with the Code of Public Instruction or with the rules and regulations of the State Board of Education or the Superintendent of Public Instruction.

[SUB.] CHAPTER 5.—APPORTIONMENTS.

Apportionments quarterly. SECTION 1. The Superintendent of Public Instruction shall apportion to the several counties of the state on or before the 15th day of September, December, March and June of each year such current state school funds as have been certified by the State Auditor to be in the hands of the State and county Treasurers.

Basis of apportionment. SEC. 2. For the purpose of the apportionment the Superintendent of Public Instruction shall base his calculations upon the days' attendance as shown by the several county superintendents' last annual reports filed in his office.

2,000 days' attendance. SEC. 3. The basis of the apportionment to each county shall be on the total days of attendance in the several districts of the county: *Provided*, That each school district shall be credited with at least two thousand days' attendance.

Attendance, where credited. SEC. 4. If a pupil attends any public school of the state, outside of his resident district, up to the ninth grade, during the time the resident district maintains a school of the grade in which the pupil belongs, the attendance shall be credited to the district in which the pupil resides, unless mutually agreed otherwise by the directors of the two districts.

Notice of non-residence attendance. SEC. 5. The clerk of any district whose resident pupils are attending school in another district may notify the clerk of the district where such pupils attend, when the school of said pupils' resident district will be in session, and of the grades that will be maintained, and he must file a duplicate copy of said notice with the county superintendent. He must name the pupils in his notice, and it shall be the duty of the district clerk so notified, on or before the thirtieth day of June, to certify to the clerk of the resident district the actual number of days' attendance

at school of such pupils during the time that a school of the grade to which the pupil or pupils properly belong was in session in their resident district. And in case said clerk shall fail or refuse to furnish such information to the clerk of the resident district, then it shall be the duty of the county superintendent to grant to the district to which the attendance belongs the maximum number of days claimed by the clerk of the said district. Without the notice herein required by the clerk of the resident district, all claims to attendance will be forfeited.

SEC. 6. It shall be the duty of the principal, or head of every private school on or before the 30th day of June of each year to report to the clerk of the proper school district the actual days' attendance in said private school of resident pupils of the said school district. The report shall include such pupils only as are between six and twenty-one years of age, and whose parents or guardians actually reside in the school district where the private school is located.

Private schools to report.

SEC. 7. For purposes of apportionment of current state school funds the attendance of all pupils in high schools shall be counted as one and one-half times the actual attendance; but in order to receive the benefit of this provision no tuition can be charged any high school pupil regardless of where his residence may be in this state, if there be no high school in the pupil's resident district.

Attendance at high school counted one and a half.

SEC. 8. For purposes of apportionment of current school funds the attendance of pupils in parental schools where food and lodging are furnished the pupils shall be counted as three times the actual attendance, and in schools for defectives five times the actual attendance shall be allowed.

Attendance at parental school counted three times.

SEC. 9. In night schools authorized by the laws of this state an evening's attendance shall be counted as a half-day's attendance without maximum age limit.

Evening attendance.

SEC. 10. In addition to the regular quarterly apportionments as provided by law, the Superintendent of Public Instruction shall apportion annually to each high school

Bonus to
high school.

the sum of one hundred (\$100) dollars for each grade above the grammar grades maintained in such school. In order to receive the bonus of one hundred dollars the district must have maintained a high school in fact during the preceding school year, and must have maintained an average daily attendance in each grade of at least four students.

Apportion-
ment to dis-
tricts.

SEC. 11. It shall be the duty of the county superintendent to apportion within ten days after receiving the certificate of apportionment of the Superintendent of Public Instruction, such state annual school funds as are subject to apportionment to the several districts entitled to receive the same in accordance with the instructions of the Superintendent of Public Instruction. He shall also at the same time apportion in the manner provided in Sec. 7, chapter 9, Title III, of this act, the county school funds that may be in the hands of the county treasurer of his county. He shall certify the result of the apportionments to the county treasurer, and also notify each clerk of the amount apportioned to his district.

Additional
attendance
allowed,
when.

SEC. 12. When the school board of any district is obliged to close the schools by order of the board of health or health officer on account of the prevalence of infectious disease, or when it is impossible to maintain the school on account of any circumstances over which the school board has no control, the State Superintendent of Public Instruction may, at his discretion, allow such district its regular apportionment of funds for the time so lost, the amount to be determined on a basis of the average daily attendance in the district for the year in which such discontinuance occurs: *Provided*, That in no such case may any district draw money for a period of time longer than fifteen school days.

SEC. 13. Whenever any school board shall neglect or refuse to comply with the provision of section 14, article 7 [5], chapter 4, of Title III of this Code, it shall be the duty of the county superintendent to withhold the entire apportionment accruing to said district until such time as full compliance with requirements thereof has been made.

[SUB.] CHAPTER 6.—INSTITUTES.

SECTION 1. Whenever the number of school districts in any county is twenty-five or more, the county superintendent must devote at least five days to institute work, three of which must be consecutive. The county superintendent must arrange for the remaining two days to be spent in district meetings, visiting days, or in any other manner which he believes will be of greatest benefit to his teachers. Institutes.

SEC. 2. County superintendents of contiguous counties may by mutual arrangements hold a joint institute, the expenses to be shared in proportion to the departments (rooms) maintained in the counties as shown by the county superintendent's last annual report. Joint institutes.

SEC. 3. Every teacher holding a valid certificate, and employed in a public school in a county where an institute is held, must attend such institute during its whole time. Who must attend.

SEC. 4. In districts employing more than one hundred teachers, the city superintendent may, in his discretion, hold a teachers' institute of two, three, four or five days in such district, said institute when so held by the city superintendent to be in all respects governed by the provisions of this code relating to teachers' institutes held by county superintendents. District institutes.

SEC. 5. Each county superintendent shall, at the annual directors' meeting for his county, determine upon a time for holding the teachers' institute, which shall, as nearly as may then be determined, be during the week next preceding the beginning of the fall term of school: *Provided*, That should any district employ a teacher during the then current school year who had attended the institute, such teacher shall be paid and the district shall be credited with the attendance in the same manner as provided for in the next section. Directors' meetings.

SEC. 6. When the institute is held during the time when a teacher is employed in teaching, his pay shall not be diminished by reason of his attendance, when certified to by the county superintendent, and in addition to the actual attendance earned by the district, an additional attendance Compensation of teacher continued.

shall be credited to the district, determined by multiplying the average daily attendance for the term by the number of days the teacher attended the institute.

Institute
fund.

SEC. 7. All examination fees shall be paid by the county superintendent or the city superintendent to the county treasurer, who shall place them to the credit of the proper institute fund hereby created.

Appropriations
to
fund.

SEC. 8. Each county superintendent or city superintendent shall, prior to the holding of the annual teachers' institute, make an estimate of the necessary expenses thereof; and the county commissioners must, thereupon, and prior to the date of holding said institute, place at the disposal of the proper superintendent out of the county current expense fund such an amount, not to exceed \$200.00, as in addition to the amount then in the hands of the county treasurer in the institute fund, will meet the superintendent's estimate.

Expenses
of
institute.

SEC. 9. The county or city superintendent must keep an accurate account of the actual expenses of the institute with vouchers for same and make a complete report to the county auditor, which shall be placed on file in his office as a part of the regular files.

[SUB.] CHAPTER 7.—TEXT BOOKS.

Districts
classified.

SECTION 1. For the purpose of this chapter the school districts of the State of Washington shall be and they are hereby divided into and shall consist of two divisions, viz.: School districts of the first division and school districts of the second division, and the school districts of the first division shall consist of all school districts maintaining a four-year accredited high school. Every other school district of the state shall be a school district of the second division.

District
commission.

SEC. 2. That the text books for use in the public schools of each school district of the first division shall be selected by the text book commission of such school district. The text book commission of such school district shall consist of five persons, including the city superintendent, or, if

there be none, then the principal of the high school, who shall be *ex-officio* chairman of the commission, and two members of the city board of school directors of the districts, to be designated by such board, and one of whom shall be *ex-officio* secretary of the commission, and two lawfully qualified teachers engaged in teaching in such school district, to be appointed by the board of school directors of the district. Each member of the text book commission shall take the oath to faithfully discharge the duties of his office. The term of office of the text book commission shall be one year and until their successors are appointed and qualified. Said text book commission shall have power to select text books for use in the public schools of the school district for which it is appointed, and it shall be the duty of the board of directors to require the introduction and use of all text books lawfully adopted for use in their respective districts. The text books selected by the commission shall cover such branches and studies as are required to be taught by the lawfully adopted course of study, and as are required to be taught by the laws of the State of Washington. Any text book selected for use in the schools of the district shall continue in use until displaced or replaced by order of the text book commission, and no text book selected or introduced into the schools by the text book commission shall be displaced or replaced within three years from the date of its introduction into the schools. But nothing in this act or any other law shall be so construed as to prevent the text book commission of any school district of the first division from using or introducing at any time, any supplementary or additional books which may from time to time be deemed necessary in order to maintain the highest standard of excellence in the schools of the district.

Text book
to be used
three years.

SEC. 3. The text book commission of each school district of the first division shall, between the first day of April and the first day of July of each year, when any text books are to be selected by such commission, publish an advertisement in a newspaper of general circulation published in the county, or if there be no such newspaper published in the county, then in any newspaper published and

Notice of in-
tention to
select.

having a general circulation in the state, to the effect that the commission will, on a day therein named, select text books for the use of the schools in such districts, and invite proposals for the furnishing of such books, the proposals to state an exchange and a retail price at which the proposer will furnish books for the schools of the district during the period of their use in such schools.

Course of
study.

SEC. 4. It shall be the duty of the superintendent or principal of each school in all districts of the first division to prepare and issue, under the direction of the board of school directors of the district, a course of study for his schools, which course of study must, before going into effect, be approved by the State Superintendent of Public Instruction. Such course of study shall conform to the manual, or general outline, prescribed by the State Superintendent of Public Instruction, and all examinations and promotions under the same shall be based upon the minimum credits in each study, as prescribed by the State Superintendent of Public Instruction in his general manual or outline course of study.

Notice of
intention to
select text
books.

SEC. 5. The county board of education in each county of this state shall, between the first day of April and the first day of July of each year when any text books are to be selected, publish and advertise in a newspaper of general circulation in said county to the effect that said county board of education will on a day named therein select text books for the use of all the school districts of the second division in said county, and invite proposals for the furnishing of such books, the proposals to state an exchange price, a wholesale price and a retail price at which the proposer will furnish books for the schools of all districts of the second division during the period of their use in the schools of such districts. Any text books selected for use in the schools shall remain in use until the same shall be displaced or replaced by the county board of education; but no book selected and introduced into the schools shall in any event be changed within five years from the date of introduction. The county board of education or the officers of any school district of the second division, shall have

Books to be
used five
years.

power to select, introduce and use additional and supplementary books at any time, when they deem it necessary, in order to establish and maintain the highest standard of excellence in their schools. The Superintendent of Public Instruction shall have power and it shall be his duty to prescribe a uniform course of study for all schools of the second division: *Provided*, That any publisher or publishers of school books furnishing books under the provisions of this act to any district or districts of this state shall deposit with the Superintendent of Public Instruction a copy of any and all books so furnished.

SEC. 6. Whenever any text book adopted by lawful authority is sold within any county at a price greater than the retail price agreed upon at the time of the adoption, it shall be the duty of the company having the contract to furnish any such book, to furnish the county superintendent upon his written demand a sufficient number of copies of said book to supply the schools in the districts in which the price charged is greater than the agreed price. It shall be the duty of the county superintendent to handle said books without charge and to remit to the book company the full retail price of such books after deducting the necessary charges for all transportation.

Superintendent to sell text books.

SEC. 7. Each member of the text book commission in school districts of the first division shall receive as compensation for his services, the sum of three dollars for each day during which he is in attendance upon the meetings of the text book commission, and such compensation shall be paid from the funds of the school district.

Compensation of commissioner.

SEC. 8. In all joint districts of the second division, that is to say, in all school districts of the second division situated in more than one county, such joint school district shall, for the purpose of this act, be held and deemed to be a school district within the said county in which the school house is located, and for all purposes of this act it shall be under the control and jurisdiction of the county board of education of that county.

Text books for joint districts.

[SUB.] CHAPTER 8.—COUNTY CIRCULATING LIBRARIES.

LIBRARY. SECTION 1. The county superintendent of each county of this state may establish a circulating library for the use and benefit of the pupils of the common schools of such county.

TAX LEVY FOR. SECTION 2. At the time fixed for the levy of the county tax, the county commissioners of each county may levy a tax sufficient to carry into effect the provisions of section one of this chapter: *Provided*, That said tax shall not exceed one-tenth of one mill on each dollar of the assessed valuation of the said county. The proceeds of said tax shall, when collected, constitute a circulating school library fund for the payment of all bills created by the purchase of books and fixtures by the county superintendent.

BILLS FOR, HOW ALLOWED. SECTION 3. The county commissioners shall allow no bill or bills against said fund until it shall have been certified to be correct by the county superintendent.

SECTION 4. The county superintendent shall purchase no books or fixtures for such circulating library until there shall be to the credit of the circulating school library fund sufficient money to pay the purchase price thereof.

LIMIT ON PURCHASE. SECTION 5. No book shall be placed in a county circulating library unless it has been recommended by the State Board of Education, or the Superintendent of Public Instruction.

RULES. SECTION 6. It shall be the duty of the county superintendent to purchase the books and to enforce such rules and regulations for their distribution, use, care and preservation as he may deem necessary.

[SUB.] CHAPTER 9.—SCHOOL REVENUES.

FUND PERMANENT. SECTION 1. The principal of the common school fund shall remain permanent and irreducible. The said fund shall be derived from the following named sources, to-wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the

SOURCE OF.

purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of timber, stone, minerals or other property from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating timber, stone, minerals and other property from school and state lands, other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five per centum of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of Congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided by legislative enactment.

SEC. 2. All losses to the permanent common school or any other state educational fund, which shall be occasioned Losses. by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six per cent. annual interest shall be paid.

SEC. 3. The interest accruing on said permanent school fund, together with all rentals and other revenues derived therefrom, and from lands and other property devoted to the common school fund, shall be exclusively applied to the Current fund. current use of the common schools.

In addition thereto it shall be the duty of the state board of equalization, annually, at the time of levying taxes for state purposes, to levy a tax sufficient to produce a sum Tax levy. which, when added to the amount of money derived from

interest and other income from the state permanent school fund during the preceding school year, shall equal \$10.00 for each child of school age residing in the state as shown by the last reports of the several county superintendents to the Superintendent of Public Instruction: *Provided*, That said tax shall not exceed five (5) mills on the dollar.

The funds provided by this section shall be known as the current state school fund.

SEC. 4. The tax levy authorized by section 3 of this chapter, shall be certified to the several county auditors in the same manner as other state taxes are required to be certified, and shall be collected and retained as other public funds, by the county treasurers, until paid out in the manner prescribed by law.

Amount col-
lected to be
certified.

The county treasurer shall certify to the state auditor the amount of money so collected. It shall be the duty of the state auditor, within thirty (30) days after the date at which the county treasurers are required to transmit state funds to the state treasurer, to certify to the Superintendent of Public Instruction the amount of all current state school funds in the hands of the state treasurer and county treasurers subject to apportionment. In the event that there shall be an excess over the amount apportioned in the hands of the county treasurer, the amount shall be transmitted forthwith to the state treasurer. In the event that there shall not be in the hands of the county treasurer sufficient to pay the amount apportioned to his county, the deficiency shall be paid by the state treasurer.

County tax. SEC. 5. The county commissioners of the several counties of the State of Washington shall annually, at the time of making the tax levy for county purposes, levy a tax on all the property subject to taxation in their county, sufficient to produce the sum of ten dollars for each child of school age therein, as is shown by the certificate of the county superintendent hereinafter mentioned: *Provided*, That such tax on said property shall in no case exceed five mills on each dollar, at the assessed valuation;

such tax to be used for the support and maintenance of the public schools in such county.

SEC. 6. It shall be the duty of the county superintendent of each county in the State of Washington, between the fifteenth day of August and the first day of September of each year, to file with the county auditor of this county a certificate showing the number of children of school age in each district in his county, as is returned to him by the several school districts therein, and said certificate shall be the basis upon which said tax levy, as mentioned in section 5 hereof, shall be made by the county commissioners of the several counties of the State of Washington.

Basis for levy.

SEC. 7. At the same time that the state school funds are apportioned to the different districts, as provided in chapter 5, title 3[III] of this act, the whole of the money derived under section 5 of this chapter shall be apportioned as follows: Two-thirds thereof shall go to the different districts of each county in proportion to the number of days of attendance in each district for the preceding school year, and one-third thereof shall go to the different districts of each county in proportion to the number of teachers employed in such district for the preceding school year: *Provided*, That where a district employed a second or additional teacher for a term less than eight months such district shall receive one-eighth of an apportionment for each teacher for each month she is actually employed.

Funds. how apportioned.

SEC. 8. In addition to the school revenues provided by sections 3 and 6 of this chapter, for the support of the common schools of this state, a tax may be levied upon all taxable property in each school district of this state, in the manner provided by law, and the funds thereby created shall be known as the "School District Fund."

District levy.

The "School District Fund," together with the apportionment from the "Current State School Fund" and the county apportionments, shall constitute the "General School Fund" of each school district.

SEC. 9. Except as otherwise provided by law, all sums of money derived from fines imposed for violation of orders

Fines to be paid into school fund.

of injunction, mandamus and other like writs, or for contempt of court, and the net proceeds of all fines collected within the several counties of the state for breach of the penal laws, and all funds arising from the sale of lost goods and estrays, and from penalties and forfeitures, shall be paid in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued, and shall be by him transmitted to the State Treasurer, who shall place the same to the credit of the current state school fund. He shall indicate in such entry the source from which such money was derived.

[SUB.] CHAPTER 10.—BONDS.

Bonds.

SECTION 1. The board of directors of any school district, provided for in this act, or hereafter created in this state may borrow money and issue negotiable coupon bonds therefor to any amount not to exceed five (5) per cent. of the taxable property in such district, as shown by the last assessment roll for county and state purposes previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes, for the purpose of funding outstanding indebtedness, or bonds heretofore issued, or issued under the provisions of this act, or for the purchase of school house site or sites, building one or more school houses and providing the same with all necessary furniture, apparatus or equipment, or for any or all of these purposes, when authorized by a vote of the district so to do as provided in section 2 of this chapter: *Provided*, That the bonds so issued shall bear a rate of interest not to exceed six per cent. per annum, interest payable annually or semi-annually, payable and redeemable at such time as may be designated in the bonds, but not to exceed twenty (20) years from date of issue.

Refunding
bonds.

SEC. 2. That the question whether bonds shall be issued, as provided in section 1 of this chapter, shall be determined at an election to be held in the manner prescribed by law for holding annual school elections. Notice therefor shall

Bond
election.

state the amount of bonds proposed to be issued, time they are to run, and purpose for which the money is to be used. The ballots must contain the words "Bonds, yes," or "Bonds, no." If a majority of the votes cast at such election are "Bonds, yes," the board of directors must issue such bonds: *Provided*, That the amount of bonds to be issued, together with any outstanding indebtedness of the district, exceeds one and one-half per cent. of the taxable property in said district, then three-fifths of the votes cast at such election must be "Bonds, yes," before the board of directors are authorized to issue said bonds. The bonds shall be in such form as the board of directors may prescribe, and shall, with the coupons, be signed by the board of directors and countersigned by the clerk of the school district: *Provided*, That in school districts of the first class said bonds with the coupons, shall be signed in the corporate name of the district by the president of the board of directors thereof and attested by the secretary of the board, except that said coupons may bear the lithograph signatures, only, of the said president and secretary; in districts of the first class the corporate seal of the said district shall be affixed to each bond by the secretary thereof.

SEC. 3. When authorized and empowered to issue bonds, as provided in sections 1 and 2 of this chapter, the board of directors shall, within thirty days after the date of election, certify the result to the county treasurer to which said school district belongs, who shall publish notice of the sale of such bonds, in at least one weekly newspaper published at the county seat, if there be one, for four consecutive issues, and publish such other notices as the board of directors may require. Said notices must give the amounts of bonds to be sold, the time to run, where payable, the option, if any, of the district to redeem, also naming the hour and day for considering bids, and asking bidders to name price and rates of interest at which they will purchase such bonds or any of them. Such bonds shall be issued in denominations of not less than one hundred nor more than one thousand dollars (\$1,000) and shall contain upon their face the date and series of issue, rate of in-

Notice of
issue.

Denomina-
tion.

terest, where payable, time to run, option, if any, of district to redeem, and the printed or lithographed statement that said bond is issued under the provisions of this act, and that the whole indebtedness of said district does not exceed the constitutional limit. Each bond so issued must be registered by the county treasurer in a book to be kept for that purpose, which must show the number and such data as is necessary to secure a complete record of such bond, the series and amount of such bond, the person to whom the same is issued, the number of the district issuing, together with the names of directors signing the same; and the said bond shall be endorsed by the treasurer, with his name and a full statement of the name of the person to whom sold, and when issued, together with the number and series of said bond: *Provided*, That in the case of joint school districts the bond or bonds shall be registered by the treasurer of each county in which any part of such joint school district shall lie.

Bids opened. SEC. 4. At the time named in said notice it shall be the duty of said board of directors to meet with the county treasurer at his office, and with him open said bids, and sell said bonds or any portion thereof to the person or persons making the most advantageous offer: *Provided*, The bonds shall never be sold below par, and the board of directors may reject any and all bids, and at any time within two years of the election at which authority was granted to issue and sell said bonds, the board of directors may proceed to re-advertise the sale of such bonds or any portion thereof as often as may be necessary, until the whole thereof shall be sold; and such board may also require all persons bidding for such bonds, except the State of Washington, to deposit one per centum of the par value of the bonds bid for on depositing with the treasurer their bids, and if the bidder fails to take and pay for the bonds for which he bid, in case of their sale to him, the amount so deposited shall be forfeited to the school district; otherwise to be returned to such bidder, and a resale of such bonds so refused to be taken may be made as if the bid for the same had been rejected. Upon the sale

of the bonds, the board of directors shall, within ten days, or as soon thereafter as practicable, deliver the bonds, properly executed, to the county treasurer, taking his receipt therefor. The county treasurer shall, upon payment of the price agreed upon, deliver the same to the person or persons to whom sold, and place the moneys arising from such sale to the credit of the general school fund of the district. Fees for advertising shall be deducted from the proceeds: *Provided*, That if the board of directors and the person or persons to whom the bonds are sold agree that the delivery of said bonds shall be in installments, the county treasurer shall hold said bonds, and deliver to purchasers only on written order of the board of directors to deliver at specified time the bonds designated by number and series.

Delivery of
bonds.

SEC. 5. If bonds issued under this chapter are not sold as herein provided, the holders of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the date of the election may exchange said warrants at the face value thereof and accrued interest thereon for coupon bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district.

Warrants
exchanged
for bonds.

SEC. 6. For the purposes of this chapter a joint school district shall be deemed as belonging to the county in which the school house is located, if there be a school house, and if there be no school house, then it shall be deemed as belonging to the county in which the district owns a school house site that has been lawfully selected by the electors of the district.

Joint
districts.

SEC. 7. The county commissioners must ascertain and levy annually, in addition to the school district tax, the tax necessary to pay the interest upon such bonds as it becomes due, and at the expiration of one-half of the time for which said bonds are to run, and annually thereafter, until full payment of said bonds is made, they may, if deemed advisable, levy, in addition to the tax

Interest tax.

required to pay the interest, such amount for sinking fund to meet the payments of said bonds at maturity, to be determined by dividing the amount of bonds outstanding by the remaining number of years to run, and the fund arising from such levy shall be kept as the bond redemption fund of said district, and each of said tax levies shall be a lien upon the property of said district, and must be collected in the same manner as the taxes for other school purposes: *Provided*, That the county treasurer, when authorized to do so by the board of directors of any school district may invest any accumulated sinking fund of said district in school, county or state warrants of the State of Washington, and all profits accruing from such investment, and the funds so invested, shall revert to the sinking fund of said district, and the county treasurer shall be custodian of all warrants purchased by and with the said sinking fund, until the same are redeemed: *And provided further*, That the county treasurer, when authorized to do so by the board of directors of any school district, may purchase and redeem any of the outstanding bonds of said district, paying for said bonds out of the accumulated sinking fund of the district.

Sinking fund
invested.

SEC. 8. In case of a joint school district, the county commissioners of each and every county in which any part of such joint district shall lie, shall levy a tax as hereinbefore provided in section 6 of this chapter, and the treasurer of each county in which the school house or school house site is not situated shall at least five days before the time at which said bonds or the interest thereon must be paid, according to the conditions of the issuance and sale thereof, transmit to the treasurer of the county in which the school house or school house site is situated (and to which the joint school district is construed to belong), all moneys in his possession derived from the tax provided for in this chapter; and the county treasurer receiving such money shall receipt in duplicate to the treasurer or treasurers remitting such funds for such money; and he shall also place the amount or amounts

Levy in
joint dis-
tricts.

so received to the credit of the special bond fund or funds of the joint school district to which it properly belongs.

SEC. 9. The county treasurer must pay out of any moneys belonging to the credit of the fund of the school district created by section 6 hereof, the interest upon any bonds issued under this act by such school district when the same becomes due, at such place as may be designated in the coupons attached to said bonds, or upon the presentation at his office of said coupons, which must show the amount due and the number and series of the bond to which it belongs, and all coupons so paid must be immediately reported to the school directors.

Interest paid.
how.

SEC. 10. The school directors of any district must cause to be printed or lithographed, at the lowest rates, suitable bonds, with coupons attached, when the same become necessary, and pay therefor out of the moneys in the county treasury to the credit of the school district.

Bonds litho-
graphed.

SEC. 11. Whenever any school district in this state shall have heretofore, under any of the acts of the territorial or state legislatures then in force, lawfully issued any bonds, and the amount of said bonds so issued and negotiated did not, at the time of their issue, exceed the sum of five per centum of the taxable property of the said school district, it shall be lawful for the said school district to issue and exchange its bonds at a rate of interest not greater than that borne by the original issue of bonds, par for par, without any further vote of the school district than that theretofore had or required by existing law at the time of their issue, and said bonds, shall in all respects, conform to and be governed by the other provisions of this act.

Re-issue of
bonds.

SEC. 12. Whenever any bonds lawfully issued by any school district under the provisions of this act shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power to fund the same by issuing coupon bonds conformable to the requirements of this act and exchange the same par for par, for the outstanding bonds as aforesaid, without any further vote of the school district: *Provided*, That such bonds shall be issued in

Re-issue
without vote.

denominations of not less than one hundred dollars nor more than one thousand dollars, shall be redeemable within twenty years from date of issue, and shall draw a rate of interest not to exceed six per centum per annum.

Notice of
ownership to
be given.

SEC. 13. Every holder of any of the bonds so issued as provided in this act, shall within ten (10) days after he shall become the owner or holder thereof, notify the county treasurer of the county in which such bonds are issued of his ownership, together with his full name and post-office address, and the county treasurer of said county shall, in addition to the published notice hereinafter provided for, deposit in the postoffice, properly stamped and addressed to each owner or holder of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds.

Additional
expense.

SEC. 14. At any time after the issuance of such bonds, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law.

Bonds paid,
when.

SEC. 15. Whenever the amount of any sinking fund created under the provisions of this act shall equal the amount, principal and interest of any bond then due, or subject under the pleasure or option of said school district to be paid or redeemed, it shall be the duty of the county treasurer of the county in which the school district issuing such bonds is located, to publish a notice in the official newspaper of the county; if such a one there be,

and if not, then in a newspaper of general circulation, that the said county treasurer will within thirty (30) days from the date of such notice, redeem and pay any such bond then redeemable or payable, giving priority according to the date of issue numerically, and upon the presentation of any such bond or bonds the said treasurer shall pay the same; and in case that any holder of such bond or bonds shall fail or neglect to present the same at the time mentioned in said notice, or in the notice hereinbefore provided for, then the interest upon such bond or bonds shall cease and determine, and the treasurer of such county shall thereafter pay only the amount of such bond and the interest accrued thereon up to the day mentioned in said notice. When any bonds are so redeemed or paid, the county treasurer shall cause the same to be fully canceled, and write across the face of such bonds the words "redeemed," with the date of redemption, and shall file same with the county auditor as vouchers for the sums so paid.

Interest to
cease.

[SUB.] CHAPTER 11.—VALIDATION OF INDEBTEDNESS AND
ISSUE OF BONDS THEREFOR.

SECTION 1. Any school district may validate and ratify the indebtedness of such school district, incurred for strictly school purposes, when the same together with all then outstanding legal indebtedness does not exceed five per centum of the value of the taxable property in such school district. The value of taxable property in such school district shall be ascertained as provided in article eight, section six of the constitution of the State of Washington.

Validation.

SEC. 2. Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in section 1 of this chapter, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation

Election.

and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district, when the only grounds of the previous invalidity of such indebtedness so ratified and validated is that at the time of the attempted incurring thereof, the same together with all other then existing indebtedness of such school district, exceeded one and one-half per centum of the taxable property in such school district, as provided in article eight, section six of the constitution of the State of Washington, and that such indebtedness was so attempted to be incurred without the assent of three-fifths of the voters of such school district voting at an election held for that purpose, as required by said constitution.

Notice of
election.

SEC. 3. At the time of the adoption of the resolution provided for in section 2 of this chapter, the board of directors shall direct the clerk or secretary of the board to give public notice of the time, place or places, and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such clerk or secretary shall thereupon cause written or printed notices to be posted in at least five places in such school district, at least twenty days before such election. Said notice shall also be published for the same length of time in a daily newspaper, printed and published in such district, and if there be no such daily newspaper, then in a weekly newspaper, published in this state and of general circulation in the county where such school district is situated, in two regular issues of such weekly newspaper next preceding the day of such election. Said notices shall contain a copy of the resolution mentioned in section 2 of this chapter, the time of holding such election and location of polling place or places, a statement of the object of the election, and the form of the ballot adopted by the board to determine the question submitted to the voters.

SEC. 4. Elections hereunder shall be by ballot, and conducted in the manner provided for conducting annual

school elections. The ballot must contain the words, "Validating and ratifying indebtedness, yes," or the words, "Validating and ratifying indebtedness, no." Ballots containing the words, "Validating and ratifying indebtedness, yes," shall be counted in favor of validating and ratifying such indebtedness, and ballots containing the words, "Validating and ratifying indebtedness, no," shall be counted against validating and ratifying such indebtedness. As soon as the polls are closed at such election, the judge at each polling place shall count the votes, ascertain the result and certify the same and make return thereof, within two days after such election, to the board of directors of such district, by depositing the same, together with the ballots cast at such election, with the clerk or secretary of such board, and within five days after such election, or as soon as all the returns of such election are deposited as herein provided, the board of directors of such district shall meet and canvass and declare the result, and shall cause to be entered a minute thereof on the records of such district. The qualifications of voters at such election shall be the same as prescribed for the election of school officers.

SEC. 5. If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue negotiable coupon bonds therefor. Bonds so issued shall bear a rate of interest not to exceed six per cent. per annum, interest payable semi-annually, payable and redeemable at such time and place as designated in the bonds, but not exceeding twenty years from date of issue. The bonds and coupons shall be in such form as the board of directors shall prescribe, and payable at such place as may be designated therein. In all school districts of the second or third class, said bonds, with the coupons, must be signed by the board of directors and countersigned by the clerk of the school district. In school districts of the first-class said bonds, with the coupons, must be signed in the corporate name of the district, by the president of the board of directors thereof,

Proceeds of
bonds.

and attested by the secretary of the board, except that the said coupons may bear the lithograph signatures of the said president and secretary. The seal of such district, if such district has a seal, shall be affixed to each bond by the secretary thereof. The moneys arising from the sale of coupon bonds issued under this chapter shall be placed by the treasurer of the county in a special fund to the credit of such school district existing at the time of the adoption of the resolution mentioned in section 2 of this chapter, not evidenced by negotiable bonds.

Rate of
interest.

SEC. 6. When authorized to issue bonds, as provided in this chapter, the board of directors shall, at a meeting of such board, by resolution provide for the issuing of such bonds, prescribing their number, amount and term, and shall deliver a copy of said resolution to the county treasurer of the county in which such school district is situated or to which it belongs as provided in this act, who shall immediately advertise for sale said bonds, and the law relating to other school bonds shall govern, control and apply to bonds issued or sold under this chapter, except that bonds issued under this chapter shall not bear a greater rate of interest than six per cent. per annum, and they may be sold in such amounts or blocks as the board of directors may direct, and such board may also require all persons bidding for said bonds, except the State of Washington, to deposit one per cent. of the par value of the bonds bid for on depositing with the treasurer their bids, and if the bidder fails to take and pay for the bonds for which he bid, in case of their sale to him, the amount so deposited shall be forfeited to the school district, otherwise to be returned to such bidder, and a re-sale of such bonds so refused to be taken may be made as if the bid for the same had been rejected, and the money arising from the sale of the bonds issued under this chapter shall be applied as provided in section 5 of this chapter.

SEC. 7. If bonds issued under this chapter are not sold as herein provided, the holders of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution men-

tioned in section 2 of this chapter, may exchange said warrants at the face value thereof and accrued interest thereon for coupon bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district.

Warrants
exchanged
for bonds.

SEC. 8. When the board of directors shall have canvassed and declared the result of the election as prescribed in section 4 of this chapter, it shall, if the same shall have been in favor of validating and ratifying the indebtedness, immediately cause to be sent to the county treasurer of the county in which such district is situated, notice of the result of said election. The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual expenditure in excess of the annual revenue of such district, shall be deemed to be guilty of misdemeanor, and shall be punished by a fine not exceeding five hundred dollars. If the indebtedness of such school district, excluding the bonded indebtedness existing before the adoption of said resolution, is not extinguished by the exchange of warrants for bonds, or by the proceeds of the sale of bonds, as herein provided, then it shall be the duty of the board of directors, thirty days before the regular annual tax levy, to certify the amount of such indebtedness remaining unpaid to the board of county commissioners of the county in which such school district is situated, and said board of county commissioners, at the time of making the regular annual tax levy, shall annually levy a special tax on the taxable property of the district not to exceed three mills on the dollar on the valuation of such taxable property, which shall be collected as other taxes are collected, and the proceeds of such tax shall be a special fund for the payment of the indebtedness of such district, not included in bonds, existing at the time of the adoption of the resolution mentioned in section 2 of this chapter.

Limit of
expenditures.

Tax levy for
excess in-
debtedness.

[SUB.] CHAPTER 12.—CERTIFICATION OF TEACHERS.

ARTICLE I.—GENERAL PROVISIONS.

SECTION 1. Nothing in this act shall be construed to invalidate the life diplomas granted under the laws of the Territory of Washington, or to invalidate any certificate or diploma heretofore granted in accordance with the laws of the State of Washington, but the same shall continue in effect in accordance with the provisions of the laws under which they were granted: *Provided*, That any third grade certificate, second grade certificate, first grade primary certificate, or first grade certificate, or any renewal, or any permanent certificate, in full force and effect at the time of the taking effect of this act shall, for the purpose of renewal, or for securing a certificate of higher grade, or for securing a permanent certificate, or for any other purpose whatsoever, be of the same force and effect, and shall entitle the holder thereof to the same rights and privileges as he would be entitled to were he the holder of a certificate of like designation authorized by this act.

SEC. 2. All certificates and diplomas, except temporary certificates, and special certificates, shall be issued or countersigned by the Superintendent of Public Instruction.

SEC. 3. The fee for any teacher's certificate or any renewal thereof, or any life diploma, or other instrument issued by authority of the State of Washington, and authorizing the holder to teach in the public schools of the state shall be one dollar. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The county superintendent, or other officer authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county wherein such applicant is to teach or resides, to be by him placed to the credit of the institute fund of said city or county: *Provided*, That if any city collecting fees for the certification of teachers does not hold an institute separate from the county, then all such moneys shall be placed to the credit of the county institute fund.

Certificates
issued con-
tinued in
force.

Certificates
issued by
whom.

Fee.

Disposition
of fee.

SEC. 4. No person who is less than eighteen years of age shall receive a certificate to teach in the State of Washington nor take the examination for the same; nor shall any person less than nineteen years of age receive any certificate other than a temporary, a third grade, or a second grade.

Age of applicant.

SEC. 5. No teacher's certificate shall be issued to any person who shall not file with the examiners satisfactory evidence of good moral character and personal fitness.

Moral character.

SEC. 6. Any person who receives credits of ninety per cent. or over in any subject or subjects at any regular teachers' examination in this state shall not be required to take an examination again in such subject or subjects in order to receive any certificate for which the applicant may be eligible to apply, so long as he is actively engaged in educational work. The holder of any common school certificate shall be entitled to write on one or more subjects at any examination for the purpose of securing credits: and when sufficient credits have been earned the proper certificate shall be issued.

Applicant may pass in one or more subjects.

SEC. 7. Evidence of successful teaching experience shall consist of a written personal statement signed by a superintendent of schools or other person competent to judge and having personal knowledge of the applicant's work as a teacher or supervisor, which shall be sent by the writer to the superintendent concerned. The aforesaid documentary evidence of successful teaching shall be kept on file in the office of the Superintendent of Public Instruction.

Experience.

SEC. 8. The State Board of Education shall prepare a list of optional subjects for each grade above the second, from which the applicants for certificates above the second grade may select as provided for in Article IV of this chapter.

Optional subjects.

SEC. 9. Any holder of a certificate higher than a second grade who shall, after the granting of the same, complete one year's work in an accredited institution of

One year's study renews certificate.

higher education in this state, shall, when such work is certified to by the president of such institution, be entitled to a renewal upon application.

Subjects endorsed on certificate.

SEC. 10. Every certificate issued by authority of the State of Washington shall have written or printed upon its face the subjects in which the holder has been examined, with standings in each, or the subjects or work upon which credits are given.

Certificates registered in county.

SEC. 11. All certificates issued by the Superintendent of Public Instruction shall be valid and entitle the holder thereof to teach in any county of the state upon being registered by the county superintendent thereof, which fact shall be evidenced by him on the certificate in the words, "Registered for use in county," together with the date of registry, and his official signature: *Provided*, That a copy of the original certificate or diploma duly certified by the Superintendent of Public Instruction may be used for the purpose of registry and endorsement in lieu of the original.

ARTICLE II.—EXAMINATIONS.

Examinations.

SECTION 1. An examination for the certification of teachers of the State of Washington for third, second, first grade primary and first grade certificates shall be held at the county seat of each county by the county superintendent in accordance with the rules and regulations of the State Board of Education, on the second Thursday of May and December and the Friday and Saturday next following and on the last Thursday of August and the Friday and Saturday next following; and for professional and life certificates on the above named days of May and August only: *Provided*, That any person taking any examination shall be authorized to teach until notified of the result of such examination.

Time of.

Manuscripts sent to state superintendent.

SEC. 2. The county superintendent shall within three days following the close of the examinations provided for in section 1 of this article, transmit to the State Superintendent of Public Instruction all papers written at such examination, together with such other reports as shall by

him be required. The Superintendent of Public Instruction shall keep all manuscripts on file for a period of at least sixty (60) days.

ARTICLE III.—CLASSIFICATION OF COMMON SCHOOL CERTIFICATES AND DIPLOMAS.

SECTION 1. The certificates and diplomas granted by authority of the State of Washington, and authorizing the holders to teach in the public schools of this state shall be classified as follows:

First—Common School Certificates and Diplomas.

Common school certificates.

- (a) Third Grade Certificates;
- (b) Second Grade Certificates;
- (c) First Grade Primary Certificates;
- (d) First Grade Certificates;
- (e) Professional Certificates;
- (f) Permanent Certificates;
 - 1. Permanent First Grade Primary Certificates;
 - 2. Permanent First Grade Certificates;
 - 3. Permanent Professional Certificates;
- (g) Life Certificates.

Second—City Certificates.

City certificates.

- (a) City High School Certificates;
- (b) City Grammar School Certificates;
- (c) City Primary Certificates.

Third—Certificates and diplomas of the Higher Institutions of Learning.

Certificates from higher institutions.

- (a) Of the Normal Schools;
- (b) Of the State College of Washington;
- (c) Of the University of Washington.

Fourth—Temporary Certificates.

Temporary.

Fifth—Special Certificates.

Special.

ARTICLE IV.—COMMON SCHOOL CERTIFICATES AND DIPLOMAS.*

SECTION 1. The common school certificates and diplomas issued by authority of the State of Washington, the period for which each shall be valid and the qualifications required of applicants for the same shall be as follows:

First—Third Grade Common School Certificates.—Applicant shall pass an examination in reading, grammar,

Third grade subjects.

penmanship and punctuation, history of the United States, geography, arithmetic, physiology and hygiene, theory and art of teaching, orthography, and Washington State Manual. This certificate shall be valid for one year: *Provided*, That the holder of a third grade certificate who shall, after the granting of the same, attend any accredited institution of higher education in this state for one year, shall upon application be granted a second grade certificate.

Second—Second Grade Common School Certificates.—

Second grade
subjects.

Applicants shall have credits in the same subjects as for a third grade common school certificate and shall take an examination in music: *Provided*, That this certificate may be granted once to teachers from other states who have had ten years or more of successful experience. Any such applicant must take an examination in State Manual. This certificate shall be valid for two years, but may be renewed, if, during the life of the certificate, the holder has complied with any one of the following conditions, to-wit: 1. An attendance of one semester at an accredited school of higher education or of six weeks at an accredited summer school when satisfactory work was done in three subjects and certified to by the principal of such school. 2. Upon sixteen months of successful teaching.

Third—First Grade Primary Certificates.—Applicant

First grade
primary
subjects.

must have taught at least forty-five months in the primary grades, and shall have credits in the same subjects as for a second grade certificate, and must also pass an examination in nature study, drawing, literature, and physical geography; but the State Board of Education may accept other subjects in lieu of two of the above subjects at the request of the applicant, as provided in section 9 of article 1^o of this chapter. This certificate shall authorize the holder to teach in the primary grades only and shall be valid for five (5) years, and may be renewed for a like period at the expiration thereof if during the life of the certificate the holder has complied with any one of the following conditions, to-wit: 1. An attendance of one year at an accredited institution of higher learning during

the life of the certificate when satisfactory work was done in three subjects and certified to by the principal or president of such school. 2. Successful teaching for not less than twenty-four (24) months during the life of the certificate. Any renewal may be renewed in like manner.

Fourth—First Grade Certificates.—Applicant must have taught at least nine (9) months and shall have credits in the same subjects as for a second grade certificate, and also in physics, English literature, algebra and physical geography. The State Board of Education may accept other subjects in lieu of two of these upon request of the applicant as hereinbefore provided. Applicant must secure the same number of credits as for a first grade primary certificate. This certificate shall be valid for five (5) years and may be renewed in the same manner and under the same conditions as a first grade primary certificate.

First grade subjects.

Fifth—Professional Certificates.—Applicant shall meet all the requirements for a first grade certificate, but must have taught successfully twenty-four (24) months, at least eight (8) months of which must have been in the State of Washington. He shall also pass an examination in plain geometry, geology, botany, zoology, and civil government: *Provided*, That the State Board of Education may accept other subjects in lieu of any or all of these upon the request of the applicant, as hereinbefore provided. This certificate shall be valid for five (5) years and may be renewed in the same manner and under the same conditions as a first grade certificate.

Professional.

Additional subjects.

Sixth—Permanent Certificates.—Applicant must be the holder of a first grade primary certificate, a first grade certificate, or a professional certificate, or a renewal of any one of them, in full force and effect, and must have taught successfully not less than seventy-two (72) months, nor less than thirty-six (36) months in the State of Washington, nor less than eighteen (18) months subsequent to the granting of the certificate upon which the application is made. Upon filing satisfactory evidence of having met these requirements together with the written endorsement of the county superintendent, a permanent certificate shall

Permanent certificates.

be issued of the same grade as that held by the applicant, valid during the life of the holder unless revoked for cause.

Life
certificates.

Seventh—Life Certificates.—Applicant must file with the Superintendent of Public Instruction evidence of having taught successfully for forty-five (45) months, not less than twenty-seven (27) months of which shall have been in this state. He must have the credits required for professional certificates and in addition shall pass an examination in the following, to-wit: Psychology, history of education, bookkeeping, composition, general history: *Provided*, That the Board of Education may accept other subjects in lieu thereof upon request of the applicant. This certificate shall be valid during the life of the holder unless revoked for cause.

Subjects.

ARTICLE V.—CITY CERTIFICATES.

Examiners.

SECTION 1. In any city of this state in which one hundred or more teachers are employed in the city schools, if the board of directors in such city shall so determine, there shall be a board of examiners consisting of the city superintendent of schools and two other members having practical experience as teachers, residents of said city, to be designated as associate examiners. The associate examiners shall be elected by the board of directors at their regular meeting in July annually, and shall hold office for one year, but no candidate for examination as a preliminary to teaching in the public schools shall be an associate examiner. The city superintendent of schools shall be chairman of the board of examiners. The board of examiners shall meet and hold examinations for the granting of teachers' certificates on such occasions only as may be authorized by the board of directors. Such board of examiners shall have power:

Rules of
board.

1. To adopt rules and regulations, not inconsistent with the laws of this state or the rules of the State Board of Education, for its own government and for the examination of teachers and to fix standards of proficiency for the granting and renewing of certificates subject to the approval of the board of directors.

2. To prepare questions on the various subjects prescribed by law and examine by written or oral examination all candidates for the following certificates: Questions.

(a) A city high school certificate valid for one year only unless renewed and authorizing the holder to teach or serve as principal in any primary, grammar, or high school in such city. High school certificates.

(b) A city grammar school certificate valid for one year only unless renewed and authorizing the holder to teach in any primary or grammar school, or serve as principal in any primary school in such city. Grammar school certificates.

(c) A city primary certificate, valid for one year only, unless renewed, and authorizing the holder to teach in any primary school in the city. City primary certificates.

The board of examiners shall report the result of all examinations to the board of directors who, through the president and secretary thereof, shall issue to the successful candidates the certificates to which they are entitled; and the board of directors shall report a list of certificates issued to the State Superintendent of Public Instruction and to the county superintendent of the county in which the city is located. Directors to issue certificates.

3. To recommend to the board of directors renewal of the various renewable certificates, in accordance with such regulations as they may adopt, or as may be prescribed by the board of directors; whereupon said board of directors through its president and secretary, may renew such certificates from year to year.

SEC. 2. No certificate of permission to teach shall be issued to any person not eighteen years of age. No certificate shall be granted to any person whose moral character or habits are known by the board of examiners or board of directors to be bad, or who is afflicted with a serious infectious or hereditary disease. No certificate shall be granted by the board of directors or upon its authority except to successful candidates in a regular or special examination conducted by the board of examiners in accordance with the provisions of the law. Age of Applicants.

SEC. 3. City primary and city grammar certificates shall be granted only to applicants who are found upon examination to have a practical knowledge of pedagogics, school management and the general school system of the State of Washington, and to be proficient in and qualified to teach the following branches: Reading, writing, spelling, English grammar, geography, arithmetic, physiology and hygiene, United States history, and such other English branches as the board of directors may prescribe: *Provided*, That the examination of applicants for such certificates shall be specially adapted to discover their fitness to teach all branches named to pupils of primary or grammar grades respectively.

Additional subjects.

SEC. 4. City high school certificates shall be granted only to applicants who pass satisfactorily the examination required for grammar certificates and in addition thereto, sustain a satisfactory examination in civil government, physical geography, elementary physics, algebra, botany, and such other branches as the board of directors may prescribe.

Who exempt from examination.

SEC. 5. Holders of normal diplomas and holders of state diplomas or state certificates or any certificate authorized by the laws of the State of Washington shall be exempt from all further examinations during the terms of validity of such certificates as provided by law. Teachers engaged in the exclusive teaching of music, foreign languages, drawing, penmanship, kindergarten, manual training, domestic science and physical culture shall be exempt from all examinations except such as pertain to the special departments over which they preside.

Special certificates.

SEC. 6. Special certificates shall be granted only to applicants who pass satisfactorily the examination in a special or departmental subject (such as music, foreign language, drawing, penmanship, kindergarten, manual training, domestic science, physical culture, etc.), and such other subjects as are calculated to discover applicants' fitness to teach in public schools.

ARTICLE VI.—CERTIFICATES AND DIPLOMAS OF THE HIGHER INSTITUTIONS OF LEARNING.

SECTION 1. Certificates and diplomas of the normal schools, of the State College of Washington, and of the University of Washington shall be granted as provided by law. State schools.

ARTICLE VII.—TEMPORARY CERTIFICATES.

SECTION 1. Temporary certificates shall be issued by the county superintendent, or, if in a district of the first class by the city superintendent, in the county or district where the applicant expects to teach and shall be valid in such county or district only, until the end of the then current school year. Temporary certificates shall be granted to such applicants only as show evidence of fitness to teach, either by successful experience, or by being the holder of accredited papers or a valid certificate or diploma from some other state or territory, or by special written examination. Only one temporary certificate shall be issued to any one applicant within a period of three (3) years, and issuance of the same shall be immediately reported to the Superintendent of Public Instruction. Temporary certificates.

ARTICLE VIII.—SPECIAL CERTIFICATES.

SECTION 1. Special certificates shall be issued by the county superintendent, or city superintendent if in a city, to applicants who show by examination or otherwise satisfactory evidence of fitness to teach special subjects, such as music, foreign languages, art, manual training, penmanship, kindergarten, domestic science, typewriting, stenography, physical culture, etc. Special certificates shall be valid so long as the holder continues to teach in the city or county where granted, unless revoked. Special certificates, to whom issued.

ARTICLE IX.—REVOCATION OF CERTIFICATES.

SECTION 1. Any certificate to teach named in this act may be revoked by the authority authorized to grant same upon complaint of any superintendent for immorality, violation of written contract, intemperance, crime against the law of the state, or any unprofessional conduct, after the defendant has been given an opportunity to be heard. Who may revoke.

SEC. 2. In case any certificate is revoked, the holder shall not be eligible to receive another teacher's certificate for a period of twelve months after the date of revocation.

Appeals. SEC. 3. Any teacher whose certificate to teach has been revoked, as provided in the preceding sections, and feeling aggrieved at such revocation, shall have the following right of appeal:

First. To the Superintendent of Public Instruction whenever the certificate has been revoked by the county superintendent.

Second. To the State Board of Education when the certificate has been revoked by the Superintendent of Public Instruction.

Third. To the State Board of Education when the certificate has been revoked by the faculty of the State University, the State College or the Normal Schools.

Fourth. An appeal under the provisions of this act to the State Superintendent shall operate as a stay of proceedings for a period of thirty (30) days, and an appeal to the State Board of Education shall operate as a stay of proceedings till the next regular or special meeting of said board.

[SUB.] CHAPTER 13.

ARTICLE I.—GENERAL ELECTIONS.

Time of. SECTION 1. The election of school district directors shall, except as otherwise provided by law, be held on the first Saturday in March of each year, at the district school house, if there be one, or if there be none, or more than one, then at a place to be designated by the board of directors. Special school elections shall be called and conducted in the manner provided for calling and conducting annual elections.

Notice of. SEC. 2. The district clerk must give at least ten days' notice of such school election, by posting or causing to be posted, written or printed notices thereof in at least three public places in the district, one of which must be the place of holding the election. Said notice must designate the place of holding the election, day of holding the election, hours between which the polls are to be kept open,

names and offices for which persons are to be elected, and terms of office, with a statement of any other questions which the board of directors may desire to submit to the electors of said district. Notices must be signed by the district clerk "By order of the board of directors." Unless otherwise designated in the notice of election, the polls shall be open at one o'clock in the afternoon and close at eight o'clock in the afternoon, but the board of directors may, in districts of the second or the third class, previous to giving notice of election, determine on an hour before eight o'clock for closing, but they must not be closed earlier than four o'clock in the afternoon. In no case shall the polls be opened before the hour named in the notice, nor kept open after the hour fixed for closing the polls, but if there is not a sufficient number of electors present at the hour named for opening the polls to constitute a board of election, it shall be lawful to open the polls as soon thereafter as a sufficient number of electors is present.

SEC. 3. At the hour fixed for opening the polls the electors present shall select two electors to act as judges of the election and one elector to act as clerk of the election, and the three selected shall constitute the election board; and no election shall be held unless an election board is so constituted and qualified. The judges and clerk aforesaid shall, before entering upon the duties of their office, severally take and subscribe an oath or affirmation faithfully to discharge the duties as such officers of election, said oath or affirmation to be administered by any school officer or any other person authorized to administer oaths. The judges shall, before they commence receiving ballots, cause to be proclaimed aloud at the place of voting that the polls are now open.

Officers of
Election.

SEC. 4. The voting shall be by ballot. The ballots shall be of white paper of uniform size and quality containing the names of the persons for whom the electors intend to vote, and designating the office to which such person so named is intended by him to be chosen. Whenever any person offers to vote, one of the judges shall pronounce his name in an audible voice, and

Ballots.

if there be no objections to the qualifications of such person as an elector, he shall receive the ballot in the presence of the election board and deposit the same without being opened or examined in the ballot box, and the clerk shall immediately enter the name upon the list headed "Names of voters."

Who may
vote.

SEC. 5. Every person, male or female, over the age of twenty-one years, who shall have resided in the school district for thirty days immediately preceding any school election, and in the state one year, and is otherwise, except as to sex, qualified to vote at any general election, shall be a legal voter at any school election, and no other person shall be allowed to vote: *Provided*, That registration for purposes of school election shall not be required except in school districts of the first class. Persons offering to vote may be challenged by any legally qualified school elector of the district, and one of the judges of election shall thereupon, before receiving his vote, administer to the person challenged an oath in substance as follows: "You do swear, (or affirm) that you are a citizen of the United States, that you are twenty-one years of age, according to your information and belief, and that you have resided in this district thirty days next preceding this election, and in the state one year, and that you have not voted before on this day." If he shall refuse to take the oath, his vote will be rejected. Any person guilty of illegal voting shall be punished as provided in the general election laws of the state.

Canvass.

SEC. 6. When the polls are closed, proclamation thereof shall be made at the place of voting, and no vote shall be afterward received. As soon as the polls are closed the judges shall open the ballot box and commence counting the votes, and in no case shall the ballot box be removed from the room in which the election is held until all the votes are counted. The counting shall be in public. The ballots shall be taken out one by one, by one of the judges, who shall open them and read aloud the name of each person contained therein, and the office for which such person was voted for. The clerk shall write down each

office to be filled and the name of such person voted for such office, and shall keep the number of votes by tallies as they are read aloud by one of the judges. The counting of the votes shall continue without adjournment until all the votes are counted. No ticket shall be rejected on account of form or mistake in the initials, or spelling of names, if the judges can determine to their satisfaction the person voted for and the office intended. After the result of the election is duly canvassed and officially declared, the clerk of the election shall forward the poll sheet thereof to the county superintendent, who shall preserve the same on file in his office.

SEC. 7. Persons having the highest number of votes given for each office shall be declared duly elected, and the clerk of election shall immediately make out and deliver to each person so elected a certificate of election. The clerk of election shall also make out a certificate showing the persons elected to each office at such election, with oaths of office of persons elected attached, and mail such certificates and oaths to the superintendent of schools of the county in which the election is held. If two persons have an equal and highest number of votes for one and the same office, they shall, within ten days after the election, appear before the clerk of election of said district and publicly decide by lot which of the persons so having an equal number of votes shall be declared elected, and the clerk of election shall make out and deliver to the person thus declared elected a certificate of his election, and notify the county superintendent of the county as before provided. If the persons above named do not, within ten days after election, thus decide, the office shall be declared vacant by the clerk of election, and the county superintendent shall, when notified of the vacancy, fill the same by appointment.

Certificates
of election.

ARTICLE II.—SPECIAL MEETINGS.

SECTION 1. Any board of directors may, at its discretion and shall, upon a petition of a majority of the legal voters of their district, call a special meeting of the voters of the district, to determine the length of time in excess

How called.

Subjects
discussed.

of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any school house site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more school houses; or to determine whether or not the district shall maintain one or more free kindergartens; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library.

Notice of
meeting.

SEC. 2. All such special meetings shall be held at the school house, if there be one, or if there be none, or more than one, then at such school house or place as the board of directors may determine. The voting shall be by ballot, the ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the district clerk, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The district clerk shall be clerk of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the meeting: *Provided*, That in the absence of one or all of said officers, the qualified electors present may elect a chairman or clerk, or both chairman and clerk, of said meeting as occasion may require, from among their number. The clerk of the meeting shall make a record of the proceedings of the meeting, and when the clerk of such meeting has been elected by the qualified voters present, he shall within ten days thereafter, file the record of the proceedings, duly certified, with the clerk of the district, and said records shall become a part of the records of the district, and be preserved as other records.

Officers of
meeting.

SEC. 3. It shall be the duty of every board of directors to carry out the directions of the electors of their districts as expressed at any such meeting.

ARTICLE III.—ELECTIONS IN DISTRICTS OF THE FIRST CLASS.

SECTION 1. The regular district election in each district of the first class shall be held upon the first Saturday of December in each year. The board of directors shall cause written or printed notices to be posted, specifying the day and place of such election, and the time during which the ballot box will be kept open. Said notices shall be posted in at least one place in each ward in the district at least twenty days previous to the time of election. Said notices shall also be published three times in two daily papers published in the district, and if there be no daily or dailies, then in the weekly paper or papers in three regular issues next preceding the day of such election. If the board of directors fail to give notice at such time, as herein provided, then any five legal voters residing in the district may give such notice over their own title for such election.

SEC. 2. All elections shall be by official ballot and the polls shall be opened at one o'clock P. M. and be closed at eight o'clock P. M. The official ballot shall be printed and furnished by the board of directors, and shall contain the names of all candidates whose names have been presented by petitions filed with the secretary of the board not less than ten days before the day of election. The names of no other candidates shall appear upon said official ballots, and no other ballots shall be received or counted.

SEC. 3. It shall be the duty of the board of directors to provide at least one, and not more than two voting places in each ward. The board shall also appoint two judges and one clerk for each voting precinct. Both judges and clerk shall be qualified electors in the precinct for which they were appointed. Should any judge or clerk be absent at the time for opening the polls, the electors present shall appoint a legal voter to fill such vacancy.

SEC. 4. Only those persons, male and female, who have complied with the laws governing registration in districts of the first class, shall be permitted to vote, and no person shall be entitled to vote at said election except in the

ward in which he or she resides: *Provided*, That any elector of said district who has duly registered as a voter at any general election in said district shall be allowed to vote at the next succeeding school election held the same year without registration.

Registration
books.

SEC. 5. The city clerk or other municipal officer in whose custody the registration books of the general election are kept shall furnish to the secretary of the board, on the morning of the day of any school election, the registration books of said city or a copy thereof, which said registration books shall be returned within two days after said election.

Canvass of
vote.

SEC. 6. The board of directors shall, upon closing the polls, receive the returns at the time and the place it shall direct, and shall, within five (5) days from said election, meet as a canvassing board, and in the presence of any duly qualified justice of the peace in and for said county, canvass the returns and ascertain the result. The result of said election shall be certified by the board of directors to the county school superintendent, who shall preserve said certificate, entering upon his records the receipt of said certificate and the names of the person or persons elected as members of such board of directors for said district, together with the term for which elected.

ARTICLE IV—REGISTRATION OF VOTERS IN SCHOOL DISTRICTS OF THE FIRST CLASS.

SECTION 1. No person shall vote at any school election, either general or special, to be held in any school district of the first class, unless he or she shall have previously complied with the requirements as to registration, as in this act provided.

Secretary to
register
voters.

SEC. 2. The secretary of the board of directors in each district subject to the provisions of this act shall keep the books of registration herein provided for, and shall register therein the names of all duly qualified voters in his district, on application, in the manner and at the times here specified.

SEC. 3. The board of directors of each district subject to the provisions of this act, shall furnish the secretary of

such board, at the expense of the district, all blanks and books of registration and shall furnish, at the expense of their respective districts, all funds necessary for carrying out the provisions of this act.

Expenses.

SEC. 4. The books of registration shall be opened for the purpose of registration, at the office of the secretary of the board of the district, on each day between the hours of 9 o'clock A. M. and 4 o'clock P. M., except on legal holidays, and they shall be closed and no names shall be registered therein during the five days preceding any special or general election held in such district. The secretary of the board shall give notice of the closing of the books of registration in his district by notice published in a newspaper of general circulation, published in his district, at least ten days before the day for closing said books.

Registration closes, when.

SEC. 5. For a period of thirty days preceding the closing of registration books for any election, the books may be opened at a convenient place in the district for the registration of voters, which places must be designated by the board of directors, and during a period of ten days immediately preceding the closing of such books they shall be kept open until seven o'clock each evening, and they may be kept open until a later hour by order of the board of directors.

Places of registration.

SEC. 6. Registration shall not be required more than once in each year. All persons, male or female, who are qualified electors under the provisions of this act, shall be entitled to registration on application to the secretary of the board of directors of the district in which they reside: *Provided*, Such elector shall have been a resident of the state for one year, of the county ninety days, and of the voting precinct thirty days prior to the next general or special school election to be held in such district. No person shall vote at any such election except in the precinct where he or she has resided for the length of time above specified.

Yearly registration.

SEC. 7. There shall be provided by the board of directors in each district, and kept by the secretary of such

Precinct
registration.

board, a separate book of registration for each school election precinct in the district. Each ward in any city within which the whole or any portion of a school district may be situate, shall be a voting precinct for all general or special school elections. The book of registration shall bear the name or number of the precinct to which it belongs. In case the whole or any portion of any such district shall lie without the limits of any incorporated city, the board of directors of such district shall subdivide such outlying territory into voting precincts, so that each precinct shall contain as near as may be five hundred inhabitants, and after the boundaries of such precincts shall have been established, said territory shall not be redistricted oftener than once in three years, and not then unless one or more of the precincts thereof shall have attained a population of more than five hundred inhabitants. In case the authorities of any city, within which the whole or any portion of any district may lie, shall cause the boundaries of the wards of such city to be changed after the opening of the books of registration for the school district, the voting precincts of such district shall conform to the lines of the wards as established when said books were opened until the next set of books shall be opened, at which time said new books and the voting precincts of such district shall conform to the boundaries of the wards as then established.

Form of
registry.

SEC. 8. The books of registration aforesaid shall be so arranged as to admit the alphabetical classification of the names of the voters, and ruled in parallel columns with appropriate heads, as follows: Date of registration, name, age, occupation, place of residence, place of birth, time of residence in the state, county and precinct, and if of foreign birth, name and place of court and date of declaration of intention to become a citizen of the United States, or date of naturalization, and with one column for signature and one for remarks, and one column for checking the name of voter at the time of voting. Under head of place of residence shall be noted the number of lot and block, or number and street where applicant resides, or some other definite

description sufficient to locate the residence, and the voter so registering as provided in this section shall sign his or her name on the registry opposite the entries above required, in the column headed "Signature," and in case any voter shall not be capable of writing his or her name he or she shall, on the left hand margin of said column, make his or her mark by a cross or such other mark as is usual in indicating his or her signature, and some person who is personally known to said voter, and is personally known to the registering officer, and who is capable of writing his or her name, shall sign in said column immediately opposite said mark as an identifying witness thereto.

SEC. 9. No person shall be registered unless he or she appears in person before the secretary or the board of directors in the district in which such elector resides, during the hours the books are opened for registration, and answers truly the questions that may be put to him or her touching his or her qualifications to vote in such district, and shall also make and subscribe the following oath:

Register in person.

State of Washington, County of, ss.

I,, do solemnly swear (or affirm) that I am a legally qualified school elector, under the laws of the State of Washington, and that I have been an actual permanent resident of said state for eleven months and twenty days last past, and of the county for eighty days last past, and the precinct twenty days last past, and that I have not lost my civil rights by reason of being convicted of any infamous crime.

Oath.

Subscribed and sworn to before me this day of

Said affidavit shall be filed and preserved by the secretary of the board for at least two years.

SEC. 10. The secretaries of the boards of directors are hereby empowered to administer all necessary oaths in examining applicants for registration, or any witness that may be offered in behalf of any applicant. The said secretary shall examine carefully any applicant whose right to register he may doubt, or who may be challenged, and

Who may administer oath.

if the applicant shall be entitled to vote at the next election he or she shall be registered, otherwise not.

Change of
residence.

SEC. 11. If any elector shall, during the year for which he or she may be registered, change his or her place of residence from the precinct in which he or she is registered, he or she shall apply to the secretary of the board to have said removal noted. The secretary shall run a red ink line across the name in the precinct book in which said applicant shall be registered, and likewise note said removal in the column headed "Remarks" in said book, and thereupon the said secretary shall enter the name and register the elector in the registration book of the ward to which he or she has removed.

Challenges.

SEC. 12. Registration under the provisions of this act shall be *prima facie* evidence of the right of the elector to vote at any general or special school election held within the district during the year for which said elector is registered. If any person duly registered is challenged, it shall be the duty of the judges of election to examine the challenger and any witnesses that may be produced on oath, touching the right of such elector to vote; the judges shall then, unless they dismiss said challenge, examine the proposed elector on oath, and if it appears that said elector is entitled to vote at said election, his or her vote shall be received, otherwise rejected. Any person swearing falsely before any judge of election, on the hearing of any such challenge, shall be deemed guilty of perjury, and shall be subjected to the pains and penalties of perjury.

Registration
books deliv-
ered to elec-
tion officers.

SEC. 13. On the morning of any general or special school election the secretary of the board shall deliver to the clerk of each voting precinct within his district, the original book of registration of the precinct for which such clerk was appointed. Each clerk of election shall return the book of registration entrusted to him to the secretary of the board at the time of the delivery of the ballots cast in the precinct at such election, and it shall be unlawful for any clerk or any judge of election, to cause or allow any marks or alterations to be made in said

book while the same is in their possession, other than a proper check mark when a ballot is cast, to indicate the party voting.

[SUB.] CHAPTER 14.—PENALTIES.

SECTION 1. Any member of the State Board of Education, any employe of the State of Washington, any county superintendent or any employe of his office, who shall directly or indirectly disclose any question or questions prepared for the examination of teachers or of eighth grade pupils, or any teacher or other person connected with the instruction of or the examination of eighth grade pupils, who shall, before the time appointed for the use of the questions in the examination of such pupils, disclose the questions, or make known their character, or who shall directly or indirectly assist any such eighth grade pupil to answer any question submitted, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred nor more than five hundred dollars. Said fine shall be turned over to the county treasurer of the county in which it is collected, and shall be by him transmitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state.

Disclosing
questions.

SEC. 2. If any county superintendent fails to make a full and correct report to the Superintendent of Public Instruction of all statements required by him or if he shall fail to file with the Superintendent of Public Instruction a full and correct annual report within ten days after the time prescribed by law for filing said report, he shall forfeit the sum of fifty dollars from his salary, and the board of county commissioners are hereby authorized and required to deduct therefrom the sum aforesaid upon information from the Superintendent of Public Instruction that such reports have not been made.

False report
to state su-
perintendent.

SEC. 3. Any officer or person collecting or receiving any fines, forfeitures or other moneys belonging to the schools of the State of Washington, or belonging to the school fund of any county or school district in this state, and refusing or failing to pay over the same, as

Refusal to
pay over
funds.

required by law, shall forfeit double the amount so withheld, and interest thereon at the rate of five per cent. per month during the time of so withholding the same; and it shall be a special duty of the county superintendent of schools to supervise and see that the provisions of this section are fully complied with, and report thereon to the county commissioners semi-annually or oftener. Such fines and penalties, when collected, shall be turned over to the county treasurer and by him transmitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state.

Failure to
teach
hygiene.

SEC. 4. Upon complaint in writing being made to any county superintendent by any district clerk, or by any head of a family, that the board of directors of the district of which said clerk shall hold his office, or said head of family shall reside, have failed to make provisions for the teaching of hygiene or have failed to require it to be taught, with special reference to the effects of alcoholic drink, stimulants and narcotics upon the human system, as provided by law, in the common schools of such districts, it shall be the duty of such county superintendent to investigate at once the matter of such complaints, and if found to be true, he shall immediately notify the county treasurer of the county in which such school district is located, and after the receipt of such notice, it shall be the duty of such county treasurer to refuse to pay any warrants drawn upon him by the board of directors of such district subsequent to the date of such notice and until he shall be notified to do so by such county superintendent. Whenever it shall be made to appear to the said county superintendent, and he shall be satisfied that the board of directors of such district are complying with the provisions of law in this matter, and are causing physiology and hygiene to be taught in the public schools of such district as hereinbefore provided, he shall notify said county treasurer, and said treasurer shall thereupon honor the warrants of said board of directors.

SEC. 5. Any county superintendent of common schools who shall fail or refuse to comply with the provisions of

the preceding section shall be liable to a penalty of one hundred dollars, to be recovered in civil action in the name of the state in any court of competent jurisdiction, and the sum recovered shall go into the state current school fund; and it shall be the duty of the prosecuting attorneys of the several counties of the state to see that the provisions of this section are enforced.

Refusal of superintendent to enforce teaching of hygiene.

SEC. 6. In case the district clerk fails to make the reports as by law provided, at the proper time and in the proper manner, he shall forfeit and pay to the district the sum of twenty-five dollars for each and every such failure. He shall also be liable, if, through such neglect, the district fails to receive its just apportionment of school moneys, for the full amount so lost. Each and all of said forfeitures shall be recovered in a suit brought by the county superintendent or by any citizen of such district, in the name of and for the benefit of such district, and all moneys so collected shall be paid over to the county treasurer and shall be by him placed to the credit of the general fund of the district to which it belongs.

Failure of clerk to report.

SEC. 7. Any school officer who shall refuse or fail to deliver to his qualified successor all books, papers, records and moneys pertaining to his office, or who shall wilfully mutilate or destroy any such property, or any part thereof, or shall misapply moneys entrusted to him by virtue of his office, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not to exceed one hundred dollars; said fine, when collected, to be turned over to the county treasurer and by him transmitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state; and any director who shall aid in, or give his consent to the employment of a teacher who is not the holder of a valid certificate authorizing him or her to teach in the public schools of this state, shall be personally liable to his district for any loss which it may sustain by reason of the employment of such person not lawfully qualified to teach.

Refusal to deliver records.

Failure to
enforce
course of
study.

SEC. 8. Any teacher who wilfully refuses or neglects to enforce the course of study or the rules and regulations required by the State Board of Education, or by any other lawful authority, shall not be allowed by the directors any warrant for salary due until said teacher shall have complied with said requirements.

Maltreating
pupil.

SEC. 9. Any teacher who shall maltreat or abuse any pupil by administering any unjust punishment, or who shall inflict punishment on the head or face of a pupil, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be fined in any sum not exceeding one hundred dollars. Said fine, when collected, shall be turned over to the county treasurer and by him transmitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state.

Failure to
attend
institute.

SEC. 10. In addition to other causes for the revocation of teachers' certificates as provided by law, any teacher failing to attend the annual institute held in the county in which he is employed, or the annual joint institute held by the county in which he is employed and another county or other counties, unless for good and sufficient reasons satisfactory to the Superintendent of Public Instruction, may upon complaint of the superintendent of the county in which he is employed to teach have any certificate he may hold forfeited by order of the Superintendent of Public Instruction: *Provided*, That such forfeiture shall be duly published after the said teacher shall have been given opportunity to present his reasons for such non-attendance, and after final action thereon.

Insulting
teacher.

SEC. 11. Any parent, guardian or other person who shall insult or abuse a teacher in the presence of his school, or anywhere on the school grounds or premises, shall be deemed guilty of a misdemeanor and be liable to a fine of not less than ten dollars nor more than one hundred dollars, and said fine shall be turned over to the county treasurer, and by him remitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state.

SEC. 12. Any person who shall wilfully disturb any school or school meeting shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than fifty dollars. Said fine, when collected, shall be turned over to the county treasurer and by him transmitted to the State Treasurer, who shall place the same to the credit of the current school fund of the state.

Disturbing school.

SEC. 13. Any teacher, principal or superintendent who shall knowingly report, cause to be reported, or permit to be reported, the presence of any pupil or pupils at school, when such pupil or pupils were absent, or when school is not in session, shall forfeit his certificate or subject it to revocation and the same shall not be restored or a new one granted within one year after such forfeiture or revocation: *Provided*, That pupils who are excused from attendance at examinations for promotion, having completed their work in accordance with the rules of the board of directors, shall be accredited with attendance during said days of examination.

False report of attendance.

SEC. 14. Any pupil who shall cut, deface or otherwise injure any school house, furniture, fence or outbuilding thereof, or any book or books belonging to the district library, shall be liable to suspension and punishment, and the parent or guardian of such pupil shall be liable for damages, on complaint of the teacher or of any director or other person residing in the district; and when such damages shall have been collected they shall be turned over to the county treasurer and by him placed to the credit of the school district sustaining such damages.

Mutilating of property.

SEC. 15. Any district using text books other than those prescribed by lawful authority, or any district failing to comply with the course of study prescribed by the State Board of Education or by other lawful authority, or any district in which warrants are issued to a teacher not legally qualified to teach in the common school of the said district, shall forfeit twenty-five per cent. of their school fund for that or the subsequent year, and it is hereby made the duty of the county superintendent to deduct said amount from the apportionment to be made to any district

Failure to use text book.

failing in either or all of the above requirements, and the amounts thus deducted shall revert to the general school funds of the state, and the county treasurer shall return the same to the State Treasurer for reapportionment.

New district
attendance.

SEC. 16. Any new district formed by the division of an old one and which new district shall have maintained at least one month's school during the preceding school year, as shown by the last annual report of the county superintendent, on file in the office of the Superintendent of Public Instruction, shall be entitled to its just share of school moneys when the time that school was maintained in the old district before division, and in the new one after division, shall be equal to at least the minimum time required by law in the old district: *Provided*, That if any school district has heretofore failed to receive apportionment of state school funds because of a failure to hold school the time required by law, and there are unpaid warrants drawn on the general funds of said district for maintenance of school prior to said failure, a special tax shall be levied by the board of county commissioners on the property of the district, the proceeds of which tax shall be applied to the payment of the indebtedness.

False
swearing.

SEC. 17. If any person shall falsely swear or affirm in taking the oath or making the affirmation herein prescribed when being registered for voting in a school district of the first class, or shall falsely personate another and procure the person so personated to be registered, or if any person shall represent his name to the secretary or officer of registration to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the register list otherwise than in the manner provided in this act, he or she shall be guilty of a felony, and upon conviction be punished by confinement in the penitentiary not more than five nor less than one year.

[SUB.] CHAPTER 15.—APPEALS.

SECTION 1. Any person, or persons, either severally or collectively, aggrieved by any decision or order of any

school officer or school board may, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, appeal the same to the proper officer or board as hereinafter provided.

Appeals
from board.

SEC. 2. Appeals from the decision or order, or from the failure to decide or order, by a board of school directors shall be taken to the county superintendent of schools in and for the county. Appeals from the decision or order, or the failure to decide or order, of a county superintendent of schools shall, when relating to the territory or boundaries, or to the adjustment of the assets or liability of school districts, be taken to the board of county commissioners wherein the territory lies, but when relating to the operation or management of schools, or the property of the school district or to the relations with teachers such appeal shall be taken to the Superintendent of Public Instruction: *Provided*, That in matters involving the construction of contracts the appeal shall be taken to the court of the proper resort.

Appeals to
commis-
sioner.

SEC. 3. The basis of appeal shall be an affidavit or affidavits of the party aggrieved, filed within the time for the taking of such appeal, setting forth in a clear and concise manner the errors complained of.

Basis of
appeal.

SEC. 4. Having received the basis of appeal, as set forth in the preceding section, the officer to whom the appeal is taken shall within ten days, and the board of county commissioners shall at their next regular session, notify in writing the party from whose action the appeal is taken of the taking of such appeal and of its nature and scope. Within twenty days after such notice the said party shall file a complete transcript, properly certified to be correct, of the record and papers and proceedings relating to the decision complained of. Upon the filing of such transcript notice shall be duly given to all parties interested of the time and place where the matter of the appeal shall be heard and determined.

Transcript.

SEC. 5. At the hearing of an appeal, properly presented in accordance with this chapter, the county superin-

Hearing on appeal. tendent or the board of county commissioners, as the case may be, shall hear testimony of all parties interested, and for the purpose may administer oaths if necessary, may summon witnesses or demand records or certified copies of the same: *Provided*, That in the case of a hearing before the board of county commissioners the board may hear the case *de novo*, and in the case of a hearing on appeal by the superintendent of public instruction no new evidence may be admitted.

Decision final. SEC. 6. In decisions of appeal by the Superintendent of Public Instruction and by the board of county commissioners the decision or order shall be final unless set aside by a court of competent jurisdiction in an action brought therein to review such order or decision.

Notice of decision. SEC. 7. Decisions of appeal shall be made a matter of record in full, and certified copies of the same shall be made if asked for by the parties interested within ten days of such decision. Notice of such decision of appeal shall be made in writing to parties interested within five days of their rendition.

Time to make decision. SEC. 8. In cases of appeal resulting in the change of any school district boundaries the decision shall within five days thereafter be also certified by the proper officer to the county assessor of the county, or to the county assessors of the counties, wherein the territory may lie.

[SUB.] CHAPTER 16.—COMPULSORY SCHOOL LAW.

Application of act. SECTION 1. All parents, guardians and other persons in this state having or who may hereafter have immediate custody of any child between eight and fifteen years of age (being between the eighth and fifteenth birthdays), or of any child between fifteen and sixteen years of age (being between the fifteenth and sixteenth birthdays) not regularly and lawfully engaged in some useful and remunerative occupation, shall cause such child to attend the public school of the district, in which the child resides, for the full time when such school may be in session or to attend a private school for the same time, unless the superintendent of the schools of the district in which the child

resides, if there be such a superintendent, and in all other cases the county superintendents of common schools, shall have excused such child from such attendance because the child is physically or mentally unable to attend school or has already attained a reasonable proficiency in the branches required by law to be taught in the first eight grades of the public schools of this state as provided by the course of study of such school, or for some other sufficient reason. Proof of absence from public schools or approved private school shall be *prima facie* evidence of a violation of this section.

SEC. 2. No child under the age of fifteen years shall be employed for any purpose by any corporation, person or association of persons in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in section one of this act, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, corporation, company or person employing any such child shall keep such certificate on file so long as such child is employed by him, her or it. The form of said certificate shall be furnished by the Superintendent of Public Instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed *prima facie* evidence of a violation of this section.

Child not to be employed unless superintendent permits.

SEC. 3. Any person violating any of the provisions of either of the two preceding sections shall be fined not more than twenty-five dollars. Attendance officers shall make complaint for violation of the provisions of this act, to a justice of the peace or to a judge of the superior court.

Penalty.

SEC. 4. To aid in the enforcement of this act, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. Any

Attendance officers.

attendance officer may be a sheriff, constable, a city marshal, or a regularly appointed policeman. In all other districts the county superintendent shall act as attendance officer, and he shall also have authority to appoint one or more assistant attendance officers to aid him in the performance of his duties as attendance officer. The compensation of attendance officer in such city districts shall be fixed and paid by the board appointing him. The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by this act, and shall have authority to enter all stores, mills, shops, or other places in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of this act.

Authority.

The attendance officer is authorized to take into custody the person of any child between eight and fifteen years of age, who may be a truant from school, and to conduct such child to his parents, for investigation and explanation, or to the school which he should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of this act, and shall otherwise discharge the duties prescribed in this act, and shall perform such other services as the superintendent of schools or the board of directors may deem necessary. The attendance officer shall keep a record of his transactions, for the inspection and information of the board of directors and the city and county superintendent, and shall make a detailed report to the superintendent of the city or of the county, as often as the same may be required.

Arrests.

SEC. 5. Any attendance officer, sheriff, deputy sheriff, marshal, policeman, or any other officer authorized to make arrests in the city or district, shall arrest without a warrant a child who, under the provisions of this act is required to attend school, such child then being a truant from instruction at the school which he or she is lawfully required to attend, shall forthwith deliver a child so arrested either to the custody of a person in parental relation to the child or to the teacher from whom the child is then a truant, or,

in case of habitual or incorrigible truants, shall bring him or her before a justice of the peace. The justice of the peace shall, if he be convinced that the child so arrested is an habitual truant or that the child is guilty of wilful and continued disobedience to the school rules and regulations or laws, or that the conduct of the child is pernicious and injurious to the school, bind the child over to the superior court with a view of his commitment to the state reform school or other school for incorrigibles.

SEC. 6. It shall be the duty of the district clerk or secretary, at the beginning of each school year, to provide the teacher with a copy of the last census of school children taken in his school district: *Provided*, That if there be a principal or city superintendent in such district, the clerk or secretary shall make such census report to him, and it shall be the duty of every teacher to report to the proper truant officer, all cases of truancy or incorrigibility in his or her school, immediately after the offense or offenses shall have been committed: *Provided further*, That if there be a principal the report shall be made to him and by him transmitted to the truant officer: *And provided further*, That if there be a city superintendent, the principal shall transmit such report to said city superintendent, who shall transmit such report to the proper truant officer of his district.

Teacher to
have copy
of census.

SEC. 7. In cases arising under this act all justices' courts, municipal courts and superior courts in the State of Washington shall have concurrent jurisdiction.

Courts.

SEC. 8. The county attorney shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by this act.

Attorney.

SEC. 9. The county superintendent shall on or before the 15th day of August of each year, by printed circular or otherwise, call the attention of all school district officers to the provisions of this act, and to the penalties prescribed for the violation of its provisions, and he or she shall require the clerk of every school district to make a report annually hereafter, to him or her, verified by affidavit, stating whether or not the provisions of this act have been faithfully

Report on
enforcement
of act.

complied with in his district. Such reports shall be made upon blanks to be furnished by the Superintendent of Public Instruction and shall be transmitted to the county superintendent at the time the district clerk is required to make his annual report to the county superintendent. Any district clerk who shall knowingly or wilfully make a false report relating to the enforcement of the provisions of this act or fail to report as herein provided shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined not less than twenty-five dollars nor more than one-hundred dollars; and any district clerk who shall refuse or neglect to make the report required in this section, shall be personally liable to his district for any loss which it may sustain because of such neglect or refusal to report.

Penalty.

SEC. 10. Any superintendent, teacher or attendance officer, who shall fail or refuse to perform the duties prescribed by this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: *Provided*, That in case of a district officer, such fine shall be paid to the county treasurer and by him placed to the credit of the school district in which said officer resides, and in case of other officers such fine shall be paid to the county treasurer and by him placed to the credit of the general school fund of the county.

Disposition
of fines.

SEC. 11. All fines except as otherwise provided in this act shall inure and be applied to the support of the public schools in the district where such offense was committed.

Officer not
liable for
costs.

SEC. 12. No officer performing any duty under any of the provisions of this act, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by this act.

[SUB.] CHAPTER 17.—GRAMMAR SCHOOL EXAMINATIONS.

When held.

SECTION 1. It shall be the duty of the Superintendent of Public Instruction at such times as he may deem it advisable, but not oftener than three times each year, to for-

ward questions prepared by the State Board of Education for use in the examination of pupils having completed the grammar school course of study, to fix the date for such examination, and to grant certificates of promotion to pupils successfully passing such examination according to the standard prescribed by the State Board of Education: *Provided*, That such certificate shall entitle the holder thereof to entrance into any high school of the state without further examination: *Provided further*, That nothing in this act shall be construed as compelling boards of directors to admit non-resident pupils without tuition charge.

SEC. 2. It shall be the duty of the county board of education to examine and grade the manuscripts of the pupils who take the examinations mentioned in section one (1) of this chapter. The county superintendent may appoint assistant examiners who shall conduct such examinations of pupils according to the rules and regulations of the State Board of Education, and within three days transmit the manuscripts to the county superintendent. Assistant examiners shall receive three dollars per day to be paid in the same manner as the regular board.

Manuscripts,
how exam-
ined.

SEC. 3. It shall be the duty of the county board of education to meet at the county seat at the call of the county superintendent for the purpose of examining and grading the manuscripts of pupils taking such examinations under the direction of any assistant examiner or of the county superintendent. No questions shall be used in such examination except those prepared by the State Board of Education as provided in section one (1) of this chapter: *Provided*, That the State Board of Education may prescribe a special course of reading to be done by pupils in the last year of the grammar school course, as a requisite to their receiving certificates of graduation.

Special
course.

SEC. 4. It shall be the duty of the county superintendent to report to the Superintendent of Public Instruction, within ten days after any meeting of the county board of education, the names of all pupils successfully passing

Names sent
to state su-
perintendent.

any examination, as herein provided, together with their respective standings or grades in the several prescribed subjects and such other facts relating to said pupils or said examination as the Superintendent of Public Instruction may require.

[SUB.] CHAPTER 18.—HIGH SCHOOL EXTENSION EXAMINATIONS.

Course of
reading.

Examina-
tion.

Who
admitted.

SECTION 1. The State Board of Education shall outline a course of reading and study similar to a course of study required in a full four year high school course, and shall provide for the examination and certification of those taking or completing such course. Examinations for this purpose shall be held at the same time and place of holding examinations for teachers' certificates, and in such form to fully test the students' knowledge of the subject or subjects examined in. Any one or more subjects may be taken at any such examination and a student failing in any subject may again be examined in such subject at any subsequent examination: *Provided*, Each year's work of a lower grade must be completed before a student shall be permitted to complete the work of a higher year. Such examination shall be intended only for those not taking a full course in the same subject in a regular high school, and no person shall be admitted to any such examination unless he shall have given to the county superintendent notice of his intention to take such examination and the subjects in which he desires to be examined at least thirty days before the examination, and obtain permission from such superintendent to take such examination.

Questions.

Manuscript,
how graded.

SEC. 2. The questions for such examination shall be prepared by the State Board of Education, and shall be furnished to the State Superintendent of Public Instruction, who shall cause the same to be printed and distributed to the several county superintendents upon request therefor the same as the questions for teachers' examinations are printed and distributed. The manuscripts containing the answers of applicants shall be returned to the Superintendent of Public Instruction to be marked and graded by him and who shall issue certificates to those who have

the required percentage in the various branches which shall be fixed by the State Board of Education.

SEC. 3. Upon the completion of the full course as outlined by the State Board of Education a state high school certificate shall be issued to the applicant by the said board and such certificate shall entitle the holder thereof to enter the freshman class of the State University or to enter any other class in the other state educational institutions as may be specified by the State Board of Education. Certificate.

[SUB.] CHAPTER 19.—KINDERGARTENS.

SECTION 1. The board of directors of any school district shall have power to establish and maintain free kindergartens in connection with the common schools of said district for the instruction of children between the ages of four and six years, residing in said district, and shall establish such courses of training, study and discipline and such rules and regulations governing such kindergartens as said board may deem best: *Provided*, That such kindergartens have been authorized by a three-fifths vote of the electors voting at a special election called for that purpose, at which election the question of the number of such kindergartens to be established shall be submitted by the directors and determined by the electors. The vote shall be by ballot in the following form: "Shall School District No. —, ——— county, establish ——— kindergartens?" "Yes" or "No." Board may establish.

SEC. 2. Kindergartens established under this act shall be a part of the public school system and under the control and supervision of the regular officers who have charge of the public schools of the state: *Provided*, That nothing in this act shall be construed to change the law relating to the taking of the census of the school population or the apportionment of state and county funds. Vote to establish.

SEC. 3. The cost of establishing and maintaining such kindergartens shall be paid from a special school fund voted by the electors of the district for the purpose. Part of school system.

SEC. 4. Kindergarten teachers and supervisors shall have diplomas or certificates from some accredited kinder- Special fund.

Qualification
of teachers.

garten training school, from the kindergarten department of a state normal school of this state or of a normal school whose kindergarten department is accredited by the State Board of Education.

[SUB.] CHAPTER 20.—TAKING OF PRIVATE PROPERTY FOR SCHOOL HOUSE SITES.

Eminent
domain.

SECTION 1. Whenever any school district shall select any real estate as a site for a school house, or as additional grounds to an existing school house site, within the district, and the board of school directors of such district and the owner or owners of the site or any part thereof, or addition thereto selected, shall be unable to agree upon the compensation to be paid by such school district to the owner or owners thereof, such school district shall have the right to take and acquire title to such real estate for use as a school house site or additional site, upon first paying to the owner or owners thereof therefor the value thereof, to be ascertained in the manner hereinafter provided.

Petition
to condemn.

SEC. 2. The board of directors of the school district shall present to the superior court of the State of Washington in and for the county wherein is situated the real estate desired to be acquired for school house site purposes, a petition, reciting that the board of directors of such school district have selected certain real estate, describing it, as a school house site, or as additional grounds to an existing site, for such school district; that the site so selected, or some part thereof, describing it, belongs to a person or persons, naming him or them, that such school district has offered to give the owner or owners thereof therefor dollars, and that the owner of such real estate has refused to accept the same therefor; that the board of school directors of such school district and the said owner or owners of such real estate are unable to agree upon the compensation to be paid by such school district to the owner or owners of such real estate therefor, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money by such school district to such owner or owners for the taking of such real estate for the use as a school house site for such school

district; or in case a jury be waived in the manner provided by law in other civil actions in courts of record, then that the compensation to be made as aforesaid, be ascertained and determined by the court, or judge thereof.

SEC. 3. A notice, stating the time and place when and where such petition shall be presented to the court, or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate sought to be taken is situated, and may be served in the same manner as summons in a civil action in such superior court is authorized by law to be served. Notice of
petition.

SEC. 4. The court may, upon application of the petitioner or of any owner of said real estate, or any person interested therein, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interests may be affected by such proceedings. Trial.

SEC. 5. At the time and place appointed for the hearing of such petition, or to which the same may have been adjourned, if the court shall find that all parties interested in such real estate sought to be taken have been duly served with notice and a copy of the petition as above prescribed, and shall further find that such real estate sought to be taken is required and necessary for the purposes of a school house site, or as an addition to a school house site, for such school district, the court shall make an order reciting such findings, and shall thereupon set the hearing of such petition down for trial by a jury, as other civil actions are tried, unless a jury is waived in the manner provided by law in other civil actions. Public use.

SEC. 6. The jury impaneled to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate desired for such school house site purpose shall consist of twelve persons unless a less number be agreed upon, and shall be selected, impaneled and sworn Jury.

in the same manner that juries in other civil actions are selected, impaneled and sworn, provided a juror may be challenged for cause on the ground that he is a taxpayer of the district seeking the condemnation of any real estate.

Jury may view premises.

SEC. 7. A judge of the superior court shall preside at the trial and witnesses may be examined in behalf of either party to the proceedings, as in other civil actions, and upon the request of all the parties interested in such proceedings the court shall cause the jury impaneled to hear the same, to view the premises sought to be taken, and upon the request of any less number of the persons interested in the proceedings, the court may cause the jury to view the premises, pending the hearing of the case.

Consideration by jury.

SEC. 8. Upon the close of the evidence, and the argument of counsel, the court shall instruct the jury as to the matters submitted to them, and the law pertaining thereto, whereupon the jury shall retire and deliberate and determine upon the amount of compensation in money that shall be paid to the owner or owners of the real estate sought to be taken for such school house site purposes therefor, which shall be the amount found by the jury to be the fair and full value of such premises; and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions.

Ten jurors may agree.

SEC. 9. When ten of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the foreman, and the verdict so agreed upon shall be and stand as the verdict of the jury.

Jury waived.

SEC. 10. In case a jury is waived, the compensation that shall be paid for the premises taken shall be determined by the court and the proceedings shall be the same as in the trial of issues of fact by the court in other civil actions.

Judgment.

SEC. 11. Upon the verdict of the jury, or upon the determination by the court of the compensation to be paid for the property sought to be taken as herein provided, judgment shall be entered against such school district in favor of the owner or owners of the real estate sought to be taken, for the amount found as compensation therefor,

and upon the payment of such amount by such school district to the clerk of such court for the use of the owner or owners of, and the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate sought to be taken, thereby vesting the title to the same in such school district; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated, and shall be recorded by such auditor like a deed of real estate, and with like effect. The money so paid to the clerk of the court shall be by him paid to the person or persons entitled thereto, upon the order of the court.

SEC. 12. All the costs of such proceedings in the superior court shall be paid by the school district initiating such proceedings. Costs.

SEC. 13. Either party may appeal from the judgment for compensation awarded for the property taken, entered in the superior court, to the supreme court of the state within sixty days after the entry of the judgment, and such appeal shall bring before the supreme court the justness of the compensation awarded for the property taken, and any error occurring on the hearing of such matter, prejudicial to the party appealing: *Provided, however,* That if the owner or owners of the land taken accepts the sum awarded by the jury or court, he or they shall be deemed thereby to have waived their right of appeal to the supreme court. Appeal.

SEC. 14. An appeal from such judgment by the owner or owners of the land sought to be taken, shall not have the effect to preclude the school district from taking possession of the premises sought, pending the appeal, provided the amount of the judgment against the school district shall have been paid in to the clerk of the court, as hereinbefore provided. Appeal to effect amount only.

SEC. 15. In all proceedings under this act the school district seeking to acquire title to real estate for a school house site, shall be denominated plaintiff, and all other persons interested therein shall be denominated defendants; Designation of parties.

and in all such proceedings the clerk of the superior court wherein any such proceeding is brought shall charge nothing for his services, except in taking an appeal from the judgment entered in the superior court.

[SUB.] CHAPTER 21.—PROHIBITING SALE OF INTOXICATING LIQUORS WITHIN PRESCRIBED LIMITS OF STATE EDUCATIONAL INSTITUTIONS.

Limits.

SECTION 1. That it shall be unlawful to sell or in any way dispose of any vinous, spiritous, malt or other intoxicating liquors, with or without a license, within two thousand (2,000) feet of any normal school, agricultural college, reform school, or state school for defective youth, now established or which may hereafter be legally established within the State of Washington: *Provided*, That nothing in this act shall be construed to affect in any way the provisions of "An Act prohibiting the sale of intoxicating liquors on or near the grounds of the University of Washington," approved March 19, 1895.

Penalty.

SEC. 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not less than two hundred (200) dollars, nor more than one thousand (1,000) dollars, or by both such fine and imprisonment.

TITLE IV.

[SUB.] CHAPTER 1.—DESIGNATION AND INTENT OF ACT AND REPEALING CLAUSE.

Act, how cited.

SECTION 1. This act shall be known and cited as the Code of Public Instruction of the State of Washington.

SEC. 2. This act is intended to be and is amendatory of, and a recodification as amended of, all laws relating to the public school system of the State of Washington.

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

Passed the Senate February 24, 1909.

Passed the House March 1, 1909.

Approved March 11, 1909.

CHAPTER 98.

[S. B. 348.]

RELATING TO TRIALS IN JUSTICE COURTS.

AN ACT to amend section 4683 of Ballinger's Annotated Codes and Statutes of Washington, relating to the jurisdiction of justices of the peace in criminal cases.

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

SECTION 1. That section 4683 of Ballinger's Annotated Codes and Statutes of Washington be and the same is hereby amended to read as follows: Section 4683. Justices of the peace shall have jurisdiction concurrent with the superior courts of all misdemeanors and gross misdemeanors committed in or which may be tried in their respective counties: *Provided*, That justices of the peace in cities of the first class shall in no event impose greater punishment than a fine of five hundred dollars, or imprisonment in the county jail for six months; and justices of the peace other than those elected in cities of the first class shall in no event impose greater punishment than a fine of one hundred dollars, or imprisonment in the county jail for thirty days.

[Am'd.
§ 4683. Bal.;
§ 3071,
Pierce; § 1.
ch. 35, p. 34,
L. '01.]

Limits of
jurisdiction.

Passed by the Senate March 3, 1909.

Passed by the House March 9, 1909.

Approved March 13, 1909.

CHAPTER 99.

[S. S. B. 65.]

RELATING TO BILLS OF LADING.

AN ACT relating to bills of lading.

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

SECTION 1. That whenever any common carrier, railroad or transportation company (hereinafter termed carrier) shall issue a bill of lading for the transportation of

Bill drawn by order of shipper.

property from one place to another within this state, or between places one of which is within this state, which bill shall be, or purport to be, drawn to the order of the shipper or other specified person, or which shall contain any statement or representation that the property described therein is, or may be, deliverable upon the order of any person therein mentioned, such bill shall be known as an "Order Bill of Lading"; and shall conform to the following requirements:

Form.

(a) In connection with the name of the person to whose order the property is deliverable, the words "Order of" shall prominently appear in print on the face of the bill, thus: "Consigned to Order of....."

(b) The bill shall be printed on yellow paper, 8½ inches wide by 11 inches long.

(c) It shall contain on its face the following provisions "The surrender of this original order bill of lading properly indorsed shall be required before delivery of the property."

(d) It shall not contain the words "Not Negotiable" or words of similar import. If such words are placed on an order bill of lading they shall be void and of no effect.

Additional Matter.

(e) Nothing herein shall be construed to prohibit the insertion in an order bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any terms or conditions contrary to, or inconsistent with, such provisions.

SEC. 2. Whenever a bill of lading is issued by a carrier for the transportation of property from one place to another within this state, or between places one of which is within the state, in which the property described therein is stated to be consigned or deliverable to a specified person, without any statement or representation that such property is consigned or deliverable to the order of any person, such bill shall be known as a "Straight Bill of Lading" and shall contain the following requirements:

"Straight bill."

Form.

(a) The bill shall be printed on white paper 8½ inches wide by 11 inches long.

(b) The bill shall have prominently printed or stamped upon its face the words, "Not Negotiable," and the carrier may deliver the goods under a straight bill of lading to the consignee without requiring the surrender of the bill of lading.

(c) Nothing herein shall be construed to prohibit the insertion in a straight bill of lading of other terms and conditions not inconsistent with the provisions of this act, but it shall be unlawful to insert in such bill any terms or conditions contrary to or inconsistent with such provisions.

SEC. 3. It shall be unlawful for any carrier, or for any officer, agent or servant of a carrier, to issue an order bill of lading or a straight bill of lading, as defined by this act, until the whole of the property as described therein shall have been actually received and is at the time under the actual control of such carrier, to be transported; or to issue a second or duplicate order bill of lading or straight bill of lading for the same property, in whole or in part, for which a former bill of lading has been issued and remains outstanding and uncanceled, without prominently marking across the face of the same the word "Duplicate."

When bill
shall issue.

SEC. 4. Every carrier who himself, or by his officer, agent or servant authorized to issue bills of lading, issues a false or duplicate bill of lading in violation of the provisions of section 3 of this act, shall be estopped, as against all and every person or persons injured thereby who shall acquire any such false or duplicate bill of lading in good faith and for value, to deny the receipt of the property as described therein, or to assert that a former bill of lading has been issued and remains outstanding and uncanceled for the same property, as the case may be; and such issuing carrier shall be liable to any and every such person for all damages which he or they may have sustained because of reliance upon such bill.

False bill.

SEC. 5. Every person who receives from a carrier and fraudulently negotiates for value an order or straight bill of lading representing property to which he had no, or an encumbered title, at the time of the negotiation of such

bill, shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both.

Penalty.

Cancellation
of bill.

SEC. 6. It shall be unlawful for any carrier, or officer, agent or servant of a carrier, to deliver the property described in an order bill of lading without requiring surrender and making cancellation of such bill, or in case of partial delivery, indorsing thereon a statement of the property delivered. And every carrier who by himself, or by officer, agent or servant authorized to deliver goods upon surrender of an order bill of lading, violates the provisions of this section, shall be estopped as against all and every person or persons injured thereby who shall acquire in good faith and for value any such order bill of lading from asserting that the property as described therein, has been delivered; and such delivering carrier shall be liable to any and every such person for all damages which he or they may have sustained because of reliance upon such bill: *Provided*, That the provisions of this section shall not apply where the property is replevined or removed from the possession of the carrier by operation of law; or has been lawfully sold to satisfy the carrier's lien; or in cases of sale or disposition of perishable, hazardous or unclaimed goods in accordance with law or the terms of the bill of lading.

Alterations
not to effect.

SEC. 7. Any material alteration, addition or erasure in or to an order bill of lading or a straight bill of lading, fraudulent or otherwise, shall be without effect and in the hands of a *bona fide* holder for value, not a party to the alteration thereof, such bill shall be valid and may be enforced according to its original tenor: *Provided, however*, That an alteration, addition or erasure in or to any such bill of lading with signature indorsed thereto thereon, by the issuing carrier, or his officer, agent or servant in his behalf, and with the consent of the holder thereof, shall be valid and effective.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 100.

[S. B. 61.]

ESTABLISHING A TROUT HATCHERY IN THE CITY OF
WALLA WALLA.

AN ACT to create a state fish hatchery on the Bryant Spring in Walla Walla county, State of Washington, for the propagation and distribution of trout and other game fish in the State of Washington and making an appropriation therefor.

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

SECTION 1. That the State Fish Commissioner is hereby authorized and directed to take charge of a certain trout hatchery situated in Bryant creek in the city park of Walla Walla city, Walla Walla county, State of Washington, and to operate and conduct as a fish hatchery for the propagation of trout and that such trout be distributed in creeks and lakes throughout the state under such rules and regulations as may be prescribed by said fish commissioner.

Trout
hatchery.

SEC. 2. For the purpose of carrying out the provisions of this act, for maintaining said hatchery and distributing fish therefrom, the sum of two thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the general fund not otherwise appropriated.

Appropriation \$2,000.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 101.

[S. B. 166.]

RELIEF OF PALOUSE CITY.

AN ACT appropriating money for the purpose of repaying to the city of Palouse certain overpayments made by said city to the state on account of liquor licenses.

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

SECTION 1. There is hereby appropriated the sum of one hundred and fifty (150) dollars, due to the city of

Appropriation \$150.

Palouse, Washington, by reason of overpayments on license account, and the State Auditor is hereby directed to draw a warrant on the State Treasurer in favor of the city of Palouse, Washington, in the said sum of one hundred and fifty (150) dollars.

Passed by the Senate February 26, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 102.

[H. B. 315.]

CHANGING THE NAME OF LA CAMAS.

AN ACT changing the corporate name of the town LaCamas in Clarke county, Washington, a municipal corporation of the fourth class, to Camas.

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

Changed to
Camas.

SECTION 1. That the name of the town of LaCamas, a municipal corporation of the fourth class, situated in the county of Clarke and the State of Washington, be, and the same hereby is, changed to Camas.

Passed by the House March 8, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 103.

[H. B. 81.]

CHANGING THE BOUNDARIES OF THE 53RD AND 54TH REPRESENTATIVE DISTRICTS.

AN ACT changing the limits of the 53rd and 54th representative districts, in Whatcom county, State of Washington.

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

53rd
district.

SECTION 1. The limits of the 53rd representative district of the county of Whatcom, State of Washington, shall hereafter embrace all that part of Whatcom county

outside of the city of Bellingham as that city is now constituted.

SEC. 2. The limits of the 54th representative district of the county of Whatcom, State of Washington, shall hereafter embrace all that part of Whatcom county lying and being within the city of Bellingham as that city is now constituted. ^{54th district.}

Passed by the House February 16, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 104.

[H. B. 368.]

RELATING TO THE SALE OF SHELL FISH.

AN ACT prohibiting the sale, offering for sale, or keeping possession of, and prohibiting the canning of clams, oysters or other shell fish, which have been opened for a period of more than four days, and prohibiting the sale of clams, oysters or other shell fish which have been opened more than four days, and prohibiting the selling of canned clams, oysters or other shell fish which have been opened more than four days before being canned, and prohibiting the sale or keeping for sale of clams, oysters or other shell fish which have been shipped into this state and not kept in a chilled condition during shipment, and providing a penalty for the violation of any of the provisions of this act.

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

SECTION 1. No person, firm or corporation shall within this state sell, offer for sale or have in his possession any clams, oysters or any other shell fish, which have been opened or taken out of the shell for a period of more than four days unless the same were previously canned and kept in a chilled condition. ^{Opened, when.}

SEC. 2. No person, firm or corporation shall within this state, place in cans, or can any clams, oysters or any other shell fish, which have been opened or taken out of the shell, for a period of more than four days. ^{Must be canned, when.}

Sale. SEC. 3. No person, firm or corporation, shall sell, offer for sale or keep for sale, within this state, any canned clams, oysters or other shell fish, which shall have been opened for a period of more than four days prior to the time the same were canned.

Possession. SEC. 4. No person, firm or corporation shall, within this state, sell, offer for sale, or have in his possession any clams, oysters or any other shell fish which shall or may be hereafter shipped into this state, unless the said clams, oysters or other shell fish shall have been during the entire time consumed in the shipment kept in a chilled condition: *Provided*, That this act shall not apply to seed oysters for cultivation.

Penalty. SEC. 5. Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail of the county wherein the crime was committed not less than ten days nor more than sixty days, or by a fine of not less than fifty dollars nor more than one hundred dollars.

Passed by the House March 1, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 105.

[H. B. 439.]

RELATING TO THE DUTIES OF SHERIFFS.

AN ACT prescribing the duties of sheriffs in certain matters, and prescribing penalties for the violation thereof.

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

Duplicate receipts.

SECTION 1. It is the duty of each sheriff in this state to make duplicate receipts for all payments for his services in every case, and for every service, specifying the particular items thereof, at the time when the same is paid, whether so paid by virtue of the laws of this state or of the United States; such duplicate receipts for each month shall

be numbered consecutively, commencing with number one in each calendar month.

SEC. 2. One of such duplicate receipts shall have written or printed upon it the word Original and the other of said duplicate receipts shall have written or printed upon it the word Duplicate.

Original and duplicate.

SEC. 3. At the time of the payment of any such fees, such sheriff shall deliver to the person making such payment, either personally or by mail, the copy of such duplicate receipts designated Duplicate.

Disposition of duplicate.

SEC. 4. The said duplicate receipts designated Original for each month shall be attached to the verified statement (for the corresponding month) provided for and prescribed in section 4040 [1597] of Ballinger's Annotated Codes and Statutes of Washington, [4040 Pierce's Code] and such sheriff shall file with the county treasurer of his county all of said original duplicate receipts for each month with such verified statement.

Original receipt filed.

§35, P. 313,
L. '90.
§159, Bal.
§4040 Pierce.

SEC. 5. It shall not be lawful for any sheriff to receive any salary for the preceding month unless the provisions of this act have been first complied with.

Salary withheld unless act complied with.

SEC. 6. Any sheriff violating any of the provisions of this act, or failing to perform any of the duties required by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than fifty dollars for each offense.

Penalty.

Passed by the House March 6, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 106.

[H. B. 105.]

RELATING TO FIRE DRILLS IN SCHOOLS.

AN ACT providing for fire drills in the schools of this state.

*Be it enacted by the Legislature of the State of Washington:*Pupils to be
trained in
fire drills.

SECTION 1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least twice in each month.

Neglect,
penalty.

SEC. 2. Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this act shall be a misdemeanor, punishable at the discretion of the court by a fine not exceeding fifty (\$50.00) dollars. Such fine to be paid to the county treasurer for the benefit of said school district.

Copy of act
posted.

SEC. 3. It shall be the duty of the board of directors or other body having control of the schools in any town or city to cause a copy of this act to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use. It shall be the duty of the Superintendent of Public Instruction to cause a copy of this act to be published in the Washington State Manual.

Colleges and
Universities
exempt.

SEC. 4. The provisions of this act shall not apply to colleges or universities.

Passed by the House March 1, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 107.

[H. B. 391.]

CHANGING THE BOUNDARIES OF CERTAIN LEGISLATIVE DISTRICTS.

AN ACT changing the boundary line between the representative and senatorial districts in Whitman county, and authorizing and directing the county commissioners of the said county to change the lines of the voting precincts in such county to conform to the lines of the representative and senatorial districts as established by this act.

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

SECTION 1. That the boundary line between the Seventh and Eighth Representative Districts and the Eighth and Ninth Senatorial Districts be changed [so as] to include [in] the said Eighth Representative District and the Ninth Senatorial District, sections 1, 2, and 3 of township 17 north range 43, E. W. M., and the boundary line so changed is hereby established as the boundary line between said Seventh Representative District and the said Eighth Representative District, and between the said Eighth Senatorial District and the said Ninth Senatorial District; and the board of county commissioners of Whitman county is hereby authorized and directed to fix the boundary lines of the voting precincts in said county to conform to the lines as herein established as the boundary of said Representative and Senatorial Districts.

[Sec. Ch. 60,
L. '01.
 §§ 6008, 6009
Pierce.]

7th and 8th
representa-
tive and
8th and 9th
senatorial
districts in
Whitman
county.

Passed by the House March 1, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 108.

[H. B. 412.]

PERMITTING A REFUND OF COSTS FOR LOCAL IMPROVEMENTS.

AN ACT to provide for the refund and rebate of the amount collected by municipal corporations to pay for local improvements above the cost of the improvement.

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

SECTION 1. That any funds in the treasury of any municipal corporation belonging to the fund of any local improvement district after the payment of the whole cost

Excess re-
funded on
demand.

Transferred
to general
fund.

Right of
action.

and expense of such improvement, in excess of the total sum required to defray all the expenditures by such municipal corporation on account thereof, shall be refunded, on demand, to the payers into such fund. Each such payer shall be entitled to such proportion of such excess as his original assessment bears to the entire original assessment levied for such improvement. Such municipal corporation may, after one year from the date on which the last installment becomes due, transfer any balance remaining on hand to the general fund of such municipal corporation, but shall, notwithstanding such transfer remain liable for the refund herein provided for until such refund shall have been made, unless the actual cost involved in making such refund shall exceed the excess in such fund.

Such demand shall be made in writing to the treasurer of such municipal corporation. No action shall be commenced in any court to obtain any such refund, except upon such demand, and, in all cases where the assessment roll shall have been filed with the treasurer of such municipal corporation for collection on or after the day this act shall take effect, until ninety days after making such demand, and in all cases where such assessment roll has heretofore been filed for collection, until six months after making such demand in accordance herewith. No excess shall be recovered in any action where the excess in the fund does not average the sum of one dollar in favor of all payers into such fund.

Passed by the House March 8, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 109.

[H. B. 313.]

RELATING TO GAME.

AN ACT for the protection of certain game birds, and beaver in the State of Washington, defining the closed season, and fixing penalties for the violation thereof.

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

[See note at
end of
chapter.]

SECTION 1. Every person who shall within the State of Washington hunt for, pursue, take, kill or injure any

partridge, or any variety of quail, chinese, ring-neck, Hungarian, golden or English pheasant before the thirtieth day of September, 1912, shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment; and each bird so killed, injured, or destroyed, shall be a separate offense under this act.

SEC. 2. Every person who shall in any manner hunt for, trap, catch, or kill any beaver in any of the counties of the State of Washington until September 30, 1914, or have the same in his possession, alive or dead, shall be fined not less than fifty dollars nor more than one hundred dollars for each beaver so trapped, taken, caught, or killed, and the possession by any person of any untanned beaver skin or hide, shall be *prima facie* evidence of a violation of this section. Beaver.

Passed by the House March 1, 1909.

Passed by the Senate March 9, 1909.

Approved March 13, 1909.

March 23, 1909.

HON. SAM H. NICHOLS, *Secretary of State.*

Dear Sir: I wish to withdraw my approval to section 1, House Bill No. 313, and veto this section. I do this on showing made to me by the chief clerk of the House, Mr. Loren Grinstead, and the secretary of the Senate, Mr. W. T. Laube, and with the advise and approval of the attorney general of the state, who informs me that I am clearly within my rights in this action.

The following is the statement made by Mr. Laube and Mr. Grinstead:

"House Bill 313 as it passed the House applied only to the counties of Garfield, Asotin, Columbia and Walla Walla. The Senate made certain amendments, one of which was to strike out the words in the title and in section 1 as follows: 'counties of Asotin, Garfield, Columbia and Walla Walla,' and insert, in lieu thereof, the words, 'State of Washington,' making the provisions of the bill applicable to the entire state. The House refused to accept the Senate amendment and the conference committee appointed to adjust the differences between the Houses recommended that the Senate recede from this amendment. In preparing the bill for the enrolling clerks, the clerk of the House failed to remove from the face of the bill the Senate amendment attached thereto, and the bill as now enrolled does not express the final vote of the two Houses on House Bill 313."

Section one of H. B. 313 is hereby disapproved.

Respectfully submitted,

M. E. HAY, *Acting Governor.*

CHAPTER 110.

[H. B. 150.]

GIVING TO THE UNITED STATES FOR CERTAIN PURPOSES
TIDE AND SHORE LANDS.

AN ACT granting to the United States for public purposes the use of certain tide and shore lands belonging to the State of Washington.

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

SECTION 1. That the use of any tide and shore lands belonging to the State of Washington, and adjoining and bordering on any tract, piece or parcel of land, which may have been reserved or acquired, or which may hereafter be reserved or acquired, by the government of the United States, for the purpose of erecting and maintaining thereon forts, magazines, arsenals, dock yards, navy yards, prisons, penitentiaries, light-houses, fog signal stations, or other aids to navigation, be and the same is hereby granted to the United States, so long as the upland adjoining such tide or shore lands shall continue to be held by the government of the United States for any of the public purposes above mentioned: *Provided*, That this grant shall not extend to or include any lands covered by more than four fathoms of water at ordinary low tide; and shall not be construed to prevent the citizens of the State of Washington from using said lands for the taking of food fishes so long as such fishing does not interfere with the public use of them by the United States: *And Provided further*, That whenever the government of the United States shall cease to hold for public purposes any such tract, piece or parcel of land, the use of the tide and shore lands bordering thereon shall revert to the State of Washington.

In front of
forts, maga-
zines, etc.

Use only
granted.

SEC. 2. Whenever application is made to the board of state land commissioners by any department of the United States government for the use of any tide or shore lands belonging to the State of Washington, and adjoining and bordering on any upland held by the United

States for any of the purposes mentioned in section 1, upon proof being made to said board that such uplands are so held by the United States for such purposes, it shall cause said fact to be entered in the minutes of its meetings, and the commissioner of public lands shall certify such fact to the governor and he shall issue a deed, which shall be at-
Deed.
 tested by the secretary of state, conveying the use of such lands, for said purposes, to the United States, so long as it shall continue to hold for said public purposes the uplands adjoining said tide and shore lands.

SEC. 3. Whenever application is made to the board of state land commissioners, by any department of the United States government, for the use of any tide or shore lands belonging to the State of Washington for any public purpose, and said board shall be satisfied that the United States requires or may require the use of such tide or shore lands for such public purpose, said board may reserve such tide or shore lands from public sale and grant the use of them to the United States, so long as it may require the use of them for such public purpose; and the commissioner of public lands of the State of Washington shall certify such fact to the governor, who shall thereupon execute an easement to the United States, which shall be attested by the secretary of state, granting the use of such tide or shore lands to the United States, so long as it shall require the use of them for said public purpose.
Use of lands for public purposes.

SEC. 4. Whenever the United States shall cease to hold and use any uplands for the use and purpose mentioned in this act, the said easement shall be terminated there-
Reversion.
 by and said tide and shore lands shall revert to the state without resort to any court or tribunal whatsoever.

Passed by the House March 5, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 111.

[S. B. 357.]

EXTENDING THE BOUNDARIES OF CITIES.

AN ACT extending the powers and jurisdiction of incorporated cities into the bays, lakes, sounds, rivers and other navigable waters adjacent to the boundaries of such cities, and declaring an emergency.

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

SECTION 1. That the powers and jurisdiction of all incorporated cities of the State of Washington having their boundaries or any part of their boundaries adjacent to or fronting on any bay or bays, lake or lakes, sound or sounds, river or rivers, or other navigable waters, be and the same are hereby extended into and over said waters and over any tide lands intervening between any such boundary and any such waters to the middle of such bays, sounds, lakes, rivers or other waters, in every manner and for every purpose that such powers and jurisdiction could be exercised when such cities' limits include such waters or any part of such waters: *Provided*, That in towns of the fourth class the territory added by this act shall be over and above the one square mile now established by law as the maximum territory within the limits of such town.

Limits extended to center of channel.

Emergency.

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

Passed by the Senate March 2, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 112.

[H. B. 264.]

RELATING TO BILLIARD AND POOL HALLS.

AN ACT to regulate, restrain, license, or prohibit the maintenance or running of pool halls, billiard halls, and bowling alleys outside of incorporated cities and towns.

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

SECTION 1. The board of county commissioners of each county in the State of Washington shall have sole and exclusive authority and power to regulate, restrain, license, or prohibit the maintenance or running of pool halls, billiard halls, and bowling alleys outside of the incorporated limits of each incorporated city, town, or village in their respective counties: *Provided*, That the annual license fee for maintenance or running such pool halls, billiard halls, and bowling alleys shall in no instance be less than twenty-five dollars nor more than two hundred and fifty dollars; which said license fee shall be paid annually in advance to the county treasurer: *And Provided further*, That nothing herein or elsewhere shall be so construed as to prevent the boards of county commissioners of the respective counties from revoking any license at any time prior to the expiration thereof for any cause by such board of county commissioners deemed proper. And if said county commissioners revoke said license they shall refund the unearned portion of such license.

County commissioners may regulate.

License fee.

License may be revoked.

Passed by the House February 27, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 113.

[H. B. 196.]

PROTECTING CRABS.

AN ACT for the protection of crabs in the waters of the State of Washington, and providing a penalty for the violation thereof.

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

Shell not to
be broken.

SECTION 1. It shall be unlawful for any person or persons, firm or corporation, or any person whatever, to take, capture or remove from any of the waters of the State of Washington, any crab by the use of a spear or other sharp instrument, whereby the shell of any said [crab] is broken or penetrated.

Penalty.

SEC. 2. Any person violating section one of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed twenty-five dollars.

Passed by the House February 23, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 114.

[H. B. 339.]

RELIEF OF CONRAD L. HOSKA.

AN ACT for the relief of Conrad L. Hoska, funeral director, of Tacoma, Washington.

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

Appropriation
§85.

SECTION 1. That the sum of eighty-five dollars be and the same is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the payment to Conrad L. Hoska, for the balance due him for the burial of deceased veterans at the Soldier's Home at Orting, in Pierce county, in said state.

SEC. 2. That the state auditor is hereby authorized and directed to draw his warrant for said sum upon the

state treasurer in favor of said Conrad L. Hoska, and the state treasurer is hereby authorized and directed to pay Payment. the same out of any funds in the state treasury not otherwise appropriated.

Passed by the House March 9, 1909.

Passed by the Senate March 11, 1909.

Approved March 13, 1909.

CHAPTER 115.

[H. B. 250.]

RELIEF OF FRED H. GREEN.

AN ACT for the relief of Fred H. Green.

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

SECTION 1. That there shall be paid to Fred H. Green out of any moneys in the state treasury, not otherwise appropriated, the sum of \$480.00 for the purpose of reimbursing the said Fred H. Green for moneys paid to the commissioner of public lands of the State of Washington on January 10, 1905, for the purchase of the south half (S $\frac{1}{2}$) of section sixteen (16) township ten (10) north, range seven (7) west, W. M., which lands were never conveyed to the said Fred H. Green. Appropriation \$480.

SEC. 2. That the state auditor is hereby authorized and directed to draw a warrant for the said sum upon the state treasury in favor of the said Fred H. Green and the state treasurer is hereby authorized and directed to pay Payment. the same out of any funds in the state treasury not otherwise appropriated.

Passed by the House March 5, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 116.

[H. B. 411.]

RELATING TO PUBLIC LIBRARIES AND MUSEUMS.

AN ACT providing for the establishment and maintenance of public and free libraries and museums, and repealing certain other laws relating to public libraries.

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

SECTION 1. By a majority vote at any election, any city, village, town, school district, or other body authorized to levy and collect taxes, or by vote of its common council, any city may establish and maintain a free public library, with or without branches, either by itself or in connection with any other body authorized to maintain such library. Whenever twenty-five taxpayers shall petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted: *Provided*, That due public notice shall have been given of the proposed action.

Libraries may be established.

Petition.

SEC. 2. By similar vote money may be granted toward the support of libraries not owned by the public but maintained for its welfare and free use: *Provided*, That such libraries shall be subject to the inspection of the state library commission and registered by it as maintaining a proper standard; that the commission shall certify what number of books circulated are of such a character as to merit a grant of public money; and that the amount granted yearly to libraries on the basis of circulation shall not exceed ten cents for each volume of the circulation thus certified by the commission.

Support.

State inspection.

Circulation as basis of support.

SEC. 3. Taxes, in addition to those otherwise authorized, may be voted by any authority named in section one, and for any purpose specified in sections one and two and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor until changed by further vote, and shall be levied and collected yearly, or as directed, as are other general taxes; and all money received from

Annual appropriations.

taxes or other sources for such library shall be kept as a separate library fund and expended only under direction of the library trustees on properly authenticated vouchers. Every free library now established and every free library hereafter established shall be maintained and managed as provided in this act.

All free libraries come under this act.

SEC. 4. The management and control of every public library shall be vested in a board of five trustees (unless a larger number be decided upon by a vote at the time of establishment or at some subsequent annual election) who shall be elected by the legal voters; except that in cities they shall be appointed by the mayor, with the consent of the city council, from citizens of recognized fitness for such position. No person shall be ineligible as a trustee by reason of sex, and no trustee as such shall ever receive any compensation. The first trustees shall determine by lot whose term of office shall expire each year, and a new trustee shall be elected or appointed annually to serve for five years, except that when the board consists of more than five members, each trustee shall serve for a term of years corresponding to the number of regular members on the board in order that one term shall expire each year; all vacancies shall be as soon as possible filled in like manner as the members of the board are regularly chosen, and in an unexpired term for the residue of the term only.

Trustees.

Sex.

Term.

SEC. 5. The trustees shall immediately after taking office meet and organize by the election of one of their number president and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library as may be expedient, not inconsistent with law or this act. They shall have the supervision, care and custody of the rooms or buildings constructed, leased or set apart for the library and the exclusive control of the expenditures of all moneys collected for the library fund; and such money shall be paid out from the treasury by the proper officers upon the properly authenticated vouchers of the board of trustees without further audit. They may accept and receive gifts of

Officer of board.

Powers.

money, real estate, books, or other property for library purposes. They may lease and occupy, purchase, or erect on purchased or donated grounds, an appropriate building or buildings for library purposes. They shall have power to appoint a chief librarian, who shall possess such qualifications with respect to experience, ability, citizenship, electoral capacity, and residence as the board may require and who shall be subject to removal by the board. They shall adopt a system of competition or examination under which all appointments except that of chief librarian shall be made and under such system the chief librarian shall have power, by and with the consent of the board, to appoint all subordinate employes of the library, prescribe rules for their conduct, and remove them from office. So far as possible, all appointments shall be made for ascertained fitness for the work, and removals shall be made for demonstrated unfitness and neither appointments nor removals shall be made because of the candidate's race, color, political influence, or religious belief. The trustees shall have the power to do all other acts and things necessary to the management, custody, and control of the library.

Gifts.

Librarian.

Competitive
examina-
tions for
subordinates.Annual
report of
trustees.

SEC. 6. The trustees shall make an annual report at the close of each year to the city council or the proper body authorized to levy and collect taxes, stating the condition of their trust, the various sums of money received from the library fund and all other sources, how much money has been expended, the number of books and periodicals on hand, the number added during the year, the number missing or retired, the number loaned out and the general character of such loans, and such other statistics, information and suggestions as they may deem of general interest, together with their estimate of the income necessary for the proper maintenance of the library fund for the ensuing year: *Provided*, That nothing in this act shall be construed as empowering the board of trustees to incur any indebtedness except as there is sufficient money in the library fund applicable to the payment thereof.

SEC. 7. In order to avail the library of any provision of this act for state aid, the board of trustees shall apply

to the state library commission to have the institution registered by the commission as a library under its visitation and supervision. State aid.

SEC. 8. Every library which receives state aid shall make to the commission an annual report verified by the oath of its presiding officer, and giving such information in such form as shall be prescribed by the commission. Annual report to state commission. These reports shall be summarized and transmitted to the Governor by the commission, together with the reports of its proceedings as required by law.

SEC. 9. Every library established or maintained under this act shall be forever free for the use of the inhabitants of the city, town, village, or district where located, subject to such reasonable rules and regulations as the trustees may find necessary in order that the library shall be of the greatest benefit to the greatest number; and they may exclude from the use of the library any person who wilfully violates such rules. Libraries to be free.

SEC. 10. The board of trustees of any free library in this state may, under such rules and regulations as it may deem necessary and upon such conditions as may be agreed upon, allow non-residents of the city, town, village, or district in which the library is situated to use the books therein and may make exchanges of books with any other public library, either permanently or temporarily; and any such board may contract with the board of commissioners of the county in which the library is situated, or with the board of commissioners, village trustees, town or city council, of any neighboring county, village, town or city, to loan the books of said library to the residents of such county, village, town or city, upon the terms agreed upon in such contract; and every such board of trustees, board of county commissioners or village trustees, town or city council, is hereby empowered to make contracts for such purpose and to pay the consideration agreed upon therein to the board of trustees of such library out of the county, town, village, or city treasury upon the rendering of proper accounts therefor. Non-residents may use. Books loaned to non-residents.

Malicious mischief.

SEC. 11. Whoever intentionally injures, defaces, or destroys any property belonging to or deposited in any public library, reading room, museum, or other educational institution, shall be punished by imprisonment in the penitentiary for not more than three years, or in the county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Keeping books overtime.

SEC. 12. Whoever wilfully detains and book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to any public or incorporated library, reading room, museum, or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution such article or other property may be kept, shall be punished by a fine of not less than one or more than twenty-five dollars, or by imprisonment in the jail not exceeding six months; and the said notice shall bear on its face a copy of this section.

Club libraries become public, how.

SEC. 13. Any corporation, association, school district or combination of districts may, by legal vote, duly approved by the state library commission, transfer the ownership and control of its library, with all its appurtenances, to any public library under the supervision of the commission, and thereafter said public library shall be entitled to receive any money, books, or other property from the state or other sources, to which said corporation, association, or district would have been entitled but for such transfer; and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

Conditions of state support.

SEC. 14. If the local authorities of any library, supported wholly or in part by state money, fail to provide for the safety and public usefulness of its books, the state library commission shall, in writing, notify the trustees of said library of what is necessary to meet the state's requirements, and on such notice all its rights to further grants of money or books from the state shall be suspended

until the commission certifies that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements for sixty days after the service of such notice, the commission may remove them from office and thereafter all books and other library property wholly or in part paid for from state money shall be under the full and direct control of the commission which, as shall seem best for the public interest, may appoint new trustees to carry on the library, or may store it, or may distribute to other libraries the books paid for with state money.

SEC. 15. Under such rules as it may prescribe, the state library commission may lend from any books it may have for the purpose of selections of books for a limited time to any public library in this state under its visitation or supervision, or to any community not yet having established such library but having conformed to the conditions required for such loans. All the official publications of the state shall be furnished, through the state library commission, to every free public library in the state, free of charge. State to
loan books.

SEC. 16. The trustees or librarian of, or any citizen interested in, any public library in the state shall be entitled to ask from the state library commission any needed advice or instruction as to a library building, furniture and equipment, government and service, rules for readers, selecting, buying, cataloguing, shelving, or lending books, or any other matter pertaining to the establishment, reorganization, or administration of a public library. The commission may provide for giving such advice and instruction either personally or through printed matter and correspondence. The commission may, on request, select or buy books or furnish books instead of money apportioned, or may make exchanges and loans from any collection of books it may have in its possession. Such assistance shall be free to residents of this state as far as practicable, but the commission may in its discretion charge a proper fee to non-residents, or for assistance of a personal State to
give advice.

nature or for anything which is not properly an expense to the state but which may be authorized for the accommodation of users of such library.

Disposition
of proceeds.

SEC. 17. The state library commission may use receipts from fees, fines, gifts from all sources, or sale of its bulletins or similar printed matter, for buying books or for any other proper expenses of carrying on its work.

Appor-
tionments.

SEC. 18. Such sums as shall have been appropriated by the legislature as a fund for public library aid, shall be paid annually by the State Treasurer on the warrant of the State Auditor, according to an apportionment to be made for the benefit of deserving free libraries by the commission in accordance with its rules, and duly authenticated

Local funds.

by it: *Provided*, That this money shall not be spent for any books except those approved or selected and furnished by the commission; that no locality shall share in the apportionment unless it shall raise and use for the same purpose not less than an equal amount from taxation or other local sources; that for any part of the apportionment not payable directly to the library trustees, the commission shall file with the State Auditor proper vouchers, showing that it has been spent in accordance with law exclusively for books for free libraries or for proper expenses incurred for their benefit; and that books paid for by the state shall be subject to return to the commission whenever the library shall neglect or refuse to conform to the regulations under which it secured them.

Record of
expenditures.

SEC. 19. Any library established under this act may be abolished only by a majority vote of the people at a regular annual election, ratified by a majority vote at the next annual election. If any such library be abolished its property shall be used first to return to the state library commission, for the benefit of other public libraries in that locality, the equivalent of such sums as it may have received from the state or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library; but if the entire library property does not exceed in value the amount of such gifts it may be transferred to the com-

Vote to
abolish
library.

mission for public use and the trustees shall thereupon be freed from further responsibility. No abolition of a public library established under this act shall be lawful till the commission grants a certificate that its assets have been properly distributed and its abolition completed in accordance with law.

Permission
of state to
abolish.

SEC. 20. All persons desirous of making gifts of money, personal property or real estate for the benefit of a public library shall have the right to vest the title thereto in the board of trustees, to be held and controlled by the board when accepted, according to the terms of the deed of gift, devise or bequest.

Title of
gifts.

SEC. 21. All provisions of this act shall apply equally to libraries and to combined libraries and museums, and the word library shall be construed to include reference and circulating libraries and reading rooms.

Museums
included.

SEC. 22. An act authorizing the establishment of public libraries in cities, approved March 20, 1895; also an act authorizing cities of the first class to purchase or set apart lands for the purpose of public libraries, museums, or art galleries, to contract for the annual expenditure of a certain sum in their maintenance, and to issue bonds or to make an annual tax levy to pay for the same, and declaring an emergency, approved March 11, 1901; also, an act providing for the establishment and maintenance of public and free libraries and museums, and repealing all laws in conflict therewith, approved March 18, 1901; also, an act to amend an act authorizing the establishment of public libraries in cities, approved March 7, 1907, are hereby repealed.

Ch. 134, p.
345, L. '95,
§§ 981-989
Bal., §§ 7739-
7747 Pierce;
ch. 69, p. 119,
L. '01, §§
7748-7749
Pierce; ch.
104, p. 336,
L. '01, §§
7718-7738
Pierce; ch.
82, p. 144,
L. '07,
repealed.

Passed by the House March 4, 1909.

Passed by the Senate March 8, 1909.

Approved March 13, 1909.

CHAPTER 117.

[H. B. 312.]

RELATING TO COAL MINES.

AN ACT to amend sections 1, 2, 4 and 12 of an act entitled, An act relating to the proper ventilation and safety of coal mines, and prescribing the manner of appointment of inspectors, approved March 5, 1891.

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

[Am'd. § 1,
ch. 81, p. 152,
L. '91, § 3160
Bal., § 6501
Pierce.]

SECTION 1. That section 1 of an act entitled, An act relating to the proper ventilation and safety of coal mines, and prescribing the manner of appointment of inspectors, approved March 5, 1891, be and the same is hereby amended to read as follows: Section 1. (a) That the operator of every coal mine in this state shall make, or cause to be made, an accurate map or plan on tracing linen of such mine, drawn to a scale not smaller than one hundred feet to the inch, and as much larger as practicable, on which shall appear the name of the state, county and township in which the mine is located, the designation of the mine, the name of the company or owner, the certificate of the mining engineer or surveyor as to the accuracy and date of the survey, the north point and the scale to which the drawing is made.

Plans
of mine.

(b) Every such map or plan shall correctly show the surface boundary lines of the coal rights pertaining to each mine, and all section or quarter section lines or corners within the same; the lines of town lots and streets; the tracks and side tracks of all railroads and the location of all wagon roads, rivers, streams, ponds, buildings, landmarks and principal objects on the surface.

Surface
boundaries.

(c) For the underground workings said maps shall show all shafts, slopes, tunnels or other openings to the surface or to the workings of a contiguous mine; all excavations, entries, rooms and cross-cuts; the location of the fan and the direction of the air currents; the location of pumps, hauling engines, engine planes, abandoned works, fire walls and standing water; and the boundary line of any surface outcrop of the seam.

Additional
representations.

(d) A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam Seams. worked in any mine, and the maps of all such seams shall show all shafts, inclined planes or other passageways connecting the same.

(e) A separate map shall also be made of the surface whenever the surface buildings, lines or objects are so numerous as to obscure the details of the mine workings Separate maps, when. if drawn upon the same sheet with them, and in such case the surface map shall be drawn on transparent cloth or paper, so that it can be laid upon the map of the underground workings and thus truly indicate the local relation of lines and objects on the surface to the excavations of the mine.

(f) Each map shall also show by profile drawing and measurements, in feet and decimals thereof, the rise and dip Rise and dip of seam. of the seam from the bottom of the shaft, slope or drift in either direction to the face of the workings.

(g) The original or true copies of all such maps shall be kept in the office of the mine, and the true copies thereof shall also be furnished to the State Inspector of Mines. Copies to be furnished the state. The maps so delivered to the inspector shall be the property of the state, and shall remain in the custody of said inspector during his term of office, and be delivered by him to his successor in office; they shall be kept at the office of the inspector, and be open to the examination of all persons interested in the same, but such examination shall be made only in the presence of the inspector, and he shall not permit any copies of the same to be made without the written consent of the operator or the owner of the property.

(h) An extension of the last preceding survey of every mine in active operation shall be made once in every twelve months, prior to July first of every year, and the results of said survey, with the date thereof, shall be promptly and accurately entered upon the original maps and all copies of the same, so as to show all changes in plan or new work in the mine, and all extensions of the old workings to the most advanced face or boundary of such workings, which Maps amended yearly.

have been made since the last preceding survey. The said changes and extensions shall be entered upon the copies of the maps in the hands of the said inspector.

Worked out
mine.

(i) When any coal mine is worked out or is about to be abandoned or indefinitely closed, the operator of the same shall make or cause to be made a final survey of all parts of such mine, and the results of the same shall be duly extended on all maps of the mine and copies thereof, so as to show all excavations and the most advanced workings of the mine, and their exact relation to the boundary or section lines on the surface.

Inspector
may order
survey.

(j) The State Inspector of Mines may order a survey to be made of the workings of any mine, and the results to be extended.

[Am'd. § 2,
ch. 81, p. 152,
L. '91,
§ 3161 Bal., §
6502 Pierce.]

SEC. 2. That section 2 of said act be and the same is hereby amended to read as follows: Sec. 2. Whenever an operator of any mine shall neglect or refuse or for any cause not satisfactory to the Mine Inspector fail for the period of three months to furnish said inspector the map or plan of such mine, or a copy thereof, or of the extensions thereto as provided for in section 1 of this act, such operator shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars, and shall stand committed to the county jail until such fine is fully paid, and in addition thereto the inspector is hereby authorized to make or cause to be made an accurate plan or map of such mine at the cost of the owner thereof, and the cost of the same may be recovered from the operator in an action at law brought in the name of the inspector for his use.

Refusal to
furnish maps,
misdemeanor.

Cost of map
charged to
operator.

[Am'd. § 4,
ch. 81, p. 153,
L. '91, § 3163
Bal., § 6504
Pierce.]

SEC. 3. That section 4 of said act be and the same is hereby amended to read as follows: Sec. 4. All escapement shafts shall be equipped with stairways or ladders having landing places or platforms at reasonable distances apart, as in the judgment of the Mine Inspector they should be constructed for easy traveling, or, in lieu thereof, such hoisting apparatus as will enable the employes in the mine to make safe and speedy exit in case of danger. The escapement shaft, ropes and machinery used for hoisting

Stairways
or ladders
in shafts.

or lowering employes out of or into said mine shall be kept in a safe condition and inspected at least once in each twenty-four (24) hours by a competent person employed in whole or in part for that purpose and a record of such examination shall be entered by the person making the same in a book to be kept at the mine for that purpose and said book must always be produced for examination at the request of the inspector. At all points where the passage-way to the escapement shaft and other places of exit is intersected by other roadways or entries, conspicuous signboards, subject to the approval of the State Mine Inspector, shall be placed indicating the direction it is necessary to take in order to reach such place of exit.

Hoisting
machinery
inspected
daily.

Signboards.

SEC. 4. That section 12 of said act be and the same is hereby amended to read as follows: Sec. 12. No boy under the age of sixteen years and no female of any age shall be employed or permitted to be in any mine for the purpose of employment therein, nor shall a boy under the age of fourteen years be employed or permitted to be in or about the outside structures or workings or the colliery for the purpose of employment: *Provided*, That this prohibition shall not affect the employment of boys of suitable age in an office or in the performance of clerical work at the colliery. When an employer is in doubt as to the age of any boy applying for employment in or about a mine or colliery, he shall demand and receive proof of the age of such boy by certificate from the parents or guardian of such boy before he shall be employed.

[Am'd. § 12,
ch. 81, p. 159.
L. '91, § 3172
Bal., § 6509
Pierce.]

Children
prohibited
in mines.

Passed by the House March 3, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 118.

[H. B. 356.]

RELATING TO THE APPOINTMENT OF GUARDIANS.

AN ACT providing for the procedure in the appointment of guardians for the estate of minors, insane and mentally incompetent persons.

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

Petition for
appointment.

SECTION 1. When a petition is presented to the superior court verified by the petitioner, and showing that a person, resident of the county where the petition is filed, is a minor, or is insane, or mentally incompetent, and that such person has property needing care and attention and praying for the appointment of a guardian for such minor, insane or mentally incompetent person's property, the court shall thereupon make an order setting a time for the hearing on said petition, and directing the clerk of the court to issue a notice stating that such a petition has been filed, and the time and place of the hearing thereon and stating that all persons interested shall appear at the time and place of the hearing and show cause if any there be, why a guardian should not be appointed for the estate of such minor, insane, or mentally incompetent person.

Notice,
how served.

SEC. 2. The notice of the hearing shall be served upon such minor personally if over fourteen years of age, or such insane or incompetent person, and also upon the head of the family with whom such minor, insane or incompetent person resides, and if such minor, insane or incompetent person is in the care and custody of an officer, or institution, then upon such officer or head of such institution, at least ten days prior to the time set for the hearing; and proof of such service shall be made and filed in the same manner as proof of the service of a summons: *Provided, however,* That in case that the person making application for the appointment of such guardian, is the parent of a minor under fourteen years of age, then the notice herein provided for shall be dispensed with and the court may

make the order appointing the parent as such guardian upon his or her petition being presented.

SEC. 3. Before the hearing the petition or a copy thereof shall be submitted to the prosecuting attorney who shall appear for such minor, insane or incompetent person at said hearing, and if the prosecuting attorney desires further time in which to make an investigation, the court shall at his request continue the hearing to some certain day, and the court may on its own motion or at the request of the prosecuting attorney, direct that the minor, insane or mentally incompetent person, be brought into court in person, and for this purpose may make an order directing the sheriff to bring him or her into court.

Prosecuting attorney to appear for ward.

In case the prosecuting attorney or his deputy is unable to attend at the hearing, the court may appoint some suitable person to act in his place: *Provided, however,* That nothing herein shall prevent the minor, insane or mentally incompetent person from appearing by an attorney selected by himself, or by some one on his behalf, in which case it will not be necessary for the prosecuting attorney to appear at the hearing.

SEC. 4. When a minor, insane or mentally incompetent person, resides out of the State of Washington, and has property within the state requiring the care of a guardian, and a petition is filed in the county where such minor, insane or mentally incompetent person has property, the petitioner shall make an affidavit stating the fact of the non-residence of such minor, insane or mentally incompetent person, and then the notice provided for in section one shall be served by publication in some newspaper printed and of general circulation in the county where the petition is filed for four weeks, to-wit: for five successive weekly issues of such paper prior to the time set for the hearing and proof of such publication shall be made and filed, as in the case of a summons by publication, and thereafter the same proceedings shall be had as hereinbefore provided.

Notice by publication.

Passed by the House March 6, 1909.

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 119.

[H. B. 134.]

FOR RELIEF OF HARRY LAWRENCE.

AN ACT for the relief of Harry Lawrence, Jefferson county, State of Washington, and making an appropriation therefor.

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

Appropriation \$1,085.

SECTION 1. That the sum of ten hundred and eighty-five dollars (\$1,085) be and is hereby appropriated out of the state treasury from any funds not otherwise appropriated, to pay Henry Lawrence for the value of improvements on the southwest quarter of the southwest quarter and lots 3, 4 and 5 of section 16, township 28, north, range 1 east, in the county of Jefferson, State of Washington, heretofore sold by the State of Washington to one H. B. McElroy under application No. 2683, the value of which was never refunded by the State of Washington to the said Henry Lawrence.

Passed by the House March 5, 1909.

Passed by the Senate March 9, 1909.

Approved March 13, 1909.

CHAPTER 120.

[H. B. 241.]

AMENDING ACT RELATING TO CITIES OF THE SECOND CLASS.

AN ACT to amend sections 3, 42, 43, and 47 of an act entitled, An act relating to cities of the second class and providing for the government of such cities, and repealing sections 24 to 91 inclusive, of an act entitled, An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency, approved March 27, 1890, and declaring an emergency, approved March 18, 1907, and declaring an emergency.

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

SECTION 1. That section 42 of and act entitled, An act relating to cities of the second class and providing for

the government of such cities, and repealing sections 24 to 91 inclusive, of an act entitled, An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency, approved March 27, 1890, and declaring an emergency, approved March 18, 1907, is hereby amended so as to read as follows: Sec. 42. Where any local assessment is made or to be made upon the "immediate payment plan" the city council may provide for the issuance of local improvement fund warrants against the local improvement district fund to be created. The local assessment roll in any improvement district may be made up and the assessment levied and equalized at any time after the contract for the improvement shall have been let and a bond given for its faithful performance and the making up of such assessment roll and the equalization thereof need not await the completion of the work. When the improvement shall be made on the basis of the "bond installment plan" the city council shall either in the original resolution of intention or in the ordinance creating the improvement district or subsequently designate the number of annual installments, not exceeding, however, ten annual installments, into which it is proposed to divide the assessment in such local improvement district, and in such case the assessment roll as prepared and as finally equalized shall contain appropriate columns for the division of the assessment against each parcel of land into such number of installments as may have been previously prescribed by the city council. Assessments made on the "immediate payment plan" shall begin to bear interest from such time as may be prescribed by the city council, such rate of interest to be eight per cent per annum prior to delinquency. Where the assessment is made on the "bond installment plan" each of the installments, including the first, shall bear interest before delinquency from and after the date of the equalization of the assessment roll at the same rate as the special fund bonds against the particular improvement district, provided that such rate of interest before delinquency shall not exceed eight per cent. per

[Am'd. § 42,
ch. 241, p.
650, L. '07.]

Local
improvement
warrants.

"Bond
installment
plan."

"Immediate
payment
plan."

Rates of
interest.

annum. All local assessments after delinquency, whether upon the "immediate payment plan" or the "bond installment plan," shall bear interest at the same rate as is now or may hereafter be provided by law in cases of delinquency of the general, county, and state taxes. Special improvement fund warrants or special improvement fund bonds may be issued when authorized by the council either before or after the equalization of the assessment roll. The local improvement fund warrants or bonds in any local improvement district shall be collected and paid in their numerical order. In making up the assessment roll and in levying and equalizing the assessment for any local improvement district, it shall be proper to include therein the estimated cost and expense of the necessary engineering and surveying for such improvement; also the cost of ascertaining the ownership of lots and lands included within the district; the cost of advertising and publishing as well as the interest accrued or to accrue upon special fund warrants or bonds in connection with such improvement.

[Am'd. § 43,
ch. 241, p.
650, L. '07.]

Bonds.

SEC. 2. That section 43 of said act is amended so as to read as follows: Sec. 43. Whenever any local improvement shall be made upon the basis of the "bond installment plan," the city council shall provide for the issuance of "installment local improvement bonds" to cover the entire amount of the assessment against abutting or contiguous property in such local improvement district. Said bonds shall be of such denominations, numbers and for such amounts and shall bear such a rate of interest per annum not exceeding eight per cent per annum, as the council may prescribe. The bonds herein provided for shall be signed by the mayor and city clerk and shall bear the seal of the city and each bond shall contain a coupon for each installment of interest maturing thereon, to be surrendered and cancelled by the holder when the same is paid. When sufficient funds have accumulated in any local improvement district fund referred to in this section, to take up or redeem any bond or coupon next entitled to redemption and then due, the city treas-

urer, who shall be custodian of all local improvement funds, shall publish a call for such coupon or bond, and from and after the date of such publication, interest on such coupon or bond shall cease. The city council shall have the power to pass any and all ordinances necessary to put this section into effect.

Payment
of bonds.

SEC. 3. That section 47 of said act is amended so as to read as follows: Sec. 47. Whenever any local improvement assessment, whether for street, sewer, drainage, filling or for any other purpose whatsoever, shall remain delinquent and unpaid for a period of sixty days after the date of delinquency, it shall be the duty of the city treasurer of such city to certify and transmit to the county treasurer of the county a list of all such delinquent local assessments, with a description of the parcel or parcels of land to which the same are chargeable and the amount, with interest, chargeable to each parcel, together with the number of the improvement district and such other information as the council by ordinance may direct. Upon receiving such list it shall be the duty of the county treasurer of the county to enter said delinquent local assessments against the respective parcels of land upon the current tax rolls of the county for the general county and state tax, in a separate column in said rolls to be provided and known as the "local improvement column." All such delinquent local assessments so certified, including assessments heretofore certified shall bear interest from the time of filing the list with the county treasurer at the rate of fifteen per cent per annum. It shall be the duty of the city treasurer of such city, as soon as this act takes effect, to certify to the county treasurer as herein provided, all delinquent local improvement assessments of said city which shall then have been delinquent for a period of sixty days or more. In certifying delinquent assessments to the county treasurer under this section the city treasurer shall compute and combine in one sum, against each parcel of land, the original assessment, accumulated interest and penalties, if any.

[Am'd. § 47,
ch. 241, p.
653, L. '07.]

Delinquent
assessments
filed with
county
treasurer.

Delinquent
assessments
extended on
tax rolls.

[Am'd. § 3,
ch. 241, p.
624, L. '07.]

Terms
of office.

SEC. 4. That section 3 of said act is hereby amended so as to read as follows: Sec. 3. The term of office of mayor in cities of the second class shall be for the period of two years and until his successor is elected and qualified. Members of the city council shall hold office for the term of two years: *Provided*, That whenever at the city election in any such city next ensuing after this act shall go into effect, more than six councilmen are to be elected, then only six of such councilmen shall hold office for the term of two years and the balance shall hold office for the term of one year, so that thereafter, as far as practicable, there shall be six members of the city council to elect at each ensuing city election. Whenever, at the election next ensuing after the passage of this act, more than six councilmen are to be elected in any such city, the members of the city council so elected shall after their election determine by lot among themselves, which shall serve for the long term and which shall serve for the short term.

Emergency.

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

Passed by the House February 18, 1909.

Passed by the Senate March 9, 1909.

Approved March 13, 1909.

CHAPTER 121.

[H. B. 207.]

PERMITTING CITIES OF THE SECOND CLASS TO FURNISH LIGHT.

AN ACT authorizing cities of the second class to provide for the lighting of the public streets and public places within such cities, and to install lighting fixtures, apparatus and appliances at the expense of the property benefited and to levy local assessments to pay for the cost of such installation, and declaring an emergency.

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

SECTION 1. In each city of the second class within this state, the city council thereof shall have power to

install all necessary fixtures, appliances and equipment for the suitable lighting of any of the public streets, avenues, squares or public places within such city and to assess the whole or any part of the cost of such installation against the property specially benefited in the manner hereinafter provided. When it is proposed to install any such lighting fixtures, appliances or equipment, in whole or in part, at the expense of the property benefited, the city council of any such city shall pass a resolution declaring its intention to make such improvement and stating in such resolution the name of the street, avenue, square or public place which it is proposed to improve by the installation of such fixtures, equipment and appliances and the points between which such improvement is proposed to be made and the estimated cost of the same and that the cost of the same is to be assessed against the property benefited and to be included within the proposed local assessment district herein provided. By such resolution the city council shall fix a time not less than ten days distant within which protests against such proposed improvement may be filed in the office of the city clerk. Such resolution shall further specify whether it is proposed to pay for said improvement upon the immediate payment plan or the bond installment plan, as defined by chapter 241 of the Session Laws of Washington for the year 1907.

Lighting by special assessment.

Declaration to improve.

[See § 43, ch. 241, p. 650, L. '07.]

SEC. 2. It shall thereupon be the duty of the city clerk to cause such resolution to be published in the official newspaper of the city in at least two consecutive issues thereof, before the time fixed in such resolution for the filing of protests. If protests against said proposed improvement by the owners of more than two-thirds of the front feet of lots and lands abutting on such proposed improvement and included in the assessment districts therein proposed, be filed on or before the date fixed for such filing, the council shall not proceed further with such work unless eight members of the council shall vote to proceed therewith. If protests are not filed by the owners of two-thirds of the front feet of lots and lands as aforesaid, or if such protests are filed and eight councilmen

Notice.

Vote necessary.

Districts to
be numbered.

Expense
charged to
property
improved.

General
fund.

Assessment
a lien.

Lighting
same as other
improvements.

shall vote to proceed with such work, the city council shall proceed to consider the same and shall then or at a subsequent time proceed to enact an ordinance for such improvement. By the provisions of such ordinance a local improvement district shall be established to be known as "local improvement district No.," which district shall include all of the property fronting on the street, avenue or other public place to be improved between the points named in such resolution, to the distance back from such street, avenue or other place, if platted into blocks and lots, or if platted only into blocks, to the center of each block, and if platted into lots, only, then by including the entire lot, and if not platted, then to the distance of one hundred and twenty feet. Such ordinance shall provide that such improvement shall be made and that the cost and expense thereof shall be taxed and assessed upon all property in such local improvement district, which costs shall be assessed in proportion to the number of feet of such land and lots fronting thereon and included in such improvement district, and in proportion to the benefits derived from such improvement: *Provided*, That the said council may expend from the general fund for such purposes such sums as in their judgment may be fair and equitable in consideration of benefits accruing to the general public by reason of such improvement. No contract for any such work shall be given except to the lowest responsible bidder. When any assessment shall be made upon any lands or property, as contemplated by this act, the amount of such assessments shall become a lien upon such lands, which shall take precedence of all other liens, except general taxes, which lien shall attach from the time of the equalization of the assessment roll.

SEC. 3. All of the provisions of law which are now in force or which may be hereinafter enacted relating to local assessments for street improvements, so far as the same may be applicable, are hereby declared to be applicable to assessments and improvements made under the provisions of this act when not inconsistent herewith. Assessments levied under authority of this act shall be

equalized, shall become delinquent and shall be enforced in the same manner as now provided by law for the equalization, delinquency and enforcement of assessments for other street improvements.

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

Passed by the House March 8, 1909.

Passed by the Senate March 9, 1909.

Approved March 2, 1909.

CHAPTER 122.

[H. B. 329.]

RELATING TO PROSECUTING ATTORNEYS.

AN ACT fixing the place of office of prosecuting attorneys.

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

SECTION 1. The prosecuting attorney of each county in the State of Washington must keep an office at the county seat of the county of which he is prosecuting attorney. Office at county seat.

Passed by the House March 1, 1909

Passed by the Senate March 10, 1909.

Approved March 13, 1909.

CHAPTER 123.

[H. B. 410.]

RELATING TO ESTRAYS.

AN ACT To amend sections 9 and 11 of an act entitled "An act in relation to estrays, providing for their detention, registration and sale, and prescribing penalties for its violation," approved February 16, 1905.

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

SECTION 1. That section 9 of an act entitled "An act in relation to estrays, providing for their detention, registration and sale, and prescribing penalties for its vio- [Am'd. § 9, ch. 23, p. 47, L. '05, § 4680d Pierce.]

lation," approved February 16, 1905, be and the same is hereby amended to read as follows: Sec. 9. In any community where any number of estrays are registered as found at or near the same time, all such estrays may be advertised for sale by the auditor in the same notice, by describing each animal. It shall be the duty of the county auditor to specify in said notice the place where the sale is to take place, and any person holding any stray or estrays so advertised shall take the same to the place specified in said notice so that the same may be sold as provided in this act.

Notice of sale.

[Am'd. § 11,
ch. 23, p. 48.
L. '05, § 4680g
Pierce.]

SEC. 2. That section 11 of said act be and the same is hereby amended to read as follows: Sec. 11. If the owner of the property sold, or his legal representative, within six months after the sale shall have been made, furnish satisfactory evidence to the auditor of the ownership of the said property, he or they shall be entitled to redeem said property upon the payment of all costs incurred in connection therewith. Any person buying an stray at a sale had under the provisions of this act shall be vested with an absolute title to the same after six months from the date of such sale, unless notified by the auditor of the redemption of same by its owner or his legal representative.

Redemption.

Passed by the House March 8, 1909.
Passed by the Senate March 10, 1909.
Approved March 13, 1909.

CHAPTER 124.

[S. B. 153.]

RELATING TO COURT COMMISSIONERS.

AN ACT providing for the appointment of court commissioners and fixing their powers, duties and jurisdiction, and repealing all laws in conflict herewith.

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

SECTION 1. There may be appointed in each county, by the judge of the superior court having jurisdiction

therein, a court commissioner for said county. Such commissioner shall be a citizen of the United States and an elector of the county in which he may be appointed, and shall reside at the county seat of such county, and shall hold his office during the pleasure of the judge appointing him.

One in each county.

SEC. 2. Such court commissioner shall have power, authority and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

Powers.

a. To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

Probate.

b. To grant and enter defaults and after ten days from the entry thereof, to enter judgment thereon.

Defaults.

c. To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

Temporary injunctions.

d. To act as referee in all matters and actions referred to him by the superior court as such, with all the powers now conferred upon referees by law.

Referee.

e. To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

Supplemental proceeding.

f. To hear and determine all petitions for the adoption of children, for the dissolution of incorporations, and to change the name of any person.

Children; corporations; names.

g. To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: *Provided*, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

Insanity.

h. To hear and determine all complaints for the commitment of minors to the state reform or industrial school, with all powers conferred upon the superior court in such matters.

Incorrigible children.

i. To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of his law-

General powers.

ful orders made in any matter before him as fully as the judge of the superior court.

Acknowledg-
ments.

j. To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

Seal.

k. To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

Fees.

l. To charge and collect, for his own use, the same fees for the official performance of official acts mentioned in sub-sections "d" and "j" herein as are provided by law for referees and notaries public.

Revisions
by superior
court.

SEC. 3. All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, his orders and judgments shall be and become the orders and judgments of the superior court, and from same an appeal may be taken to the supreme court in all cases where an appeal will lie from like orders and judgments entered by the judge.

Appeals from,
to supreme
court.

Salary.

SEC. 4. Each court commissioner appointed hereunder shall be allowed a salary, in addition to the fees herein provided for, in such sum as the board of county commissioners may designate, said salary to be paid at the time and in the manner as the salary of other county officials.

Oath.

SEC. 5. Court commissioners appointed hereunder shall, before entering upon the duties of such office, take and subscribe an oath to support the constitution of the Uni-

ted States, the constitution of the State of Washington, and to perform the duties of such office fairly and impartially and to the best of his ability.

SEC. 6. All acts and parts of acts in conflict herewith are hereby expressly repealed.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

Repeals.
[See ch. 83, p.
164, L. '95.
§§ 4728-9 Bal.,
§§ 4388-4390
Pierce.]

CHAPTER 125.

[S. B. 192.]

FOR RELIEF OF TIETON WATER USERS ASSOCIATION.

AN ACT for the relief of the Tieton Water Users Association for work done and charged to said association on state road No. 5, and providing a method for ascertaining such amount and for the payment thereof.

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

SECTION 1. The state highway engineer, the county engineer of Lewis county, and the county engineer of Yakima county, shall constitute a board to appraise the benefits to the state of the work done by the United States reclamation service on the Cowlitz-Natches state road known as state road No. 5, the cost of which has been charged to the Tieton Waters Users Association, and when such amount is determined by an actual examination and by such other means as the board of appraisers herein provided for may select, the same shall be certified to the State Auditor and shall be paid to the Tieton Water Users Association by said State Auditor the same as other claims are paid out of any apportionment or apportionments made for the said state road No. 5.

Board to
appraise.

Tieton
Water Users
Association.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 126.

[S. B. 344.]

DISCLAIMING INTEREST IN CERTAIN TIDE LANDS.

AN ACT disclaiming title and interest in certain land in Snohomish county.

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

Title
disclaimed.

SECTION 1. The State of Washington disclaims all title in and claim to that certain piece or parcel of land, situate, lying and being in Snohomish county, State of Washington, and particularly bounded and described as follows, to-wit:

Description.

Beginning at a stone monument at the northeast corner of section eleven (11), township twenty-seven (27), north range six (6), east W. M., thence west along the north line of said section 624 feet more or less to the county road, thence south along the county road to the right bank of the Skykomish river, thence easterly up the right bank of said stream to where the same intersects the east line of said section, thence north along said east line to the place of beginning, containing two (2) acres of land, more or less.

Passed by the Senate March 5, 1909.

Passed by the House March 9, 1909.

Approved March 13, 1909.

CHAPTER 127.

[S. B. 158.]

FOR RELIEF OF CHICAGO, MILWAUKEE AND PUGET SOUND RAILWAY.

AN ACT making an appropriation for the relief of Chicago, Milwaukee and Puget Sound Railway Company for money paid for rights-of-way across lands of the State of Washington.

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

SECTION 1. That there be, and hereby is, appropriated out of any money in the state treasury not otherwise ap-

propriated, the sum of five hundred twenty-five and eight hundredths (\$525.08) dollars for the relief of the Chicago, Milwaukee and Puget Sound Railway Company (formerly called Chicago, Milwaukee and St. Paul Railway Company of Washington) for money paid the State of Washington for rights-of-way across lands of said state, which rights-of-way were surrendered and rights-of-way upon new locations were purchased from the state; and the State Auditor is authorized to draw a warrant on the State Treasurer for said amount and said State Treasurer shall pay the same out of any money in the state treasury not otherwise appropriated: *Provided*, That before said warrant is drawn, said railway company shall execute and deliver to the Commissioner of Public Lands such release or reconveyance of the said surrendered rights-of-way as said Commissioner of Public Lands shall deem proper.

Appropriation \$525.08.

Payment.

Passed by the Senate February 16, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 128.

[S. B. 193.]

PERMITTING CITIES TO CREATE ACCIDENT FUNDS.

AN ACT authorizing cities of the second, third and fourth classes to create an accident fund from which to pay judgments for personal injuries, and declaring an emergency.

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

SECTION 1. Any city of the second, third or fourth class in the State of Washington is hereby authorized to create a fund to be known as the accident fund.

Accident fund.

SEC. 2. When a judgment obtained against any such city on account of personal injuries suffered by any person has been duly certified to the clerk of said city, as now provided by law, the clerk shall draw warrants upon the accident fund for the full amount of said judgment, interest and costs as shown by said transcript of judgment.

Judgments paid from.

Tax. SEC. 3. At the first meeting of the city council after the drawing of said warrants the city council of said city shall estimate the amount necessary to pay said warrants, with accrued interest thereon, and shall levy a special tax sufficient to pay said amount, not exceeding three mills on the dollar. If a levy of three mills is not sufficient to pay said warrants and interest thereon, then an additional levy not exceeding three mills shall be made from year to year until said warrants and interest are fully paid.

Surplus. SEC. 4. After the payment of said warrants and interest in full, if any money remains in said accident fund, the same shall be paid into the current expense fund of said city: *Provided*, That no other judgment for personal injuries is then due and remaining unpaid against such city, in which event the remaining money in said fund shall be applied to the payment of such judgment.

Denomination of warrants. SEC. 5. The warrants provided for herein shall be issued in denominations not less than one hundred dollars nor more than five hundred dollars; shall be signed by the mayor of said city and attested by the clerk, shall draw interest at the rate of six per cent. per annum, shall be numbered consecutively and shall be paid in the order of their issue.

Manner of collecting tax. SEC. 6. The special tax herein provided for shall be assessed and collected in the manner provided by law for the collection of general taxes in such city.

Emergency. SEC. 7. Whereas, an emergency exists, this act shall take effect immediately.

Passed by the Senate March 2, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 129.

[S. B. 76.]

RELATING TO DAMAGES FOR DEATH BY WRONGFUL ACT.

AN ACT amending section 4828 of Ballinger's Annotated Codes and Statutes of Washington, in relation to recovery of damages for the death of a person caused by the wrongful act or neglect of another.

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

SECTION 1. That section 4828 of Ballinger's Annotated Codes and Statutes of Washington, be, and the same is, hereby amended to read as follows: Section 4828. The widow, or widow and her children, or child or children if no widow, of a man killed in a duel, shall have a right of action against the person killing him, and against the seconds and all aiders and abettors. When the death of a person is caused by the wrongful act or neglect of another, his heirs, or personal representatives may maintain an action for damages against the person causing the death. If the deceased leave no widow or issue, then his parents, sisters or minor brothers who may be dependent upon him for support and who are resident within the United States at the time of his death, may maintain said action, when the death of a person is caused by an injury received in falling through any opening or defective place in any sidewalk, street, alley, square or wharf, his heirs or personal representatives, or, if deceased leaves no widow or issue, then his parents, sisters or minor brothers who may be dependent upon him for support, and who are resident within the United States at the time of his death, may maintain an action for damages against the person whose duty it was, at the time of the injury, to have kept in repair such sidewalk or other place. In every such action the jury may give such damages, as under all circumstances of the case may to them seem just.

[Am'd. § 4828
Bal., § 256
Pierce.]

Who may
sue.

Those
dependent.

Defective
walk or way.

Passed by the Senate February 4, 1909.

Passed by the House March 11, 1909.

Approved March 13, 1909.

CHAPTER 130.

[S. B. 331.]

REQUIRING CERTAIN CITIES TO PAY ASSESSMENTS OF CITY PROPERTY.

AN ACT requiring every city of the first, second and third class to include in its annual tax levy an amount sufficient to pay all unpaid assessments, with all interest, penalties and charges thereon, levied upon lands belonging to such city.

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

Tax levy. SECTION 1. That every city of the first, second and third class shall include in its annual tax levy an amount sufficient to pay all unpaid assessments, with all interest, penalties and charges thereon levied against all lands of such city.

Treasurer to certify. SEC. 2. On or before the fifteenth day of August of each year, the city treasurer of each such city shall certify to the city council thereof a detailed statement showing the proceedings authorizing and confirming such assessments, the city's lots, tracts and parcels of land so assessed, the several assessments against each, the interest, penalties and charges thereon, together with the estimated interest, penalties and charges which will accrue upon such assessments to date of payment and the total of all such assessments, interest, penalty and charges. The proceeds of such portion of the tax levy shall be placed by such city treasurer in a separate fund to be known as the "City Property Assessment Redemption Fund" and by him inviolably applied in payment of any unpaid assessment liens on any lands belonging to such city. The longest outstanding liens shall be paid first, but if the monies in such fund shall at any time be insufficient to discharge all such liens against such lands upon a given assessment roll, such city treasurer may pay such portion thereof as may be possible from the funds available therefor: *Provided*, That the city council of such city may, if it be deemed necessary, transfer any sum or sums to such fund from the general fund of such city as a

Fund.

loan, such transfer to be repaid when monies shall be available therefor in the fund hereby created.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 131.

[S. B. 119.]

AMENDING ACT RELATING TO PARKS.

AN ACT to amend an act entitled "An act authorizing the formation of metropolitan park districts, providing for park officials, fixing their powers and duties, and declaring an emergency," approved March 11th, 1907, and declaring an emergency.

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

SECTION 1. That section two (2) of an act entitled "An act authorizing the formation of metropolitan park districts, providing for park officials, fixing their powers and duties, and declaring an emergency," approved March 11th, 1907, be and the same is hereby amended to read:

[Am'd. § 2.
ch. 98, p. 182,
L. '07.]

Section 2. At any general election, or at any special election which may be called for that purpose, or at any city election held in such city in each of the various voting precincts of such city, the city council may, or on petition of fifteen per cent. of the qualified electors of such city based upon the registration for the last preceding general city election shall, by ordinance, submit to the voters of such city the proposition of creating a metropolitan park district, the limits of which park district shall be co-extensive with the limits of such city as now or hereafter established, inclusive of territory annexed to and forming a part of such incorporated city of the first class, which said territory by virtue of such annexation to any city having theretofore created a park district under this act shall be deemed to be the limits of such metropolitan park district, and the city council shall submit such proposition at the special election to be called therefor when

Election.

Petition.

such petition so requests. In submitting the said question to the voters for their approval or rejection, such city council shall pass an ordinance declaring its intention to submit the proposition of creating a metropolitan park district to the qualified voters of such city, which said ordinance shall be published for at least five days in a daily newspaper published in said city, and said city council shall cause to be placed upon the ballot for such election, at the proper place, the proposition which shall be expressed on said ballot in the following terms:

- "For the formation of a metropolitan park district."
- "Against the formation of a metropolitan park district."

SEC. 2. That section three (3) of said act be and the same is hereby amended to read: Sec. 3. If at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such park district, the city council shall so declare in its canvass of the returns of such election, and such park district shall then be and become a municipal corporation of the State of Washington, and the name of such metropolitan park district shall be "Metropolitan Park District of _____ (inserting the name of the city constituting the park district)." At the same election at which the proposition is submitted to the voters as to whether a metropolitan park district shall be formed, five (5) park commissioners shall be elected to hold office respectively for the terms of one, two, three, four and five years, and until their respective successors are elected, the term of each nominee for park commissioner to be expressed on the ballot. And thereafter, and at least thirty (30) days prior to the first Tuesday of June in each year, such board of park commissioners shall give notice by publication in at least five issues of a daily newspaper published within said metropolitan park district that an election will be held on the first Tuesday of June thereafter for a park commissioner to hold office for five years and until his successor is elected. Nominations for park commissioners shall be by

Ordinance.

Ballot.

[Am'd. § 3,
ch. 98, p. 183,
L. '07.]

Designation
of district.Commis-
sioners
elected.Notice of
election.

petition of one hundred (100) qualified electors of such park district, to be filed in the office of the city clerk of such city for the first election, and with the clerk of such metropolitan park district for all succeeding elections, such nominations to be so filed at least five (5) days prior to such election: *Provided, however,* That there shall be no election held on the first Tuesday of June immediately following the creation of such park district: *And provided further,* That in the event of a vacancy caused by death, resignation or otherwise, such vacancy shall be filled by appointment by a majority vote of the remaining commissioners until the next regular election for park commissioner. Said board of metropolitan park commissioners shall designate in their notice of election whether such election be a general or special election, the time of opening and closing the polls and the places for voting, but in no event shall there be less than one voting place in each of the various wards of such city, and at least one voting place in any outlying district annexed to such park district and not within the city. The polls shall be kept open at every election held by said park district at least from one o'clock p. m. to seven o'clock p. m., but said park commissioners may keep the polls open for a longer period of time if they shall so order, but the time of opening and closing the polls must be stated in the notice of election, and the polls shall be opened and closed in accordance with such notice. Any person residing in said park district who is, at the time of holding of any such election, a qualified voter under the laws of the State of Washington, shall be entitled to vote at any election held in such metropolitan park district. The officers of the city or county having charge of the registration books shall deliver the same to the park commissioners for the use of the election officers at any election held in a metropolitan park district formed under and in accordance with the provisions of this act. And the registration of voters for elections to be held in such metropolitan park district shall be conducted by the city clerk and officers of registration of the city and

Nominations.

Vacancies.

Polls.

Registration
according to
§ 2, ch. 118,
p. 217, L. '07.

territory embraced within said metropolitan park district; and the notice prescribed to be given by section two (2) of an act relating to the registration of voters, approved March 11th, 1907, and being section two (2) of chapter one hundred and eighteen (118) of the Laws of 1907, shall constitute sufficient notice to citizens residing within said metropolitan park district for registration for any general or special election therein, without the necessity for such notice specially stating that it is for registration for an election to be held by a metropolitan park district. And any elector who shall have registered in accordance with the laws of this state entitling him to vote at a general or special election in the city or territory comprised within such metropolitan park district within time to constitute same a good registration for any general or special election of said metropolitan park district shall be entitled to vote thereat without further or other registration. The clerk of such metropolitan park district shall give notice of the closing of the poll books for registration for any general or special election of such park district, by a notice published at least ten (10) days preceding such closing, such published notice to have at least two (2) insertions in a newspaper of general circulation in such park district. And such poll books shall be closed for the purpose of registration of voters for any general or special park district election five (5) days preceding such election, and such published notice shall so declare: *Provided, however,* That said poll books shall not thereby be deemed closed for general, county or city municipal elections, but closed only for general or special metropolitan park district elections. The city clerk or registration officer required to perform the duties enumerated under this act shall receive no additional compensation therefor. The general laws of the State of Washington governing the registration of voters for general or special city municipal elections, when not inconsistent with the foregoing provisions, shall govern the registration of voters for elections held under this act, and the registration books of the city and territory comprising said park dis-

General laws
govern.

trict shall be the books used by said park district, and no separate registration books shall be kept or maintained by it. That the manner of holding any general or special election for said metropolitan park district shall be in accordance with the laws of this state, and the charter provisions of the city within which said park district lies, in so far as the same are not inconsistent with the provisions of this act.

SEC. 3. That section nine (9) of said act be and the same is hereby amended to read: Sec. 9. Said bonds shall be in denominations of not less than \$100.00 nor more than \$1,000.00. They shall bear the date of issue, shall be made payable to the bearer, in not more than twenty (20) years from date of issue, and bear interest at a rate not exceeding five (5) per cent per annum, payable annually, with coupons attached, for each interest payment. The bonds and each coupon shall be signed by the presiding officer of the board of park commissioners and shall be attested by the clerk of said board, who shall be a member thereof. Said bonds shall be printed, engraved, or lithographed on good bond paper, and the bond shall state on its face that it is issued in accordance, and in strict compliance with an act of the legislature of the State of Washington, entitled: "An act authorizing the formation of metropolitan park districts, providing for park officials, fixing their powers and duties, and declaring an emergency," approved March 11th, 1907, and the act amendatory thereof approved on the — day of —, 1909 (inserting the date of the approval of this act.) Said bonds shall be payable as therein designated in any city of the United States having a national bank.

[Am'd. § 9,
ch. 98, p. 187,
L. '07.]

Bonds, de-
nomination.

SEC. 4. That section ten (10) of said act be and the same is hereby amended to read: Sec. 10. Said commissioners shall include in their general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds, and may include a sufficient amount to create a sinking fund for the redemption of such bonds. Said bonds shall be numbered from one (1) up consecutively,

[Am'd. § 10,
ch. 98, p. 187,
L. '07.]

Tax levy.

and shall be payable in the order of their number beginning with bond numbered one (1).

[Am'd. § 15,
ch. 98, p. 188,
L. '07.]

Special
assessments.

SEC. 5. That section fifteen (15) of said act be and the same is hereby amended to read: Sec. 15. If at any time any proposed improvement of any parkway, avenue, street, or boulevard shall be deemed by said park commissioners to be a special benefit to the lands adjoining, contiguous, approximate to or in the neighborhood of such proposed improvement, if such lands be within the corporate limits of any city of the first class, such board of park commissioners may so declare and order, designating the property to be benefited thereby, and thereupon they may petition the city council of such city to cause such improvement as said commissioners may direct to be done and made on the local assessment plan, and the portion of the cost of such improvement as fixed by such assessment roll assessed against the said property so benefited in the same manner and under the same procedure as is now, or may hereafter be, enacted for local improvements by cities of the first class, in so far as such procedure is not inconsistent with the provisions of this act, and the remainder of the cost of such improvement to be paid out of any funds of such metropolitan park district in its possession or under its control. Said board of park commissioners shall designate the kind, manner and style of the improvement so to be made, and may designate the time within which same shall be made.

Emergency.

SEC. 6. An emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Passed by the Senate March 2, 1909.

Passed by the House March 9, 1909.

Approved March 13, 1909.

CHAPTER 132.

[S. B. 356.]

RELATING TO JUSTICE COURTS.

AN ACT relating to service of process in justice courts.

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

SECTION 1. All process in actions and proceedings in justice courts, having a salaried constable, when served by an officer, shall be served by such constable or by the sheriff of the county or his duly appointed deputy; and all fees for such service shall be paid into the county treasury.

Constable or sheriff to serve process.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 10, 1909.

CHAPTER 133.

[S. B. 297.]

RELATING TO STATE FUNDS.

AN ACT relating to the finances of the State of Washington, providing the time when and the manner in which moneys shall be paid into the state treasury, and amending chapter 96 of the Session Laws of 1907.

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

SECTION 1. That section 1 of chapter 96 of the Session Laws of 1907 be amended to read as follows: Sec. 1. That it shall be the duty of each state officer or other person (other than county treasurers) who is authorized by law to collect or receive moneys belonging to the state or to any department or institution thereof, to transmit to the Treasurer of the state each day, all moneys collected by him on the preceding day, together with a statement of the source from which each item of said money

[Am'd. § 1, ch. 96, p. 179, L. '07.]

Payment into state treasury.

Commissioner
of Public
Lands.

was derived, and to transmit to the State Auditor a duplicate of said statement: *Provided*, That the provisions of this section shall apply to the office of Commissioner of Public Lands in so far only as to require said officer to transmit all moneys received in payment in principal and interest under outstanding contracts and leases where no question is raised as to the right of the state to receive payment; and as to all cases where the right of the state to receive such moneys is in doubt the Commissioner shall transmit the same to the Treasurer within five days after the determination of the Commissioner of the Board of State Land Commissioners that the money is due to the state: *Provided further*, That money shall not be deemed to have been paid to the State of Washington upon any sale or lease of land until the money shall have been paid to the State Treasurer: *And provided further*, That this act shall not apply to the educational institutions of the state, but each of such educational institutions shall, at the end of every three months, file with the State Auditor an itemized statement showing all moneys received by it from sources other than state legislative appropriations, the particular source from which the same was received, the purpose for which the same or any part thereof, has been expended, and the balance on hand.

Educational
institutions.

Repeals.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 13, 1909.

CHAPTER 134.

[H. B. 357.]

MILITARY CODE.

AN ACT relating to the State Militia, providing for the organization, regulation, maintenance and discipline of the National Guard of Washington, defining certain offenses, prescribing penalties therefor, repealing certain acts and parts of acts and declaring an emergency.

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

SECTION 1. This act together with subsequent acts amendatory hereof shall be known as the Military Code of the State of Washington. Military Code.

SEC. 2. *Persons Subject to Military Duty.*

Every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, resident within this state, who is more than eighteen and less than forty-five years of age, shall be subject to military duty, unless specifically exempted therefrom by the laws of the United States or of this state. Persons subject to military duty.

SEC. 3. *Persons Exempt From Military Duty.*

The following persons are exempt from military duty in this state: Persons exempt.

1. Civil and military officers of the United States.
2. State and county civil officers.
3. Members of any regularly organized fire or police department, in any city or town.
4. All persons exempt from military duty by the laws of the United States.
5. All idiots, lunatics and persons under sentence for having committed an infamous crime: *Provided*, That no person who shall have voluntarily enlisted in the National Guard of Washington shall be entitled to exemption under this section during the time of his enlistment.

SEC. 4. *Commander-in-Chief May Order Enrollment.*

Whenever the Commander-in-Chief shall deem it necessary, in event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or pro- Enrollment.

Persons
authorized.

cess or breach of the peace, he may order an enrollment by counties of all persons subject to military duty, designating the county assessor or some other person for each county to act as county enrolling officer. Each county enrolling officer may appoint such assistant or assistants as may be authorized by the Commander-in-Chief. In each county the enrollment shall include every sane able-bodied male inhabitant not under sentence for an infamous crime, who is more than eighteen and less than forty-five years of age. The enrollment shall be made in triplicate and shall state the name, residence, age, occupation and previous or existing military or naval service of each person enrolled. When complete the rolls shall be verified under oath by the enrolling officer, who shall immediately thereupon file one copy with the Adjutant General of the state and another with the county auditor, retaining the third copy for himself.

Form.

SEC. 5. *Notice of Enrollment.*

Notice.

Persons making an enrollment under this act shall, at the time of making same, serve a notice of such enrollment upon each person enrolled, by delivering such notice to him personally or by leaving it with some person of suitable age and discretion at his place of business or residence, or by mailing such notice to him at his last known place of residence, and shall make a return under oath of such service to accompany the copy of the enrollment filed with the Adjutant General. Such return shall be *prima facie* evidence of the facts therein shown.

SEC. 6. *Exemptions.*

Exemptions.

Whenever an enrollment shall have been ordered under this act, the commanding officers of existing organizations of militia, and the chiefs of all police and fire departments shall make and deliver to the enrolling officer of the county in which such organization and departments are stationed, verified lists in triplicate of the members of their respective commands and departments, and the enrolling officer shall mark "Exempt" opposite the names of all persons so listed, attaching one copy of each such list to each copy of the enrollment. The enrolling officers shall also mark "Ex-

empt" opposite the names of all federal, state and county officers. All other persons claiming exemption must within fifteen days after service upon them of the notice of enrollment make a written verified claim in duplicate of such exemption and file the same in the office of the county auditor, who shall within five days thereafter forward one copy thereof with remarks and recommendations to the Adjutant General. Upon the expiration of the time within which any claim of exemption may be filed and received by the Adjutant General, the latter shall notify the county auditor of his decision in each case where exemption has been claimed, and the county auditor shall write upon the roll opposite the name of each person whose claim of exemption has been allowed by the Adjutant General, the word "Exempt." All those on the roll not marked "Exempt" shall be subject to military duty.

Claim of exemption.

Adjutant General to pass upon exemption.

SEC. 7. *Penalties for Dereliction or False Certificate.*

If any officer or person, who becomes charged under this act with any duty relating to an enrollment of persons subject to military duty, refuses or neglects to perform the same within the time and substantially in the manner required by law, or if he shall knowingly make any false certificate, or if, when acting as county or assistant enrolling officer, he shall knowingly or wilfully omit from the roll any person required by this act to be enrolled he shall thereby forfeit not less than one hundred nor more than five hundred dollars, to be sued for in the name of the State of Washington by the prosecuting attorney of the county in which such offense shall occur, the amount of the penalty to be determined by the court, and, when recovered, to be paid into the military fund of the state.

Penalty for false certificate.

Fine.

Disposition of.

SEC. 8. *Compensation of Enrolling Officer.*

Each county enrolling officer shall be allowed the sum of five cents per name enrolled and served with notice of enrollment by him or his assistants, to be audited and paid as other military bills out of any monies in the military fund not otherwise appropriated, and from such allowance he must pay his assistant or assistants.

Compensation of enrolling officer.

SEC. 9. *Examination of Assessment Rolls and Poll Lists.*

Assessment
rolls and
poll lists.

All civil officers in each county, city and town shall allow persons authorized under this act to make enrollments, at all proper times, to examine their records and take copies thereof or information therefrom. It shall be the duty of every person, under the penalties provided in section seven of this act, upon application of any person legally authorized to make an enrollment, truthfully to state all of the facts within his knowledge concerning any individual of whom the enroller shall make inquiry. In event of a violation of this section the enroller shall report the facts to the prosecuting attorney, who shall at once proceed to enforce the penalty.

Evidence,
how obtained.

SEC. 10. *Definition and Classification of the Militia.*

Classification.

All persons subject to military duty under this act shall collectively comprise the militia of this state, and they shall be divided into two classes:

1. The organized militia, and
2. The militia reserve.

The organized militia shall comprise all of the officers and men of the regularly enlisted, commissioned, organized and uniformed active military forces of the state, and they shall be known collectively as the National Guard of Washington. The militia reserve shall comprise all who are subject to military duty and not within the organized militia.

Militia
reserve.

SEC. 11. *Organization of National Guard.*

National
Guard.

Organization
and
discipline.

Conform to
U. S. regu-
lations.

The system of organization, armament, discipline and exercise of the National Guard of Washington shall be prescribed from time to time in regulations to be promulgated by the Commander-in-Chief, but the same shall at all times conform as nearly as practicable to that of corresponding forces in the army of the United States, subject at all times to the laws and regulations of the United States governing the organized militia, and, in time of peace, to such general exceptions as may be authorized by the Secretary of War.

SEC. 12. *Composition and Strength of the National Guard.*

The National Guard of Washington shall consist of an Adjutant General's Department, an Inspector General's Department, a Judge Advocate General's Department, a Pay Department, a Quartermaster's Department, a Subsistence Department, an Ordnance Department, a Medical Corps, a Medical Reserve Corps, a Corps of Engineers, a Signal Corps, a Coast Artillery Reserve Corps, and such other staffs, corps and departments as may hereafter be prescribed by the Commander-in-Chief, and, in time of peace, one troop of cavalry, not more than two bands, and not more than twenty-eight companies of infantry and coast artillery reserve: *Provided*, That the infantry shall consist of not less than twelve nor more than twenty companies, and that the coast artillery reserve shall consist of not less than four nor more than twelve companies. The strength and composition of organizations shall be prescribed in regulations by the Commander-in-Chief, but the same shall at all times conform as nearly as practicable to the strength and composition of corresponding organizations in the army of the United States, subject at all times to the laws and regulations of the United States governing the organized militia, and, in time of peace, to such general exceptions as may be authorized by the Secretary of War.

The various departments shall be organized as nearly as practicable to conform with the laws and regulations governing the army of the United States and the organized militia of the United States.

SEC. 13. *Commander-in-Chief.*

The Governor of the state, by virtue of his office, shall be the commander of its military forces not in the service of the United States.

SEC. 14. *Personal Staff of the Commander-in-Chief.*

Whenever the Commander-in-Chief shall desire the attendance of a personal staff upon any ceremonial occasion, he shall detail therefor such officers as he may choose from the active list of the National Guard of Washington, resi-

Veteran organization. dent in or nearest to the place where such ceremonies are to be held, or such number of members of any veteran organization that he may choose, and the officers detailed if from the active list shall attend in uniform at the time and place designated and shall constitute the personal staff of the
 Term of duty. Commander-in-Chief for that occasion, reverting upon completion of such duty to their regular assignments.

SEC. 15. *When Commander-in-Chief May Order Out National Guard.*

National Guard ordered out, when. In event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, the Commander-in-Chief is authorized to order the National Guard of Washington or such portion thereof as he may deem necessary into the active service of the state, and to cause them to perform such military duty as the circumstances require.

SEC. 16. *When Local Commanders May Order Out National Guard.*

Local commander to order out. Occasions. Report action to Commander-in-Chief. In event of insurrection, rebellion, invasion, tumult, riot, resistance to law or process or breach of the peace, occurring in the vicinity of the station of any organization or organizations of the National Guard of Washington, whenever the exigencies of the situation are such as to render it impracticable first to communicate with the Commander-in-Chief, the senior commanding officer of that station, upon request in writing signed by a superior court judge, sheriff or mayor, stating the facts and the nature of the service desired, may order out the organization or organizations at that station, or such portion thereof as he shall deem necessary, and cause them to undertake the performance of such duty as the circumstances shall require, and such commanding officer shall immediately report what he has done and all of the circumstances of the case to the Commander-in-Chief.

SEC. 17. *When Commander-in-Chief May Order Out Militia Reserve.*

In event of, or imminent danger of war, insurrection, rebellion, invasion, tumult, riot, resistance to law or process

or breach of the peace, if the Commander-in-Chief shall have ordered into active service all of the available forces of the National Guard of Washington and shall consider them insufficient in numbers to properly accomplish the purpose, he may then, in addition, order out the militia reserve or such portion thereof as may be necessary, and cause them to perform such military duty as the circumstances may require. Duty.

SEC. 18. *When the Militia Is Called Into the Federal Service.* Federal service.

Whenever the President of the United States shall issue his orders to the proper officer or officers of the National Guard of Washington, through the Commander-in-Chief, for the mobilization of any part or all of the National Guard of Washington for federal service, such organizations of the National Guard of Washington as may be sufficient to comply with the orders of the President of the United States shall be mobilized as required by said orders. Orders issued by Pres. of U. S.

Immediately upon the mobilization of said forces, and as soon as they shall be in the service of the United States it shall be the duty of the Governor to organize and muster into the service of the State of Washington the same number of companies, battalions or regiments that have been ordered into the federal service. National Guard Reserve to be organized.

The organizations so mustered into the service of the State of Washington shall be known as the National Guard Reserve and whenever one regiment or more of the National Guard of Washington shall have been mobilized for the federal service at least one battalion of the National Guard of Washington not in the service of the United States or at least one battalion of the National Guard Reserve shall be designated as a Depot Battalion and shall be used for the purpose of recruiting and training men for service with those organizations theretofore ordered into the federal service. Depot battalions.

This Depot Battalion shall be stationed at such place as the Commander-in-Chief may designate and the officers assigned to duty therewith shall be selected for their fitness to perform the duties required for such an organization. Where stationed.

Whenever any part or parts of the National Guard Re-

serve shall be mustered into the service of the United States, an equal number of companies, battalions or regiments shall forthwith be organized and mustered into the service of the State of Washington to fill the vacancy in the National Guard Reserve created by the muster into the federal service of such organizations. Whenever any portion of the National Guard of this state shall be relieved from duty in the service of the United States, such organizations shall resume their former designations as a part of the National Guard of this state the same as if they had not been ordered into the federal service and the National Guard Reserve organized to take their places shall be mustered out of the service of the state.

SEC. 19. *Procedure in Calling Out Militia Reserve.*

Whenever it shall be necessary to call out any portion of the militia reserve for the purpose of the United States, the number required shall be apportioned between all of the counties *pro rata* according to population, but for the active service of this state, the entire number may be drawn from any one or more of the counties, *pro rata* or otherwise, as the Commander-in-Chief shall deem most expedient. For each county the sheriff thereof shall be *ex-officio* drafting officer, and whenever the Commander-in-Chief shall have called upon any sheriff for a certain number of the militia reserve within his county, such sheriff shall immediately proceed to call for and accept as volunteers, or draft by lot, as many of the militia reserve in his county as shall have been required by the Commander-in-Chief. The persons so accepted as volunteers and drafted shall be summoned by the sheriff in the manner prescribed by law for the summoning of witnesses, the time and place of the rendezvous being stated in the summons, and the sheriff shall promptly provide the Adjutant General with a full verified return showing the names of those so summoned and the manner of service in each instance.

SEC. 20. *Penalty for Sheriff Failing to Perform Duty as Drafting Officer.*

Whenever any sheriff shall refuse or neglect well and timely to perform any duty with which he shall have become

charged under this act, he shall thereby forfeit his office, and upon prosecution and conviction of such refusal or neglect he shall be fined not less than five hundred nor more than one thousand dollars. The Commander-in-Chief shall have the power at any time summarily to relieve any sheriff from duty as drafting officer, and designate some other officer or person to act in that capacity. Penalty.

SEC. 21. *Penalty for Failure to Report for Duty.*

Every member of the National Guard of Washington who shall have been ordered out for either state or federal active service and who shall fail to report for duty to his commanding officer within twenty-four hours after the time designated in orders, and every member of the Militia Reserve who shall have been regularly summoned by a drafting officer and who shall fail to appear and make his presence known to the mustering officer at the place and within twenty-four hours after the time designated in the summons shall be taken to be a deserter and dealt with as prescribed in the Articles of War of the United States, unless he shall produce a sworn certificate from a licensed physician of good standing that he was physically unable to appear at the time and place designated, or unless he shall have furnished a substitute as in this act elsewhere provided. Failure to report for duty.
Penalty.
Proviso, physical disability, and substitute.

SEC. 22. *Penalty for Physician Making False Certificate.*

Whenever any physician shall knowingly make and deliver a false certificate of physical disability concerning any member of the militia who shall have been ordered out or summoned for active service, such physician shall thereby forfeit forever his license and right to practice in this state and shall be deemed guilty of perjury. Physician, false certificate.
Penalty.

SEC. 23. *Substitutes.*

Any member of the militia reserve who shall have been drafted for either state or federal active service shall be relieved therefrom if he shall furnish and have at the time and place of the rendezvous any person fit for military duty who has not prior thereto been drafted or accepted as a volunteer for that service and who shall thereupon wil- Substitutes.

lingly volunteer and be accepted and mustered into the service as his substitute, but the person furnishing such substitute shall continue a member of the militia reserve and shall be subject to any subsequent draft unless he again provide a substitute.

SEC. 24. Organization of Militia Reserve, When Called Out.

Organization
of Militia
Reserve.

Federal
service.

State service.

Term of
service.

Duties.

Officers.

Any portion of the Militia Reserve which shall have been called out under the provisions of this act shall be immediately mustered into the service of the state, either temporarily until they can be mustered into the service of the United States if called for that purpose, or, if for state service, for such period not exceeding one year as the Commander-in-Chief shall direct, and they shall then either be assigned to organizations of the militia of this state already existing or formed into new organizations conforming as nearly as practicable to the laws and regulations then in force for the regular army of the United States, as the Commander-in-Chief shall direct. Such new organizations, if for state service, may be of any branch or branches of the service required by the nature of the duty to be performed, and, if for federal service, they shall be of the branch or branches specified in the President's call. The necessary officers therefor shall be appointed and commissioned by the Commander-in-Chief, as in the manner provided for officers in the National Guard. While in the service of this state all such organizations shall be armed, equipped, uniformed, paid, governed and disciplined according to the laws and regulations then in force for the National Guard of Washington.

SEC. 25. Suits Against Officers, or Enlisted Men.

Suits against
officers or
enlisted.

When any suit or proceeding shall be commenced in any court by any person against any military officer of the state for any act done by such officer in his official capacity in the discharge of any duty under this act or against any person acting under the authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, the defendant may require the person prosecuting

or instituting such suit or proceeding to file a cost bond running to the State of Washington of not less than \$200, or such greater sum as may be fixed by the court on application therefor for the payment of costs that may be incurred by the defendant therein, and in case the plaintiff shall be non-suited or have the verdict or judgment rendered against him the defendant shall recover costs. The defendant in such action shall be defended by the Attorney General at the expense of the state, but private counsel may be employed by the defendant. No action shall lie against any officer or enlisted man for any acts done by him by virtue of any order which may hereafter be held invalid by any civil court.

Cost bond.

Defendant to recover costs.

Actions.

SEC. 26. *The Adjutant General's Department.*

The Adjutant General's Department shall consist of one Adjutant General, with the rank of Brigadier-General, one Assistant Adjutant General, one chief clerk, one stenographer and one store-keeper.

Adjutant General's Department.

SEC. 27. *The Adjutant General's Department, Duties of.*

The Adjutant General shall be *ex-officio* chief of staff, and in the absence of orders from the Commander-in-Chief to the contrary, he shall be the acting chief of all staffs, corps, and departments not otherwise provided for in this act. He shall hold office until his successor is detailed and qualified. He shall appoint the chief clerk, stenographer and store-keeper and may remove any of them in his discretion.

Chief of staff.

Term of office.

The salary of the Adjutant General shall be \$2,500 per year, of the Assistant Adjutant General \$1,500 per year, of the chief clerk \$1,200 per year, of the stenographer \$900 per year and of the store-keeper \$1,200 per year, each payable monthly. The expenses of the Adjutant General's department, necessary to the military service, shall be audited, allowed and paid as other military expenditures are audited, allowed and paid. Before entering upon his official duties, the Adjutant General must execute an official bond running to the State of Washington in the penal sum of \$20,000 conditioned upon the faithful performance of

Salary.

Bond to be filed with Secretary of State.

his duties, said bond to be submitted to the Attorney General for approval, and when approved to be filed in the office of the Secretary of State, the cost of said bond to be paid from the military fund of the state. The Adjutant General shall obtain and pay for, from the military fund, a surety company bond or bonds running to the State of Washington covering all of the officers of the National Guard of Washington responsible to the state for money or military property, such bond or bonds to be approved and filed in the same manner as the Adjutant General's bond.

Cost of bond.

Officers' bonds.

Duties of Adjutant General.

1. The Adjutant General shall keep rosters of all active and retired officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and make an annual report to the Commander-in-Chief of the condition of all military property, including a detailed statement of all monies received and disbursed by him for military purposes during such period, and the number and condition of the National Guard.

Report on funds.

2. On the first day of January, April, July and October of each year, he shall make a statement of the condition of the military fund, showing the amount thereof and setting forth in detail all receipts from whatsoever source and all expenditures of whatsoever nature and the unexpended balance thereof. A copy of said statement shall be furnished to each commissioned officer of the active list.

To print regulations.

3. He shall cause the military law, the regulations of the National Guard and the Articles of War of the United States, and such other military publications as may be necessary for the military service to be printed, indexed and bound at the expense of the state and distributed to the commissioned officers of the National Guard.

Accounts.

4. He shall keep and preserve the books, arms, accoutrements, ammunition and other military property belonging to the state, not properly issued.

5. He shall keep just and true accounts of all monies received and disbursed by him.

6. He shall attest all commissions issued to military officers of this state.

7. He shall make out and transmit all militia reports, returns and communications prescribed by acts of Congress or by direction of the Secretary of War.

8. He shall have a seal, and all copies, orders, records and papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in Seal. the office of the Adjutant General shall be the seal of his office, and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

9. He shall make such regulations pertaining to the preparation of reports and returns and to the care and preservation of property, in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

10. He shall attend to the care, preservation, safekeeping and repairing of the arms, ordnance, accoutrements, Care for arms. equipments and all other military property belonging to the state, or issued to the state by the government of the United States for military purposes, and keep accurate accounts thereof. All military property of the state, which after proper inspection, shall be found unsuitable for use of the state shall be disposed of in such manner as the Commander-in-Chief shall direct and the proceeds thereof paid into the military fund of the state.

11. He shall issue such military property as the necessity of the service requires and make purchases for that purpose. No military property shall be issued or loaned except upon an emergency to persons or organizations other than those belonging to the National Guard, except to such portions of the Reserve Militia as may be called out by the Governor.

12. He shall keep on file in his office the reports and returns of troops and heads of military departments, and Files. all other writings and paper required to be transmitted to and preserved at the general headquarters of the State Militia.

Enlistments of all wars. 13. He shall keep all records of Washington Volunteers commissioned or enlisted for the War of the Rebellion, Indian wars, Spanish-American war, and all other wars or insurrections, and of individual claims of citizens of Washington for service rendered in these wars or insurrections.

Bureau of records. 14. He shall establish and maintain as part of his office a bureau of records of the services of the Washington troops during said wars, and he shall be the custodian of all records, relics, trophies, colors and histories relating to such wars now in possession of, or which may be acquired by the State of Washington, and such records, relics, trophies, colors and histories shall be catalogued and arranged or filed for general reference or protection in the office of the Adjutant General.

Duties of Assistant Adjutant General. 15. The duties of the Assistant Adjutant General shall be prescribed by the Adjutant General and in the absence or incapacity of the Adjutant General, the Assistant Adjutant General shall perform the duties prescribed for the Adjutant General.

Duties of clerks. 16. The duties of the chief clerk, stenographer and store-keeper shall be prescribed by the Adjutant General.

SEC. 28. *Judge Advocate General's Department.*

Judge Advocate General's department. Duties. Detail for courts-martial or boards. The Judge Advocate General's department is hereby organized with the Attorney General of the State of Washington as *ex-officio* acting Judge Advocate General, in which capacity he shall perform functions and duties in relation to the National Guard of Washington similar, so far as practicable, to those performed by the Judge Advocate General of the United States Army. Whenever the services of a Judge Advocate or recorder shall be necessary for any court, court-martial or board, the Commander-in-Chief shall detail as Judge Advocate or recorder therefor, a commissioned officer of the active list of the National Guard of Washington.

SEC. 29. *Medical Corps.*

Medical Corps. Medical Reserve Corps. The medical corps and medical reserve corps of this state is hereby organized with such commissioned officers, non-commissioned officers and privates as shall be necessary from time to time to supply each regiment and separate

battalion with its proper field complement of medical attendants in conformity with the laws, and regulations, governing the organized militia and the army of the United States. The senior officer of the medical corps shall be *ex-officio* Surgeon General, and shall perform functions and duties in relation to the National Guard of Washington, similar, so far as practicable, to those performed by the Surgeon General of the United States Army. Whenever there shall be no commissioned officer of the medical corps resident within any city or locality in which troops of the National Guard of Washington are permanently stationed, the Commander-in-Chief shall designate some licensed and practicing physician of good standing resident therein as an officer of the medical reserve corps, who shall have during such designated period of duty the rank of a first lieutenant, to make such physical examinations as may be required in the service at that station under the provisions of the military code, and for each physical examination so made there shall be audited, allowed and paid from the military fund the sum of one dollar.

Formation.

Duties.

Physical examination fees.

SEC. 30. *Credit for Service in First Washington Volunteers.*

Whenever in this act service in the volunteer or regular army of the United States or the National Guard of this or any other state is named as a qualification for an original commission, service with the First Washington Volunteer Infantry until muster out of that organization shall be considered equal to three years' service in the National Guard of this state.

Credit for service in Washington Volunteers.

SEC. 31. *Selection of Officers.*

All commissioned officers of the National Guard of Washington shall be appointed and commissioned by the Commander-in-Chief, and, except as otherwise provided in this act, they shall be chosen as follows:

Officers, how selected.

Whenever a vacancy shall occur in the office of Adjutant General of the state, the Commander-in-Chief shall detail for that position from the active list of the National Guard of Washington some officer not below the rank of captain,

Adjutant General.

who shall during the continuance of such detail hold the rank of brigadier-general. No person shall be eligible for detail as Adjutant General who shall have served as an officer less than three years in the aggregate in the National Guard of Washington or the regular army of the United States: *Provided*, That nothing in this act shall be construed to make the present Adjutant General ineligible for the office of Adjutant General or to deprive him from enjoying all the rights and benefits conferred by this act upon officers of the active list: *And provided further*, That upon the termination of his tour of duty as Adjutant General the present Adjutant General shall be placed on waiting orders with the rank of colonel, there to await assignment to the command of the first regiment to be hereafter organized. The Assistant Adjutant General shall be an officer of the active list of the National Guard of Washington detailed for that purpose.

Assistant
Adjutant
General.

Removal of
staff or corps.

Whenever it shall be necessary in the judgment of the Commander-in-Chief to relieve the Adjutant General or any other officer on duty with any staff, department or corps, he may do so and in such event he shall detail for duty with such staff, department or corps some officer of appropriate rank and qualifications from the active list of the National Guard of Washington.

Detail of
staff or corps
officers.

Vacancies
filled after
six months.

Whenever an officer detailed as Adjutant General, Assistant Adjutant General, or on duty with any staff, corps or department shall have served six months in that capacity, he shall be permanently relieved from the assignment held by him immediately prior thereto and the vacancy so created shall be filled as other vacancies in the commissioned personnel of the National Guard of Washington. When the tour of duty of such officer as Adjutant General, Assistant Adjutant General, or with any staff, corps or department is terminated, such officer shall be placed on waiting orders and shall hold the grade and rank he would have held had he not been so detailed and shall remain and continue to be an officer of the active list and shall be assigned to duty upon the creation of a proper vacancy in the same manner as if he had not been so detailed.

Officers
status when
relieved from
detail.

Whenever a vacancy occurs in the captaincy or first lieutenantcy of a company, the officer next in rank in such company shall be ordered before an examining board, and upon passing the required examination, shall be appointed, commissioned and assigned to fill such vacancy: *Provided*, That any officer of appropriate rank and grade originally on duty with such company and serving on detail with any staff, department or corps or on waiting orders may be relieved of duty with such staff, department or corps and assigned to duty with such company, or assigned to duty with such company from the list of waiting orders; and thereupon the senior officer in such company, if there be a vacancy, shall be ordered before an examining board and upon passing the required examination shall be appointed, commissioned and assigned to fill such vacancy.

Vacancy
company
officers.

Examina-
tions.

Officers on
detail may be
assigned to
company.

Whenever a vacancy occurs in the office of second lieutenant of any company, the Commander-in-Chief, except as hereinabove provided, shall order a competitive examination for which every enlisted man in such organization having not less than six months' service immediately prior thereto in the National Guard of Washington and an attendance of not less than seventy-five per cent (75%) at all ordered drills, assemblages and other duties for said period, shall be eligible, and the successful candidate recommended by the examining board shall be appointed, commissioned and assigned to fill such vacancy. Any non-commissioned staff officer shall be eligible to take a competitive examination for second lieutenantcy in the company of which he was originally a member.

Second
lieutenant.

Vacancy,
how filled.

Non-com-
missioned
staff eligible.

Whenever a vacancy shall occur among the field officers of a regiment, the senior officer of the next lower grade in the regiment shall, upon passing a proper examination, be appointed, commissioned and assigned to fill the same.

Field officers.

Promotion.

No person shall be eligible as captain of a company unless he shall have served at least one year as an officer and three years in the aggregate in the National Guard of Washington or some other state, or in the volunteer or regular army of the United States or is a graduate of a military college requiring at least three years of military study.

Officers' qual-
ifications.

Service.

Periods of service in two or more of these branches may be combined in determining this qualification.

Citizenship. No person shall be commissioned as an officer in the National Guard of Washington unless he is a citizen of the United States and of this state, twenty-one years of age or more.

Discharge. Whenever a commissioned officer shall have been examined for promotion under this act and shall fail to attain a marking of at least 75 per cent. he shall be honorably discharged, and the vacancy so created shall be filled in the manner prescribed by law.

For the purpose of this act the word company or companies shall apply to and include the cavalry, infantry, coast artillery reserve and signal corps.

SEC. 32. *Examinations.*

Examinations of officers. No person shall be appointed and commissioned to an office in the National Guard of Washington until he shall have passed a satisfactory examination as to his mental, moral and physical fitness therefor. Such examination shall be taken before a board appointed by the Commander-in-Chief, consisting of four officers from the active list, one of whom shall be a medical officer, the latter to make the physical examination only. So far as practicable the members of each examining board shall be selected from grades superior to that of the candidate. Such boards shall have the same power to compel the attendance of witnesses, administer oaths and take testimony, as is possessed by general courts-martial. In all cases where enlisted men or civilians are being examined for appointment to a commissioned office, such examination shall cover the following subjects:

- Subjects.
1. English grammar and the ability to speak, read and write the English language with facility and correctness.
 2. Arithmetic, and the ability to apply its rules to the solution of practical problems.
 3. Geography of the United States and of this state.
 4. History of the United States.
 5. Constitution and military laws of the United States and of this state, and the rules and regulations governing

the National Guard of Washington and the army of the United States.

6. Drill regulations and manual of guard duty of the United States army and firing regulations for small arms.

7. Personal intelligence, aptitude and probable efficiency as an officer of the National Guard.

8. Physical fitness.

Examinations of commissioned officers for promotion or to ascertain their fitness to hold their commissions shall deal more particularly with the military knowledge and ability of the officer examined, and shall be of a strictness proportionate to the office. If such person shall be adjudged unqualified for such office, the officer next in rank shall be appointed after passing a satisfactory examination. The Commander-in-Chief shall appoint such examining boards and may remove any member thereof. No person shall be eligible for appointment to a commissioned office in the National Guard for the period of one year after he shall have been reported adversely by an examining board. The scope of the examination for any officer to determine his fitness to hold his commission shall be set forth in the general order directing him to appear for such examination.

Examination of officers for promotion.

Scope of examination in general orders.

SEC. 33. *Seniority of Officers.*

Upon the date this act becomes effective, or as soon thereafter as practicable, it shall be the duty of the Commander-in-Chief to assign to each commissioned officer of the active list of the National Guard of Washington a number, assigning to the senior officer of each grade number one and continuing lineally thereafter in such grade in order of seniority as of the date of commission in the grade held by each officer on the day this act becomes effective. Thereafter seniority in any given grade shall be determined by the greatest length of continuous service as an officer of the National Guard of Washington, said service to be calculated from the day this act becomes effective. If two or more officers of the same grade have equal length of continuous service as commissioned officers of the National Guard of Washington calculated from the date this act be-

Seniority of officers.

Retired
officers.

comes effective, seniority between them shall be determined by length of service in that grade. The rank of retired officers, returned to the active list, shall be determined in the grade held by them by service as officers of the active list performed subsequent to the date this act becomes effective. The rank of any officer who shall receive his first commission in the National Guard of Washington after this act becomes effective, shall be determined in the grade to which appointed by length of service as an officer of the active list, performed subsequent to the date this act becomes effective.

SEC. 34. *Examining Boards.*

Examining
boards.

The Commander-in-Chief may at any time appoint an examining board consisting of four officers, one of whom shall be a medical officer, the latter to make the physical examination only, and may order before said board any commissioned officer of the National Guard of Washington for examination to determine his fitness to hold his commission. Such board shall examine into the character, capacity, general fitness and military and physical qualifications of such commissioned officer. If the findings of such board be unfavorable to such officer, and be approved by the Commander-in-Chief, such officer shall be discharged from the service or retired. With the exception of the medical officer, the officers composing said board, shall if practicable, be senior in rank to the officer examined.

SEC. 35. *Terms of Officers, Continuous.*

Terms of
officers
continuous.

Retirement.

The terms of all officers, not otherwise provided for, shall be continuous: *Provided*, That whenever an officer shall reach the age of sixty-four years he shall be retired from active service and command and placed upon the roll of retired officers with the rank held by him at the date of such retirement.

SEC. 36. *Acceptance of Commission.*

Acceptance of
commission.

Every officer, duly commissioned, within ten days after his commission is tendered him, or within ten days after he shall be personally notified that the same is held in readiness for him, shall take and subscribe the oath of office,

and give bond, if bond is required. In case of neglect or refusal to take and subscribe such oath and give bond as required within the time mentioned, he shall be considered to have resigned such office and a new appointment shall be made by the Commander-in-Chief as provided by law.

Failure to qualify within ten days.

SEC. 37. *Oath.*

The oath of office for commissioned officers in the National Guard of Washington shall be as follows:

State of Washington }
County of }

I,, do solemnly swear that I will support the constitution of the United States and the constitution and laws of the State of Washington, and bear true faith and allegiance to the same, and that I will yield a prompt obedience to all orders and instructions from my superior officers, and to all laws and regulations promulgated for the organization, government and discipline of the National Guard of Washington. So help me God.

Form.

Subscribed and sworn to before me this day of, 19.....

Title of Officer.

SEC. 38. *New Companies. How Admitted.*

No other company than those now organized and in the service as part of the National Guard shall be admitted into the National Guard of Washington, except upon recommendation of the military board, and in the manner following: Upon application of a citizen of this state from an approved locality, said applicant upon furnishing satisfactory proof that he has performed the military service required by this act to qualify him for acceptance of a commission as captain in the National Guard of this state, may be given permission to appear before an examining board for examination as to his qualifications to become a captain of a company; said examination to be that provided in the Military Code of this state, and before an examining

New companies, how admitted.

Upon application of citizen.

Examination.

board appointed in accordance with the same. The order authorizing such examination shall be issued and published as an item of news in the locality where such examination is to be held at least thirty days prior to the date set for holding the same. If such applicant shall attain a record of seventy-five per cent or better in such examination, he may be appointed and commissioned captain in the National Guard of Washington, and authorized to enroll a company. If there be more than one such applicant from the same point, those whose applications are received before an examination is ordered may be given permission to appear for the examination, and the one who, in the judgment of the examining board, is the best qualified may be selected and authorized to enroll a company as herein provided. Upon notification from him of the enrollment of not less than fifty-eight able-bodied men, and upon approval of such enrollment by the Adjutant General, the company may be mustered into the National Guard of Washington. An examining board shall be ordered to conduct a competitive examination, thirty days after date of muster in, to select a first lieutenant and a second lieutenant for said company. All regularly enlisted men of such company at the date of such examination shall be eligible for said examination. Such company commander shall not nominate for appointment non-commissioned officers for such company until after said examination shall have taken place, but may designate by company order such men of the organization as acting non-commissioned officers as he may see fit. Upon conclusion of the competitive examination, the candidate who, in the judgment of the board, is best qualified shall be appointed and commissioned first lieutenant of the National Guard of Washington, and assigned to duty with said company. The candidate who, in the judgment of the board, is best qualified for second lieutenant shall be appointed and commissioned to such office in the National Guard of Washington, and assigned to duty with said company. Until the first and second lieutenants of such newly organized company shall have been appointed and commissioned the company shall be attached directly to general headquarters.

Order authorizing examination to be published.

More than one applicant.

Enrollment of men.

Approval by Adjutant.

Examination for first and second lieutenant.

Immediately upon appointment of the first and second lieutenants and upon such company being attached to regimental or battalion headquarters, the company commander shall nominate and obtain the appointment of non-commissioned officers for the company in the manner prescribed by law and the regulations: *Provided*, That when in the judgment of the Commander-in-Chief an emergency exists, the examinations for first and second lieutenants may take place immediately upon muster in of the company. The military board shall consist of the Commander-in-Chief, the Adjutant General and the senior field officer.

Non-commissioned officers, appointment.

Military board.

SEC. 39. *Dismissal and Discharge of Officers.*

The Commander-in-Chief may dismiss any commissioned officer of the National Guard of Washington for any of the following reasons:

Dismissal and discharge of officers.

1. Conviction of an infamous crime.
2. Removal of his actual residence to such distance from the station of his command as to render it impracticable for him to perform the duties of his office.
3. Absence from his command for more than thirty days without proper leave.
4. Sentence of dismissal by court-martial, duly approved.
5. Incompetence or unfitness for military service as determined by the duly approved findings of an examining board appointed for that purpose.

Causes.

And the Commander-in-Chief may discharge any commissioned officer of the National Guard for any of the following reasons:

Discharge of officer.

1. Upon muster out of the organization to which such officer is then assigned.
2. Acceptance of resignation of such officer: *Provided*, That no officer shall be discharged or his resignation accepted while under arrest or against whom military charges have been preferred, or until he shall have turned over to his successor or satisfactorily accounted for all state and federal moneys, and military property for which he shall be accountable.

SEC. 40. *Retirement of Officers.*

Retirement of officers.

Commissioned officers of the National Guard of Washington shall be retired by order of the Commander-in-Chief with the grade and rank respectively held by them at the time of such retirement for the following reasons:

By whom retired.

Conditions of retirement.

- (1) Upon reaching the age of 64 years.
- (2) Unfitness for military service by reason of permanent physical disability.
- (3) Upon request after at least five years continuous service as officers in the National Guard of Washington.

Retired officers shall draw no pay or allowances except when on duty.

Subject to temporary detail.

They shall be subject only to temporary detail by the Commander-in-Chief and while on duty shall receive the same pay and allowances as officers of the same rank on the active list. On all occasions of duty or ceremony retired officers shall take rank next below officers of the same grade on the active list.

SEC. 41. *Enlistments.*

Enlistments.

Term.

Re-enlistment.

Discharge of re-enlisted.

Qualification for enlistment.

All enlistments and re-enlistments in the National Guard of Washington shall be for a term of three years, and at the expiration of his term of enlistment, any man if honorably discharged may be re-enlisted either immediately or at any time thereafter, and if re-enlisted within thirty days shall be given credit for continuous service: *Provided*, That in time of peace the proper authority, upon application therefor, shall grant a discharge to a re-enlisted man who has served at least one year of such re-enlistment. The qualifications for enlistment and re-enlistment shall correspond as nearly as possible to those fixed for similar service in the regular army. Before an applicant shall be enlisted or re-enlisted, he shall be subject to the same physical examination by an officer of the medical corps, or an officer of the medical reserve corps, as is or may be prescribed for a similar enlistment in the army of the United States, and the certificate of such officer of the medical corps or of the medical reserve corps shall accompany his enlistment papers. Any enlisted man may at any time be ordered by his commanding officer to appear for physical examina-

tion, and if not physically qualified as required by this act, he shall be honorably discharged from the service. When organizations are consolidated or disbanded, any enlisted man thereof discharged for such reason, who shall thereafter re-enter the service within thirty days, shall have allowed as part of his term of service, the time already served. Company commanders and such other officers as may be designated by the Commander-in-Chief shall act as recruiting officers.

SEC. 42. *Transfers.*

Any enlisted man, upon his own application, with the approval of the commanding officers of the organizations from which and to which he is to be transferred, may be transferred from one organization to another in the National Guard. Transfers.

SEC. 43. *Appointment of Non-Commissioned Officers.*

Commanding officers of regiments, corps, or separate battalions not parts of regiments, and the Commander-in-Chief, in case of unattached organizations, shall appoint, and reduce the non-commissioned staff officers of their respective regiments, corps and battalions, and they shall also appoint and reduce the non-commissioned officers of the companies of their respective regiments, corps, battalions and unattached organizations thereof upon the recommendation of the company commanders. Non-commissioned staff officers, reduced to the ranks, shall be returned to the organizations from which they were appointed. Apportionment non-commissioned officers.

SEC. 44. *Muster Out of Companies.*

Whenever it shall appear to the Commander-in-Chief that any company in the National Guard has failed to comply with the requirements of the law, in the matter of uniform, equipment, discipline or otherwise, so that it is incapacitated to discharge the duties required of it, he may muster such company out of the service. Muster out of companies.

SEC. 45. *Discharge of Enlisted Men.*

Enlisted men of the National Guard of Washington shall be discharged for the following reasons: Discharge of enlisted men.

(1) Upon the completion of the period for which they shall have enlisted or re-enlisted. Causes.

(2) Upon promotion to a commissioned office.

(3) Upon permanent removal to a locality where there is no organization of the National Guard of Washington to which they may be transferred.

(4) Upon becoming physically or mentally unfit for the service.

(5) Upon conviction of a felony.

(6) Upon sentence of a court-martial.

(7) Upon disbandment of the organization to which they belong when there is no other organization at the same station to which they can be transferred.

(8) Upon the recommendation of their immediate commanders.

(9) For the good of the service.

(10) For desertion.

Each discharge shall be evidenced by a certificate in writing to be prescribed by the Commander-in-Chief, as to form, which shall be delivered to the individual discharged.

SEC. 46. *Discharge for the Good of the Service.*

Discharge
for the good
of the service.

Any enlisted man may be discharged for the good of the service upon the recommendation of his immediate commander, but the officer recommending such discharge must give written notice thereof to the man to be discharged. Such notice shall state in full the reasons for such recommendations and the man so notified may appeal from such recommendation to the discharging authority: *Provided*, That the appellant shall have the right of hearing if, within five days after receipt of such notice, he notifies the discharging authority in writing of his desire to be heard.

Appeal
notice.

SEC. 47. *Uniforms, Arms and Equipments.*

Uniforms,
arms and
equipments.

The uniforms, arms and equipments of the National Guard of Washington shall be prescribed in regulations and shall conform as nearly as practicable with those of corresponding forces in the United States army, subject to the laws and regulations of the United States governing the organized militia.

SEC. 48. *Unauthorized Use of Uniform.*

Every person, other than an officer or enlisted man of the National Guard of this state or any other state, or of

the United States army, navy, marine corps or revenue service or forestry service, or inmate of any veterans' or soldiers' home, who at any time wears the uniform of the United States army or navy or National Guard, or any part of such uniform, or a uniform or part of a uniform similar thereto, within the bounds of the State of Washington, is guilty of a misdemeanor, and if found guilty of such offense shall be punishable by a fine of not less than one hundred nor more than two hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment; *Provided*, That nothing in this act shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theater while actually engaged in following said profession: *And provided*, That nothing in this act shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room: *And provided further*, That whenever the National Guard, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said National Guard is in service: *And provided further*, That this section shall not apply to cadets of any military school in the State of Washington.

Unauthorized use of uniform.

Wearing uniform misdemeanor.

Fine and punishment.

Exceptions theatrical performers.

Uniform rank.

Military school.

SEC. 49. *Officer's Uniforms—Allowances.*

Every commissioned officer of the National Guard of Washington shall within sixty days from the date of the order whereby he shall have been appointed, provide himself at his own expense, with the arms, uniforms and equipments prescribed by the Commander-in-Chief for his rank and assignment.

Officers' uniforms.

There shall be audited and paid annually on the first day of April in each year, to each properly armed, uniformed and equipped officer of the active list of the National Guard of Washington, a uniform allowance of seventy-five dollars (\$75.00) for dismounted officers and one hundred dollars (\$100.00) for mounted officers.

Allowances.

SEC. 50. *Property Accountability.*

Property ac-
countability.

Property accountability shall be defined by the Commander-in-Chief in regulations and shall correspond as nearly as practicable with the laws and regulations of the army of the United States relating thereto.

SEC. 51. *Ownership of Military Property.*

Ownership of
military
property.

All property issued to organizations and members of the National Guard of Washington shall be and remain public property.

SEC. 52. *Buying and Receiving State Property Prohibited.*

Buying and
receiving
state
property.

If any person shall purchase or receive in pawn or pledge any military property of the State of Washington or of the United States, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to imprisonment not exceeding one year, or fined not exceeding three hundred dollars or to both such fine and imprisonment.

SEC. 53. *Uniforms, etc., Exempt.*

Uniforms
exempt.

The military uniforms, arms, equipments and mounts of members of the National Guard of Washington shall be exempt from execution and from taxation.

SEC. 54. *Allowances for Incidental Expenses.*

Allowances
for incidental
expenses.

There shall be audited and allowed by the proper board of military auditors and paid quarterly out of the military fund to the commanding officer of each infantry, cavalry, coast artillery reserve and signal corps company performing the duties required by law for incidental expenses the sum of \$25.00 per month, and to each band performing the duties required by law the sum of \$15.00 per month. There shall be audited and allowed by the proper board of military auditors and paid quarterly out of the military fund to the commanding officer of each regiment the necessary incidental expenses of such regimental headquarters, not exceeding the sum of \$25.00 per month, and to the commanding officer of each battalion the necessary incidental expenses of such battalion headquarters, not exceeding the sum of \$10.00 per month. Each officer receiving public money under this section shall file with the Adjutant Gen-

Companies'
bands.

Regimental
headquarters.

Battalion
headquarters.

eral quarterly a statement showing the unexpended balance of such money and all expenditures from said fund. Said expenditures shall be evidenced by proper vouchers. Vouchers.

SEC. 55. *Military Auditors.*

The Adjutant General, one member of State Board of Control and State Auditor shall constitute a Board of Military Auditors, which board shall audit and allow all claims against the military fund which are specifically authorized by law. All incidental and extraordinary expenditures and all travel expenses shall be audited by a Board of Military Auditors constituted for that purpose, which shall consist of the State Auditor, one member of State Board of Control and one line officer of the active list, who shall be of or above the rank of captain and shall be detailed by the Commander-in-Chief for this duty and shall be removable at his pleasure. Military auditors.

SEC. 56. *Auditing of Military Bills.*

All bills, claims and demands against the military fund shall be certified to or verified in the manner prescribed by regulations promulgated by the Commander-in-Chief and shall be audited by the proper Board of Military Auditors, and, if allowed, shall be paid by the State Treasurer upon the warrant of the State Auditor from the military fund: *Provided, however,* That in all cases where the National Guard or any part thereof is called into the service of the State in case of war, riot, insurrection, invasion, breach of the peace, or in aid of the civil authorities, warrants for allowed pay and expenses for such service shall be drawn upon the general fund of the State Treasury and paid out of any moneys in said fund not otherwise appropriated. All military warrants shall be the obligations of the State and shall bear interest at the legal rate from the date of their presentation for payment. Auditing military bills.
Payment military fund.
General fund.

SEC. 57. *Pay and Allowance.*

Commissioned officers while on duty shall receive the same pay and allowances as commissioned officers of the army of the United States of the same grade and term of service: *Provided,* (a) That officers drawing regular an- Pay and allowance.
Commissioned officers.

nual salaries from the state shall be allowed for travel only actual, necessary expenses.

(b) For the purpose of pay and allowance as an officer of the National Guard, service with the First Washington Volunteer Infantry, as an officer or enlisted man until muster out of that organization shall be considered equivalent to three years' service in the National Guard of Washington. For the purpose of pay and allowance of an officer in the National Guard, service as an enlisted man in the National Guard of Washington shall be considered equivalent to service as an officer, provided that said service as an enlisted man and officer be continuous.

Enlisted men, while on duty, shall receive pay in accordance with the following schedule:

Chief musicians, regimental and battalion non-commissioned staff officers, hospital stewards, master electricians, signal corps, first class sergeants signal corps, first sergeants, company quartermaster sergeants and company cooks each \$2.50 per day; musicians who are members of enlisted bands, sergeants of infantry, cavalry and coast artillery and second class sergeants signal corps each \$1.50 per day; corporals signal corps each \$1.35 per day; corporals of infantry, cavalry and coast artillery, acting hospital stewards, and first class privates of the signal corps each \$1.25 per day; musicians and privates of infantry, cavalry, coast artillery, hospital corps and signal corps each \$1.00 per day. For each re-enlistment, after serving a full term of three years, there shall be added ten per cent. For the purpose of pay and allowance, service for a full term of enlistment in the regular or volunteer army of the United States, or in the First Washington Volunteer Infantry until muster out of that organization shall be equivalent to a full enlistment. Enlisted men and officers proving such service shall be allowed ten per cent. additional on their pay: *Provided*, That this schedule of pay shall apply only to the first thirty days of their tour of duty and after the thirtieth day of any such tour, officers and men shall receive the pay allowed officers and men in the regular army of the corresponding

Time of enlistment counted on pay.

Non-commissioned officers.

Privates.

Re-enlistment pay.

Applies to first thirty days of duty.

organization, grade and term of service: *And Provided further*, That no additional pay shall be allowed for service in the National Guard of Washington unless such service shall have been continuous. In addition to the pay and allowance herein prescribed, company quartermaster sergeants shall be paid eight dollars (\$8.00) per month and one clerk for each company, five dollars (\$5.00) per month, upon the recommendation of their respective company commanders, at all times other than in camp or in active service. Extra duty pay to men detailed as clerks and on similar duty may be allowed by the commanding officers of troops on duty, but in no case shall such pay and extra pay exceed \$2.50 per day.

Additional
pay.

Quarter-
master
sergeants.
Company
clerks.

Upon completion of his enlistment, or upon discharge by proper authority, each enlisted man shall receive an additional sum of fifty cents (50c) for each day's service at state rate of pay during such term of enlistment, or portion thereof: *Provided*, That all unpaid deductions from and stoppages made on pay rolls for delinquency court fines shall be withheld from said additional sum and the balance paid to such enlisted man: *Provided further*, That in case of dishonorable discharge as the result of the sentence of a court-martial, no portion of such additional sum shall be paid.

Additional
pay when
discharged.

Fines and
stoppages.

All amounts so withheld shall remain in the military fund.

SEC. 58. *Transportation and Subsistence.*

There shall be provided by the state transportation for all officers and transportation and subsistence for all enlisted men who shall be ordered out for encampment, field duty, or stated parades, or assembled for duty in case of riot, tumult, breach of the peace, war, insurrection, invasion or imminent danger thereof. Necessary transportation, quartermasters' stores and subsistence for troops when ordered on duty shall be contracted for by the proper officers and paid for as other military bills. There shall be allowed from the military fund for each day's service the sum of \$2.00 per man for each horse for every mounted of-

Transporta-
tion and
subsistence.

ficer, and mounted orderly, and all members of such other organizations of the National Guard of Washington as are required to be mounted. Horses not furnished by any officers or men shall be contracted for by the quartermaster general at a cost of not to exceed \$2.00 per day for each horse.

SEC. 59. *Stated Parades.*

State
parades.

There shall be three stated parades annually, with pay, as follows: February 22d, May 30th and July 4th.

SEC. 60. *Pensions.*

Pensions.

Every member of the National Guard who shall be wounded or disabled while on duty in the service of the state shall be taken care of and provided for at the expense of the state, and if permanently disabled shall receive the like pensions or reward that persons under similar circumstances in the military service of the United States receive from the United States: *Provided*, That no pension shall be granted for any disability received while in the service of the United States, or while proceeding to or returning from such service. Before the name of any person is placed upon the pension roll under this section proof shall be made, under such regulations as the Commander-in-Chief may from time to time prescribe, that the applicant is entitled to such pension.

SEC. 61. *Drills.*

Drills.

Each company of the National Guard shall meet at least twice in each month for drill and instruction; and the commanding officer of any organization may require the officers and enlisted men of his organization to meet for drill and instruction at such times and places as he may appoint: *Provided*, That no pay shall be allowed for such duty except to company quartermaster sergeants and company clerks as hereinabove provided.

SEC. 62. *Authority of Commanding Officer.*

Authority of
commanding
officer.

The commanding officer at any drill, parade, encampment or other duty may cause those under his command to perform any military duty he shall require, and may place in arrest for the time of such drill, parade, encampment or

other duty any officer or enlisted man who shall disobey the orders of his superior officer, or in any way interrupt the exercises, and any other person or persons who shall trespass on the camp grounds, parade grounds, rifle range or armory, or in any way or manner interrupt or molest the orderly discharge of duty of those on duty, or who shall disturb or prevent the passage of troops going to or returning from any regularly ordered tour of duty; and he shall prohibit and prevent the sale or use of all spirituous liquors, wines, ale or beer, or holding of huckster or auction sales, and all gambling, and remove disorderly persons beyond the limits of such parade or encampment, or beyond a distance of two miles therefrom, and he shall abate as common nuisances all disorderly places, and all such sales within such limits. Any person violating any of the provisions of this section, or any order issued in pursuance thereof, shall be guilty of a misdemeanor, and may be delivered at or before the termination of such duty to any peace officer, and shall be brought before the nearest court of competent jurisdiction for trial, and upon conviction shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or shall suffer both such fine and imprisonment.

Disorderly persons or conduct prohibited about encampment.

No municipal corporation, or other authority, shall issue, grant or renew a license to any person, firm or corporation for the sale of intoxicating or spirituous liquors or beverages within a distance of three hundred feet from any armory or military reservation owned by the State of Washington or the United States and used for military purposes, or within a distance of one mile from the American Lake military reservation, and any license so attempted to be granted, issued or renewed shall be void.

Sale of liquor prohibited within 300 feet of armory, fort or arsenal.

SEC. 63. *Camp and Field Duty.*

The Commander-in-Chief shall cause the National Guard to perform for at least five consecutive days in each year camp duty, field maneuvers or such other duty as in his judgment will best promote the discipline and efficiency of the force. Inspections may be ordered by the Commander-in-Chief at any time.

Camp and field duty.

SEC. 64. *State Camp Grounds.*

State camp
grounds.

All encampments shall be held at such places and at such times as may be ordered by the Commander-in-Chief. Camp grounds shall be selected by a board of officers to be appointed by the Commander-in-Chief and their selection shall be subject to his approval. Such grounds, if private property, shall be rented and paid for by the state. The State Auditor is hereby authorized and empowered to draw his warrant upon the State Treasurer, against the military fund, upon the certificates of the proper Board of Military Auditors, for such sums as shall be required in renting and in laying out and preparing grounds designated for such purposes, and in furnishing quarters for troops ordered into camp, and for all necessary disbursements.

SEC. 65. *Warning for Duty.*

Warning
for duty.

Orders for duty may be oral or written. Officers and enlisted men may be warned for duty as follows: Either by stating the substance of the order, or by reading the order to the person warned, or by delivering a copy of such order to such person, or by leaving a copy of such order at his last known place of abode or business, with some person of suitable age and discretion, or by sending a copy of such order or notice containing the substance thereof, to such man by mail, directed to him at his last known place of abode or business. Orders may be transmitted by telegraph or telephone. Such warning may be given by any officer or enlisted man. The officer or enlisted man giving such warning shall, when required, make a return thereof, containing the names of persons warned and the time, place and manner of warning. Such returns shall be verified on oath and shall be *prima facie* evidence, on the trial of any person returned as a delinquent, of the facts therein stated.

SEC. 66. *Exemption from Arrest While on Duty.*

Exemption
from arrest
while on
duty.

No person belonging to the military forces of this state shall be arrested under any civil process while going to, remaining at, or returning from any place at which he may be required to attend military duty. Any members of the National Guard parading, or performing any duty according to the law shall have the right-of-way in any street or

highway through which they may pass and while on field duty shall have the right to enter upon, cross or occupy any uninclosed lands, or any enclosed lands where no damage will be caused thereby; any persons belonging to the military forces of the state while going to or returning from any parades, encampments, drill or meeting which he may be required by law to attend shall, together with his conveyance and the military property of the state, be allowed to pass free through all toll gates and over all toll bridges and ferries: *Provided*, That the carriage of the United States mail and the legitimate functions of the police and the progress and operations of fire departments shall not be interfered with thereby.

Right-of-way
over street
or highway.

SEC. 67. *Interference With Employment of Guardsman.*

A person, who either by himself, or with another, willfully deprives a member of the National Guard of his employment or prevents, by himself or another such member being employed, or obstructs or annoys said member of said National Guard or his employer in his trade, business or employment, because said member of said National Guard is such member or dissuades any person from enlisting in said National Guard by threat or injury to him in his employment, trade or business, in case he shall so enlist, shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not exceeding \$100.00, or imprisoned in the county jail not more than thirty days or shall suffer both fine and imprisonment.

Interference
with employ-
ment of
guardsmen.

Misde-
meanor.

Fine.

SEC. 68. *Rights of National Guardsman.*

No club, society, association, corporation or organization shall by any constitution, rule, by-law, resolution, vote or regulation, or otherwise, discriminate against any member of the National Guard of Washington because of his membership in said National Guard, in respect to the eligibility of such National Guardsman to membership in such club, society, association, corporation or organization, or in respect to his rights to retain and exercise the rights of membership therein. Any person or persons, club, society, association, corporation or organization violating or aid-

Rights of
National
Guardsmen.

ing, abetting or assisting in the violation of any provision of this section shall be guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding \$100.00 or imprisoned in the county jail for a period not exceeding thirty days, or shall suffer both such fine and imprisonment.

SEC. 69. *Discharge From Employment.*

Discharge
from
employment.

No member of the National Guard shall be discharged by his employer by reason of the performance of any military duties upon which he may be ordered. When any member of the National Guard is ordered upon duty which takes him from his employment he may apply upon the termination of such duty to be restored to his position and employment, and if the tour of duty shall have continued for a period not longer than [three] months, any employer or the officer or other manager of any firm or corporation having authority to re-employ such National Guardsman and failing so to do shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding \$300, or imprisoned in the county jail for a period not exceeding ninety days, or shall suffer both such fine and imprisonment.

Fine.

SEC. 70. *National Guard Association.*

National
Guard
Association.

The commissioned officers of the National Guard of Washington may associate themselves together in an organization to promote discipline and efficiency in the National Guard, under such rules and regulations as they may adopt, subject to the military regulations of this state.

SEC. 71. *Incorporation.*

Incorporation.

The officers, or the officers and enlisted men of any regiment, battalion or company of the National Guard of Washington are hereby authorized to organize themselves into a corporation for social purposes and for the purpose of holding, acquiring and disposing of such property, real and personal, as such military organizations may possess or acquire. Such incorporations shall not engage in business and shall not be required to pay any filing or license fees to the state.

The dissolution or disbandment of any such company or companies as a military organization shall not operate to terminate the existence of the corporation, but the existence of the same shall continue for the period limited in its articles of incorporation for the benefit of such corporation.

SEC. 72. *Military Tribunals.*

The military tribunals of the State of Washington shall be of two kinds, viz.:

1. Courts-martial (including summary courts and delinquency courts), for the trial of offenders against military law, and

2. Courts of inquiry for examining transactions of, or accusations or imputations against officers or enlisted men of the National Guard of Washington.

Courts-martial shall be composed of commissioned officers only. All officers of the National Guard of Washington, including those on the retired list, shall be eligible for detail for the trial of offenders belonging to the National Guard of Washington; but no officer will be detailed for the trial of an officer superior to himself in rank when it can be avoided. In the military service of the State of Washington, the following named courts-martial are authorized:

1st. The general court-martial,

2nd. The summary court-martial,

3rd. The delinquency court for enlisted men.

SEC. 73. *Composition, Constitution and Jurisdiction of Military Tribunals.*

Except as in this act otherwise provided, and as far as applicable, the composition, constitution and jurisdiction of courts-martial, the form and manner in which the proceedings of military courts and the proceedings in revision thereon shall be conducted and recorded, and the forms of oaths and affirmations used in the administration of military law by such courts, shall be governed by the law and procedure of courts-martial in the United States Army.

General courts-martial may consist of any number of officers from five (5) to nine (9) inclusive, but they shall not consist of less than nine, when that number can be con-

Military tribunals.

Courts-martial.

Courts of inquiry.

Officers eligible.

Classification.

Composition, constitution, and jurisdiction of military tribunals.

Conform to the U. S. Army.

Composition.

veniently assembled. The decision of the appointing authority as to the number that can be conveniently assembled shall be conclusive. When from any cause, a general court-martial is reduced below the minimum of five, the remaining members will direct the Judge Advocate to report the fact to the convening authority and await further orders. In such case, if the trial has not been entered upon, new members may be added; but if any testimony has been taken, the court should preferably be dissolved and a new court ordered.

Jurisdiction.

The jurisdiction of courts-martial as herein provided is limited to the purpose of the maintenance of military discipline, and as to persons, such courts have jurisdiction subject to the limitations hereinafter imposed at all times and in all places over officers and enlisted men of the National Guard of Washington for all military offenses committed by them, whether within or beyond the territorial limits of the State of Washington, and as to offenses, the jurisdiction embraces the offenses specifically defined in this act.

No officer shall be tried for a military offense committed by him in violation of any provision of this act or rule or regulation promulgated by authority thereof, except by a general court-martial.

No enlisted man shall be tried by a summary or delinquency court for an offense the punishment for which as prescribed herein may be discharge from the service.

A court of inquiry shall consist of one or more officers, not exceeding three, and a recorder to reduce the proceedings and evidence to writing.

SEC. 74. Rules and Articles Governing the National Guard of Washington.

The word officer as used in this act shall be understood to designate commissioned officers. The words enlisted men as used in this act shall be understood to include non-commissioned officers, musicians, artificers, privates and other enlisted men, and the convictions mentioned herein shall be understood to be convictions by courts-martial.

Rules and articles governing the National Guard of Washington.

The National Guard of Washington shall be governed by the following rules and articles:

Art. 1. These rules and articles shall be read to every enlisted man at the time of, or within six days after his enlistment, and he shall thereupon take an oath or affirmation in the following form: To be read to enlisted men.

“I, A. B., do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America, Oath. and the State of Washington; that I will serve the state honestly and faithfully against all its enemies whomsoever; and that I will obey the orders of the President of the United States and the Governor of the State of Washington, and the orders of the officers appointed over me, according to the rules and articles governing the National Guard of Washington.”

This oath may be taken before any commissioned officer of the National Guard of Washington.

Art. 2. Every officer who knowingly enlists or musters into the military service any minor over the age of eighteen years without the written consent of his parents or guardians, or any minor under the age of eighteen years, or any insane or intoxicated persons, or any deserter from the military or naval service of the United States or of the State of Washington, or any person who has been convicted of any infamous offense, shall upon conviction, be dismissed from the service, or suffer such other punishment Enlistment of minors without consent. as a court-martial may direct. Punishment.

Art. 3. Any officer who knowingly musters as an enlisted man a person who is not an enlisted man shall be deemed guilty of knowingly making a false muster, and punished accordingly. Rules and regulations.

Art. 4. Any officer who takes money, or other thing, by way of gratification, on mustering any regiment, troop, battery or company, or on signing muster rolls, shall be dismissed from the service. “Tips.”

Art. 5. Every officer who knowingly makes a false return to any of his superior officers, authorized to call for such returns, of the state of the regiment, troop, or com- False returns.

pany, or garrison under his command; or of the arms, ammunition, clothing or other stores thereunto belonging, shall, on conviction thereof before a court-martial, be dismissed.

Lost
property.

Art. 6. Every officer commanding a troop, battery, or company, is charged with the arms, accoutrements, ammunition, clothing, or other military stores belonging to his command, and is accountable in case of their being lost, spoiled, or damaged otherwise than by unavoidable accident, or on actual service.

False
certificate.

Art. 7. Every officer who signs a false certificate, relating to the absence or pay of an officer or enlisted man shall be dismissed from the service.

False muster.

Art. 8. Any officer who knowingly makes a false muster of man or horse, or who signs, or directs, or allows the signing of any muster roll, knowing the same to contain a false muster, shall, upon proof thereof by two witnesses, before a court-martial, be dismissed from the service, and shall thereby be disabled to hold any office or employment in the service of the State of Washington.

Art. 9. Any officer, who, wilfully or through neglect, suffers to be lost, spoiled, or damaged, any military stores belonging to the United States or the State of Washington, shall make good the loss or damage, and be dismissed from the service.

Ammunition.

Art. 10. Any enlisted man who sells, or wilfully or through neglect wastes the ammunition delivered out to him shall be punished as a court-martial may direct.

Equipment.

Art. 11. Any enlisted man who sells, or through neglect loses or spoils his horse, arms, clothing, or accoutrements, shall be punished as a court-martial may adjudge, subject to such limitations as may be prescribed by the Commander-in-Chief.

Disrespect.

Art. 12. Any officer or enlisted man who behaves himself with disrespect toward his commanding officer shall be punished as a court-martial may direct.

Art. 13. Any officer or enlisted man who, on any pretense whatsoever, strikes his superior officer, or draws or

lifts up any weapon, or offers any violence against him, being in the execution of his office, or disobeys any lawful command of his superior officer, shall suffer such punishment as a court-martial may direct. Assault.

Art. 14. Any officer or enlisted man who begins, excites, causes, or joins in any mutiny or sedition, in any troop, battery, company, party, post, detachment, or guard, shall suffer such punishment as a court-martial may direct. Mutiny.

Art. 15. Any officer or enlisted man who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or having knowledge of any intended mutiny or sedition does not, without delay, give information thereof to his commanding officer, shall suffer such punishment as a court-martial may direct. Accessory to mutiny.

Art. 16. All officers, of what condition soever, have power to part and quell all quarrels, frays, and disorders, whether among persons belonging to his own or another corps, regiment, troop, battery, or company, and to order officers into arrest, and non-commissioned officers and enlisted men into confinement, who take part in the same, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or non-commissioned officer, or draws a weapon upon him, shall be punished as a court-martial may direct. Disorderly conduct.

Art. 17. Any officer who thinks himself wronged by the commanding officer of his regiment, separate battalion, or separate company, and, upon due application to such commander, is refused redress, may complain to the Commander-in-Chief. The Commander-in-Chief shall examine into said complaint and take proper measures for redressing the wrong complained of. Officer may appeal.

Art. 18. Any enlisted man who thinks himself wronged by any officer may complain to the commanding officer of his regiment, separate battalion, or separate company, who shall examine into such complaint and take proper measures for redressing the wrong complained of. Either party may appeal from such action to a general court-martial; but if, upon such second hearing, the appeal appears to be Private may appeal.

groundless and vexatious, the party appealing shall be punished at the discretion of said general court-martial.

Absence
without
leave.

Art. 19. Any enlisted man who absents himself from his troop, battery, company, or detachment, without leave from his commanding officer shall be punished as a court-martial may direct.

Failure to
rendezvous.

Art. 20. Any officer or enlisted man who fails, except when prevented by sickness or other necessity, to repair, at the fixed time, to the place of parade, exercise or other rendezvous appointed by his commanding officer, or goes from the same, without leave from his commanding officer, before he is dismissed or relieved, shall be punished as a court-martial may direct.

Substitution.

Art. 21. No enlisted man belonging to any regiment, troop, battery, or company shall hire another to do his duty for him, or be excused from duty, except in cases of sickness, disability, or leave of absence. Every enlisted man found guilty of hiring his duty, and the person so hired to do another's duty, shall be punished as a court-martial may direct.

Conniving at
substitution.

Art. 22. Every non-commissioned officer who connives at such hiring of duty shall be reduced. Every officer who knows and allows such practices shall be punished as a court-martial may direct.

Drunkenness.

Art. 23. Any officer who is found drunk on his guard, party, or other duty, shall be dismissed from the service. Any enlisted man who so offends shall suffer such punishment as a court-martial may direct.

Sentinel
sleeping.

Art. 24. Any sentinel who is found sleeping upon his post, or who leaves it before he is regularly relieved, shall suffer such punishment as a court-martial may direct.

Art. 25. Any officer or enlisted man who quits his guard, platoon, or division, without leave from his superior officer, except in a case of urgent necessity, shall be punished as a court-martial may direct.

False alarms.

Art. 26. Any officer, who by any means whatsoever, occasions false alarms in camp, garrison or quarters, shall suffer such punishment as a court-martial may direct.

Art. 27. Any officer or enlisted man who misbehaves himself before the enemy, runs away, or shamefully abandons any fort, post, or guard which he is commanded to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, shall suffer such punishment as a court-martial may direct. Misbehavior.

Art. 28. Every enlisted man who deserts the service of the State of Washington, shall be liable to serve for such period as shall, with the time he may have served previous to his desertion, amount to the full term of his enlistment; and such enlisted man shall be tried by a court-martial and punished, although the term of his enlistment may have elapsed previous to his being apprehended and tried. Desertion.

Art. 29. Any officer who, having tendered his resignation, quits his post, or proper duties, without leave and with intent to remain permanently absent therefrom, prior to due notice of acceptance of the same, shall be deemed and punished as a deserter. Absence
without
permission.

Art. 30. Any officer or enlisted man who advises or persuades any other officer or enlisted man to desert the service of the State of Washington, shall suffer such punishment as a court-martial may direct. Advising
desertion.

Art. 31. All officers and enlisted men are to behave themselves orderly in quarters and on the march; and whoever commits any waste or spoil, either in walks or trees, parks, warrens, fish ponds, houses, gardens, grain field, enclosures, or meadows, or maliciously destroys any property whatsoever belonging to inhabitants of the United States or of the State of Washington, shall, besides such penalties as he may be liable to by law, be punished as a court-martial may direct. Malicious
mischief.

Art. 32. (1) Any person in the military service of the State of Washington, who makes or causes to be made any claim against the United States or the State of Washington, or any officer thereof, knowing such claim to be false or fraudulent; or False claim.

(2) Who presents or causes to be presented to any person in the civil or military service thereof, for approval

Same. or payment, any claim against the United States or the State of Washington, or any officer thereof, knowing such claim to be false or fraudulent; or

Same. (3) Who enters into any agreement or conspiracy to defraud the United States or the State of Washington, by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Aid to others in false claim. (4) Who, for the purpose of obtaining or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or against any officer thereof, makes or uses, or procures or advises the making or use of, any writing or other paper, knowing the same to contain any false or fraudulent statement; or

Same. (5) Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or any officer thereof, makes, or procures or advises the making of, any oath to any fact or to any writing or other paper, knowing such oath to be false; or

Forgery. (6) Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or the State of Washington, or any officer thereof, forges or counterfeits, or procures or advises the forging or counterfeiting of, any signature upon any writing or other paper, or uses, or procures or advises the use of, any such signature, knowing the same to be forged or counterfeited; or

"Short changing." (7) Who, having charge, possession, custody, or control of any money or other property of the United States or of the State of Washington, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

Defrauding. (8) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the State of Washington, furnished or intended for the military service thereof, makes or delivers to any

person such writing, without having full knowledge of the truth of the statements therein contained, and with intent to defraud the United States or the State of Washington; or

(9) Who steals, embezzles, knowingly and wilfully misappropriates, applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, ammunition, equipments, clothing, subsistence stores, money, or other property of the United States or of the State of Washington, furnished or intended for the military service thereof; or Larceny.

(10) Who knowingly purchases, or receives in pledge for any obligation or indebtedness, from any enlisted man, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipments, ammunition, clothing, subsistence stores, or other property of the United States or of the State of Washington, such enlisted man, officer, or other person not having lawful right to sell or pledge the same, shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may adjudge or by any or all of said penalties. Receiving stolen goods.

And if any person, being guilty of any of the offenses aforesaid, while in the military service of the State of Washington, receives his discharge, or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial, in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

Art. 33. Any officer who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service. Unbecoming conduct.

Art. 34. All crimes not capital and all disorders and neglects, which officers and enlisted men may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles are to be taken cognizance of by a general, summary or delinquency court-martial, as provided herein, according to the nature General conduct.

and degree of the offense, and punished at the discretion of such court.

Officer
arrested to
have copy
of charge.

Art. 35. When an officer is put in arrest for the purpose of trial, the officer by whose order he is arrested shall see that a copy of the charge on which he is to be tried is served upon him within ten days after his arrest, and that he is brought to trial within twenty days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within thirty days after the expiration of said twenty days. If a copy of the charges be not served, or the arrested officer be not brought to trial, as herein required, the arrest shall cease. But officers released from arrest, under the provision of this article, may be tried, whenever the exigencies of the service shall permit, within twelve months after such release from arrest.

Judge
Advocate.

Art. 36. The Commander-in-Chief shall be competent to appoint a Judge Advocate for a general court-martial.

Court-
martial.

Art. 37. When the requisite number of officers to form a general court-martial is not present at any station or detachment the Commander-in-Chief, shall in cases which require the cognizance of such court, thereupon order a court to be assembled at the nearest place where such trial can be conveniently held, and shall order the party accused, with necessary witnesses, to be transported to the place where the said court shall be assembled.

Superior
officers
to try.

Art. 38. Officers shall be tried only by general courts-martial; and no officer shall, when it can be avoided, be tried by officers inferior to him in rank.

Art. 39. The Judge Advocate shall administer to each member of a general court-martial, before they proceed upon any trial, the following oath:

Oath of
judges.

“You, A. B., do swear that you will well and truly try and determine, according to evidence, the matter now before you, between the State of Washington and the prisoner to be tried, and that you will duly administer justice without partiality, favor, or affection, according to the provisions of the rules and articles for the government

of the National Guard of Washington, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like cases; and you do further swear that you will not divulge the sentence of the court until it shall be published by the proper authority, except to the Judge Advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof, as a witness, by a court of justice, in due course of law. So help you God."

Art. 40. When the oath has been administered to the members of a general court-martial, the president of the court shall administer to the Judge Advocate, or person officiating as such, an oath in the following form:

"You, A. B., do swear that you will not disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof, as a witness, by a court of justice, in due course of law; nor divulge the sentence of the court to any but the proper authority, until it shall be duly disclosed by the same. So help you God."

Oath of
Judge
Advocate.

Art. 41. A court-martial may punish, at discretion, any person who uses any menacing words, signs, or gestures, in its presence, or who disturbs its proceedings by any riot or disorder.

Contempt.

Art. 42. All members of a court-martial are to behave with decency and calmness.

Art. 43. Members of a general court-martial may be challenged by a prisoner, but only for cause stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

Right of
prisoner.

Art. 44. When a prisoner, arraigned before a general court-martial, from obstinacy and deliberate design, stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if the prisoner had pleaded not guilty.

Pleading.

Prosecutor. Art. 45. The Judge Advocate shall prosecute in the name of the State of Washington, but when the prisoner has made his plea, he shall so far consider himself counsel for the prisoner as to object to any leading question to any witness, and to any question to the prisoner the answer which might tend to incriminate himself.

Depositions. Art. 46. The depositions of witnesses residing beyond the limits of the State of Washington, if taken on reasonable notice to the opposite party and duly authenticated, may be read in evidence before such court.

Oath of witness. Art. 47. All persons who give evidence before a court-martial shall be examined on oath, or affirmation, in the following form: "You swear (or affirm) that the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God."

Continuances. Art. 48. A court-martial shall, for reasonable cause, grant a continuance to either party, for such time, and as often as may appear to be just."

Votes of court. Art. 49. Members of a court-martial, in giving their votes, shall begin with the youngest in commission.

Dismissals. Art. 50. No officer shall be dismissed, or discharged from the service except by order of the Commander-in-Chief, or by sentence of a general court-martial.

Suspension. Art. 51. When a court-martial suspends an officer from command it may also suspend his pay and emoluments for the same time, according to the nature of his offense.

Jeopardy. Art. 52. No person shall be tried a second time for the same offense.

Limitation of actions. Art. 53. No person shall be liable to be tried and punished by a general court-martial for any offense which appears to have been committed more than two years before the issuing of the order for such trial, unless by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

Execution of sentence. Art. 54. No sentence of a general court-martial shall be carried into execution until the same shall have been approved by the Commander-in-Chief.

Art. 55. In time of peace no sentence of a court-martial, directing the dismissal of an officer, shall be carried into execution, until it shall have been confirmed by the Commander-in-Chief.

Dismissal in time of peace.

Art. 56. Every Judge Advocate, or person acting as such, at any general court-martial, shall, with as much expedition as the opportunity of time and distance of place may admit, forward the original proceedings and sentence of such court to the Adjutant General of the National Guard of Washington.

Proceedings of court-martial.

Art. 57. Every party tried by a general court-martial shall, upon demand thereof made by himself or by any person in his behalf, be entitled to a copy of the proceedings and sentence of such court.

Copy of proceedings furnished accused.

Art. 58. A court of inquiry to examine into the nature of any transaction of, or accusation or imputation against, any officer or enlisted man may be ordered by the Commander-in-Chief.

Court of inquiry.

Art. 59. The recorder of a court of inquiry shall administer to the members the following oath:

“You shall well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God.”

Oath of members.

After which the president of the court shall administer to the recorder the following oath:

“You, A. B., do swear that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God.”

Oath of recorder.

Art. 60. A court of inquiry, and the recorder thereof, shall have the same power to summon and examine witnesses as is given to general courts-martial and the Judge Advocates thereof. Such witnesses shall take the same oath which is taken by witnesses before general courts-martial, and the party accused shall be permitted to examine and cross-examine them, so as fully to investigate the circumstances in question.

Powers of court.

Opinion. Art. 61. A court of inquiry shall not give an opinion on the merits of the case inquired of unless specially ordered to do so.

Authentic-
ation of
proceedings. Art. 62. The proceedings of a court of inquiry must be authenticated by the signatures of the recorder and the president thereof and delivered to the Adjutant General.

Inquiry
proceedings
as evidence. Art. 63. The proceedings of a court of inquiry may be admitted as evidence by a court-martial, in cases not extending to the dismissal of an officer:

Provided, That the circumstances are such that oral testimony can not be obtained.

Oldest
officer
commands. Art. 64. If, upon marches, guards, or in quarters, different organizations of the National Guard of Washington, happen to join or do duty together, the officer highest in rank of the line by commission, there on duty or in quarters, shall command the whole, and give orders for what is needful in the service, unless otherwise specially directed by the Commander-in-Chief, according to the nature of the case.

Death of
enlisted man. Art. 65. In case of death of any enlisted man, the commanding officer of his troop, battery, or company shall immediately secure all his effects then in camp or quarters, and shall, in the presence of two other officers, make an inventory thereof, which he shall transmit to the office of the Adjutant General.

These articles
to be read. Art. 66. The foregoing articles shall be read and published, once in every six months, to every regiment, troop, or company in the service of the State of Washington, and shall be duly observed and obeyed by all officers and enlisted men in said service.

Limit of
punishment. Art. 67. Whenever, by any of the Rules and Articles provided by this act for the government of the National Guard of Washington, the punishment on conviction of any military offense is left to the discretion of the court-martial, the punishment therefor shall not, in time of peace, be in excess of a limit which the Commander-in-Chief may prescribe.

Art. 68. Dismissal of an officer from the service as the result of a conviction by a court-martial shall incapacitate him from holding any military commission in the National Guard of Washington, and he shall thereby be disqualified to hold any office or employment in the service of the State of Washington.

Dismissal
disqualifies
from civil
office.

Art. 69. Upon conviction by a general court-martial for any of the offenses in this act prescribed, an enlisted man shall become ineligible for one year thereafter to take an examination for commission in the National Guard of Washington.

Art. 70. Dishonorable discharge of an enlisted man shall operate to disfranchise him, disqualify him from holding any position in the National Guard and from holding any public office in this state.

Discharge
disfranchises.

SEC. 75. *Summary Courts.*

The summary courts established by this act shall have jurisdiction over offenses committed by enlisted men when on active duty. The commanding officer of each garrison, fort, or other place, regiment or corps, detached battalion, or company, or other detachment, in the National Guard of Washington shall have power to appoint for such place or command, or in his discretion for each battalion thereof, a summary court to consist of one officer to be designated by him, before whom enlisted men may be tried for offenses committed while on active duty; such enlisted men must be brought to trial within twenty-four hours of the time of the arrest, or as soon thereafter as practicable; but such summary court may be appointed and the officer designated by superior authority when by him deemed desirable; and the officer holding the summary court shall have power to administer oaths and to hear and determine such cases, and when satisfied of the guilt of the accused adjudge the punishment to be inflicted, which said punishment shall not be in excess of a limit that the Commander-in-Chief may prescribe, and in the case of a non-commissioned officer, reduction to the ranks in addition thereto; there shall be a summary court record kept at the headquarters of the proper command, in which shall be entered a record of all

Summary
courts.

cases heard and determined and the action had thereon; and no sentence adjudged by said summary court shall be executed until it shall have been approved by the officer appointing the court, or by the officer commanding for the time being: *Provided*, That when but one commissioned officer is present with a command he shall hear and finally determine such cases.

The commanding officers authorized to approve the sentences of summary courts and superior authority shall have power to remit or mitigate the same.

SEC. 76. *Delinquency Courts.*

Delinquency
courts.

Delinquency courts established by this act shall have jurisdiction over offenses, not otherwise provided for herein, committed by enlisted men of the National Guard.

A delinquency court shall consist of one commissioned officer. The commanding officer of each regiment or separate battalion or separate company shall appoint such delinquency courts as may be necessary: *Provided*, That when different branches of the service are located at one station, the Commander-in-Chief may appoint a delinquency court for that station, which court shall have exclusive jurisdiction over delinquency court cases for the organizations at such station. Any officer appointed as such delinquency court may be relieved from such duty at the pleasure of the appointing authority. Proceedings pending before the court shall not abate or be suspended by reason of such relief and an officer appointed as such court, shall have full power and authority to do and perform all acts necessary to complete any proceedings pending before the court and to carry into effect any judgment, mandate, order or process made or issued by such court. The court shall be held at such times and in such places as the court may direct. The court may appoint and at any time remove a clerk thereof. Clerks so appointed shall receive such compensation as may be fixed by the Commander-in-Chief in orders. The court shall keep a docket showing the cases tried and all proceedings therein, but the evidence taken need not be recorded.

SEC. 77. *Marshal of Delinquency Court.*

The delinquency court officer may in his discretion appoint by warrant under his official signature, and at any time remove, one or more marshals, each of whom shall before entering upon his duties, execute a bond to the state in the penal sum of \$500.00 with sufficient sureties, to be approved by the officer appointing him, for the faithful performance of his duties and the prompt payment of all monies collected by him. Each marshal shall perform the usual duties of such office, and shall execute any process, mandate, or order issued by such court, and perform all acts and duties by this act imposed on or authorized to be performed by any sheriff, marshal or constable. A bond given as herein provided may be prosecuted for breach of the conditions thereof, in the name of the State of Washington, and all monies recovered shall be paid to the military fund of the state.

Marshal of delinquency court.

SEC. 78. *Oath.*

Before entering upon his duties, the delinquency court officer shall take an oath of office to the effect that he will well and truly try and determine, according to the evidence, all matters between the State of Washington and any person or persons who shall come before the court to which he is appointed. The oath need be administered but once. It may be taken before any officer authorized by law to take acknowledgments of deeds, or before any commissioned officer of the National Guard of Washington. The oath shall be filed with the officer appointing such court.

Oath of delinquency court officer.

SEC. 79. *Punishments for Delinquency Court Offenses.*

A delinquency court may inflict the following punishment:

Punishment for delinquency court offenses.

1. Reduction of non-commissioned officers to the ranks.
2. Reprimand.
3. Fines, and forfeitures, in whole or in part, of pay and allowances and costs as follows:

(a) For absence without proper excuse from, or tardiness without like excuse, in attending any drill, parade, meeting for instruction or other duty ordered by competent

ent authority not less than one dollar nor more than five dollars for each day or part thereof of such absence.

(b) For any other offense herein authorized to be tried by such court a fine not in excess of a limit that the Commander-in-Chief may prescribe and in addition thereto a sum equal to the value of the military property lost or destroyed or injury inflicted thereon to be assessed by the court.

All monies collected as fines or assessments by military courts shall be turned in to the state treasury under such regulations as the Commander-in-Chief may direct and credited to the military fund except those collections for the loss of government property which shall be turned over to the Adjutant General with an itemized statement showing the losses for which such monies are collected and the Adjutant General shall immediately apply such funds to the purchase of the necessary equipment to replace that which was lost or destroyed.

Fines,
disposition
of.

SEC. 80. *Delinquency Court Summons.*

The summons issued by the delinquency court shall be substantially as follows:

The State of Washington, to....., Greeting:

You are hereby summoned and required personally to be and appear before the Delinquency Court convened pursuant to the authority of (here describe order authorizing the court) for the trial of..... (here insert name of delinquent) at on the day of..... at..... o'clock at ...M., then and there to make answer concerning the following offense(s) with which you are charged (describe offense(s)) and in case of your failure so to do, sentence will be entered against you for said delinquent(y) (ies) as provided by law.

Done at the day of, 19...

.....
(Here insert rank of officer.)

Delinquency Court.

SEC. 81. *Service of Summons.*

The delinquency court shall designate and direct a proper person or persons to summon any and all de-

Delinquency
court
summons.

Form.

Service.

linquents to appear before the court. Service of the summons shall be made by delivering to and leaving with the person named in the summons a copy thereof or by leaving a copy at his usual place of abode with some person of suitable age and discretion then resident therein.

SEC. 82. *Proof of Service.*

Proof of service of summons shall be made by affidavit of the person serving same showing the time, place and manner of service thereof. Such affidavit shall be filed with the original summons and may be made before any officer authorized to administer oaths or before any commissioned officer of the National Guard of Washington other than the officer constituting the court by which such summons is issued.

Proof of service.

SEC. 83. *Trial by Delinquency Court.*

If the delinquent be not present at the convening of the court for the trial of such delinquent, the court may issue an order to compel his attendance, to be served in the same manner and by the same officers as bench warrants in civil cases in courts of record, or by the marshal of the court, or, if the accused be not present, or, being present, refuses to plead, the court may proceed to trial, first having entered a plea of not guilty, or the case may be continued by the court to such time and place as may be proper.

Trial by delinquency court.

SEC. 84. *Findings and Sentence.*

Upon completion of the trial of any delinquent, the delinquency court shall make and enter its findings and sentence in the form and manner prescribed in regulations.

Findings and sentence.

SEC. 85. *Appeals.*

Any person sentenced by a delinquency court may appeal to the officer ordering the court, or his successor, by serving a written notice of appeal on the delinquency court officer within five (5) days after sentence. No such sentence shall be enforced until the time within which an appeal may be taken shall have expired and in case of an appeal, until the proceedings and sentence of the court shall have been passed upon by the reviewing authority. In event of no appeal within the time prescribed, the judg-

Appeals.

ment and sentence of the delinquency court shall be final. The record in the case appealed shall consist of the pleadings, a certified copy of the docket entries and all other papers in the case, which shall be forthwith transmitted to the reviewing officer who shall determine the appeal. The reviewing officer may, on appeal, approve, disapprove, remit or mitigate a fine or penalty imposed, and in determining the appeal he shall possess the same power to take evidence and administer oaths as the court whose sentence is appealed from possesses. The sentence of the court as approved, disapproved, remitted or mitigated by the reviewing authority shall be published in orders.

SEC. 86. *Evidence in Military Courts.*

Evidence in
military
courts.

Every military court shall have the same power to compel by subpoena, by subpoena *duces tecum*, and by attachment the attendance of witnesses, both civilian and military, and the production of books, papers and documents, and to punish for contempt a witness duly subpoenaed for non-attendance or refusal to be sworn or to testify, or to produce books, papers and documents as is possessed by the superior courts of this state. Military courts shall also have power to take or cause to be taken the depositions of witnesses who cannot reasonably be produced at the trial to the same extent as the superior courts aforesaid.

SEC. 87. *To Prevent the Failure of Military Justice.*

To prevent
failure of
military
justice.

Every person not belonging to the National Guard of Washington who, being duly subpoenaed to appear as a witness before a general court-martial, wilfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the Superior Court of the State of Washington; and it shall be the duty of the prosecuting attorney of any county, on the certification of the facts to him by the general court-martial, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction,

Refusal to
qualify as
witness mis-
demeanor.

shall be a fine of not more than five hundred dollars or imprisonment not to exceed six months, or both, at the discretion of the court: *Provided*, That no witness shall be compelled to incriminate himself or to answer any questions which may tend to incriminate or degrade him.

Punishment.

Witness may refuse to incriminate himself.

SEC. 88. *Process and Mandates of Military Courts.*

Military courts are empowered to issue all processes and mandates, including writs and warrants, necessary and proper to carry into full effect the powers vested in said courts. Such processes and mandates may be directed to the marshals of the court, the sheriff of any county, and the constables and marshals of any town or city, and shall be in such form as may, from time to time, be prescribed in regulations. It shall be the duty of all officers to whom such processes or mandates may be so directed to execute the same and make return of their acts thereunder according to the requirements of the same. The keepers and wardens of all city and county jails shall receive the bodies of persons committed by the process or mandate of a military court and confine them in the manner prescribed by and according to law. Any person may be committed to any jail for failure to pay any fine under this act, and when so committed shall be credited upon such fine and assessed costs, with the sum of \$2.00, for each day so confined.

Process and mandates of military courts.

Commitment to city or county jails.

Confinement credited as \$2.00 per day.

SEC. 89. *Contempt of Court.*

Any person who shall be guilty of disorderly, contemptuous or insolent behavior in, or who shall use any insulting, or contemptuous, or indecorous language or expression to or before any military court, or any member of such court, in open court, tending to interrupt its proceedings, or to impair the respect due to its authority, or who shall commit any breach of the peace, or make any noise or other disturbance, directly tending to interrupt its proceedings, may be committed by warrant under the hand of the president of the court, to the jail of the city or county in which said court shall sit, there to remain without bail in close confinement, for a definite time not exceeding three days.

Contempt of court.

SEC. 90. *Fees and Mileage.*

Fees and
mileage.

Fees and mileage allowed for the service of process and for civilian witnesses shall be the same as in civil actions. All expenditures necessary to carry the provision of this act into effect are hereby authorized to be incurred, and paid out of the appropriation for the maintenance of the National Guard.

SEC. 91. *Military Rifle Ranges.*

Military rifle
ranges.

Under the direction of the Commander-in-Chief the Adjutant General shall, at the expense and in the name of the state, buy or lease, establish, equip, maintain and control such rifle ranges, and issue such ammunition, transportation and supplies as may be necessary to provide each organization of the National Guard of Washington with adequate means and opportunity for thorough instruction in rifle practice.

SEC. 92. *Prizes for Marksmanship.*

Prizes for
marksmanship.

The Adjutant General is authorized to expend from the appropriation for the maintenance of the National Guard the sum of \$500.00 per annum for prizes for marksmanship in military rifle and revolver firing under such regulations as may be prescribed by the Commander-in-Chief.

SEC. 93. *Articles of War and Regulations of United States Army.*

Articles of
war and reg-
ulations of
U. S. army.

Whenever any portion of the militia of the state shall be on duty under or pursuant to orders of the Commander-in-Chief, or whenever any part of the militia shall be ordered to assemble for duty in time of war, insurrection, invasion or imminent danger thereof, breach of the peace, tumult, riot, public danger or resistance to process, the Articles of War and Regulations for the government of the Army of the United States, so far as applicable and not in conflict with any rule or regulation herein prescribed, and with such modifications as the Commander-in-Chief may prescribe, shall be considered in force and regarded as a part of this act until such forces shall be duly relieved from such duty. No punishment under this section, extending to the taking of life, shall in any case be inflicted except in time of actual war, invasion or insurrec-

tion declared to exist by proclamation of the President of the United States or by the Governor of this state, and then only after the approval of such sentence by the Commander-in-Chief.

SEC. 94. *Rules and Regulations of National Guard.*

The Commander-in-Chief shall promulgate in general orders such rules and regulations and amendments thereto not inconsistent with this act as he may deem necessary. Such rules and regulations, when so promulgated, shall have the same force and effect as though herein enacted. The rules and regulations governing the National Guard of Washington, and in force at the time this act goes into effect, and not in conflict herewith, shall remain in full force and effect until annulled or modified by the Commander-in-Chief.

Rules and regulations of National Guard; how promulgated.

SEC. 95. *Exemption from Jury Duty and Poll Tax.*

Every commissioned officer and every enlisted man of the National Guard of this state shall be exempt from all jury duty and from the payment of poll tax during the term of his service in the National Guard. Every person employing an enlisted man of the National Guard of Washington having not less than six months' continuous service therein, and having so continuously employed him for a period of not less than six months prior to the time of claiming such exemption shall be exempt from jury duty: *Provided*, That if such National Guardsman is employed by a firm or corporation, one member only of such firm or officer of such corporation shall be exempt from jury duty for each National Guardsman so employed: *And provided further*, That this exemption shall extend only to members of firms and to officers of corporations actively engaged in conducting the business of such corporation, and shall not extend to directors and stockholders in such corporation merely as such.

Exemptions from jury duty and poll tax.

National Guardsman employer exempt from jury duty.

SEC. 96. *Flags.*

No flag except that of the United States and that of the State of Washington shall be carried by the National Guard of Washington.

Flags.

SEC. 97. *Regulations Governing Armories, Rifle Ranges, Etc.*

Regulation of
armories and
rifle ranges.

The Commander-in-Chief shall promulgate in general orders such regulations for the use of armories, rifle ranges, and other real property owned or leased by the state for military purposes as may be proper: *Provided*, That no armory shall be used for any other than a strictly military purpose without the recommendation of the officer in charge thereof: *And provided further*, That all civilian rifle clubs affiliated with the National Rifle Association of America shall be permitted the use of the rifle ranges in the armories owned by the state at least one night each week under such regulations as the Commander-in-Chief may direct: *And provided further*, That one room shall be set aside for the exclusive use of all veteran organizations subject to the direction of the officer in charge thereof: *And provided further*, That all revenue derived from rentals of these armories shall be turned in to the State Treasurer under such regulations as the Commander-in-Chief may direct and credited to the military fund.

SEC. 98. *Lease of Property by the National Guard.*

Lease of
property by
National
Guard.

All armories and rifle ranges and all property, real or personal, used by the National Guard and not owned by the State of Washington or the United States, shall be leased or rented to the state upon such terms and conditions as shall be approved by the Commander-in-Chief.

SEC. 99. *Annual Board of Survey.*

Annual
Board of
Survey.

On or before the 1st day of December of each year and as often as may be necessary, the Commander-in-Chief shall order and convene a general board of survey, which board shall pass on all shortages of military property and on all property unfit for military purposes and perform such further duties as shall properly come before such board.

SEC. 100. *Wrongful Taking of Government Property from Armory.*

Wrongful
taking of
property
from
armory.

Any enlisted man taking any government property from an armory without the written consent of his company commander shall be considered as appropriating government property to his own use and may be tried in any court of

competent jurisdiction and on conviction thereof shall suffer a fine in any sum, not exceeding \$100.00, together with the cost of such government property, or imprisonment in the county jail for a period not exceeding sixty (60) days, or shall suffer both such fine and imprisonment.

SEC. 101. *Repealing Clause.*

All of chapter CVIII of the Session Laws of 1895, except sections 176, 177 and 178 thereof; all of chapter LXXVIII of the Session Laws of 1901; all of chapter 155 of the Session Laws of 1903, except sections 7 and 18 thereof; and sections 1, 2, 3, 4 and 5 of chapter 122 of the Session Laws of 1907 are hereby repealed.

Repealing clause.
Ch. 108, p. 201, L. '95, §§ 1915-2069
Bal.; ch. 78, p. 156, L. '01, §§ 1-6, 8-17, 19; ch. 135, pp. 314-324, L. '03, § 6301-6420
Pierce; §§ 1-5, ch. 122, pp. 221-5, L. '07.
Emergency.

SEC. 102. An emergency exists and this act shall take effect immediately.

Passed by the House February 25, 1909.

Passed by the Senate March 2, 1909.

Approved March 15, 1909.

CHAPTER 135.

[A. S. B. 155.]

RELATING TO HORTICULTURE.

AN ACT relating to horticulture and prescribing penalties for the violation thereof and declaring an emergency.

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

SECTION 1. The office of State Commissioner of Horticulture is hereby created, which office shall be filled by appointment of the Governor of the State of Washington.

Office created.

SEC. 2. The State Commissioner of Horticulture shall be a skilled horticulturist. He shall be appointed prior to April 1, 1909, and shall qualify within ten days after his appointment and hold his office for a term of four years, and a vacancy in such office shall only occur by [death], resignation or the removal of the incumbent as herein provided. He shall be a citizen of the United States and he shall have been a resident of this state not less than three years prior to the date of his appointment.

Qualification.

Term.

Oath.
Bond.

SEC. 3. The State Commissioner of Horticulture shall take oath as other state officers and execute a bond to the State of Washington in the sum of \$5,000 with surety to be approved by the Governor, conditioned for the faithful performance of his duties. Said oath and bond and the certificate hereinbefore required shall be filed with the Secretary of State of the State of Washington.

Headquarters
at Kenne-
wick.

SEC. 4. Said State Commissioner of Horticulture shall maintain an office at Kennewick, Washington, which office shall be kept open from nine o'clock a. m. to twelve o'clock m., and from one o'clock p. m. to five o'clock p. m. daily except Sundays and legal holidays.

Deputy.

SEC. 5. The State Commissioner of Horticulture shall be allowed one deputy, who shall have the same qualification as the commissioner and shall hold office at the pleasure of said commissioner and may be removed at any time, without cause, who shall be designated Deputy State Commissioner of Horticulture, and who shall possess the same qualifications as, and take oath and give bond in the same manner as the State Commissioner of Horticulture, and who shall have and exercise the several powers herein granted to the State Commissioner of Horticulture, when acting under his direction; and, in event of the temporary absence or disability of said State Commissioner of Horticulture, said deputy shall have power and authority to carry on and conduct the business of said office in all respects.

Salaries.

Expenses.

SEC. 6. Said State Commissioner of Horticulture shall receive a salary of \$2,000 per annum and his deputy a salary of \$1,500 per annum, each, payable in equal monthly installments, as other state officers. He shall also be allowed the sum of \$2,000 per annum for traveling expenses for himself and his deputy, \$500 per annum for stationery, postage and incidental expenses, \$500 per annum for office rent, and \$900 per annum for an office clerk.

SEC. 7. Said State Commissioner of Horticulture shall Powers. have power, and it shall be his duty:

(a) To exercise a general supervisory and directory control over the horticultural interests of the state;

(b) To enforce all laws relating to horticulture and horticultural interests;

(c) Provide for the dissemination of information to horticulturists upon subjects pertaining to their interests and co-operate with district horticultural inspectors in arranging for meetings, lectures and institutes and the instruction of horticulturists;

(d) Publish and distribute bulletins and reports embodying information upon horticultural subjects, the pests Bulletins. affecting and the diseases of horticultural plants and fruits, to horticulturists, horticultural societies, and others, as he shall deem proper;

(e) Arrange for holding, fix the date of and preside over the district horticultural inspectors' institute to be held as herein provided;

(f) Examine, upon request, specimens of fruit, fruit trees, nursery stock and other horticultural plants or products submitted to him, and report to the applicant the result of such examination;

(g) Appoint district horticultural inspectors and prescribe rules and regulations for the guidance, and instruct, Appoint district inspectors. advise, direct and supervise them in all matters pertaining to their duties;

(h) Hear and decide appeals from the orders and decisions of district horticultural inspectors;

(i) Grant licenses to nurserymen, tree dealers and Licenses. their solicitors, agents and salesmen, and suspend or revoke such licenses as herein provided;

(j) Furnish to state inspectors lists of licensed nurserymen and tree dealers doing business in the state, and of agents and salesmen of nursery stock in his and adjoining districts;

(k) Approve the bonds of state horticultural inspec-

tors and of nurserymen and tree dealers as herein provided; and,

(1) Perform such other duties as may be prescribed by law.

Office of
district
inspector
created.

SEC. 8. The office of district horticultural inspector is hereby created, and there shall be one district horticultural inspector appointed by the State Commissioner of Horticulture for each of the state horticultural districts hereinafter established. Said district horticultural inspectors shall be men learned in the science of horticulture and with respect to fruit trees and horticultural plants, and the fruits and products thereof, and with respect to the planting, propagation, cultivation and care of fruit trees and other horticultural plants and horticultural products, and the diseases thereof and the remedies therefor. They shall take an examination before the Commissioner of Horticulture upon questions and subjects to be prescribed by the Commissioner of Horticulture testing their qualifications for said office, upon which they shall be required to make seventy-five points out of a possible one hundred: *Provided*, That no applicant shall be required to take an examination as mentioned in this act if he be a graduate in horticulture from the Washington State College or some similar college with as high requirements.

District
inspector to
qualify, how.

SEC. 9. Said district horticultural inspectors shall qualify by taking oath as required of other state officers, and shall furnish a bond to the State of Washington in the sum of \$2,000 each, conditioned for the faithful performance of their duties. They shall hold office during good behavior and shall only be removed by the State Commissioner of Horticulture for inefficiency, neglect of duty, immoral conduct or other causes rendering him unfit for the position, and after notice specifying the grounds for removal and an opportunity to be heard: *Provided, however*, Any inspector shall forfeit his office and be removed if he fails to pass an examination as to his qualifications, or fail to keep his bond in effect as herein provided.

SEC. 10. The State Commissioner of Horticulture may, with the consent of the board of county commissioners of

any county, authorize the district horticultural inspector of any district to employ such assistants as in the judgment of such commissioner and county commissioners may be necessary, which assistants when acting under direction of the inspector shall exercise and have the power herein granted to inspectors.

Assistant
district
inspectors.

SEC. 11. District horticultural inspectors shall receive a salary of \$1,500 per annum, payable monthly as salaries of other state officers; and they shall be allowed their necessary traveling expenses; and assistants to inspectors shall receive four dollars (\$4.00) per day for the time actually employed, all payable upon presentation of proper vouchers to the State Auditor, signed by the district horticultural inspector, under oath, and countersigned by the State Commissioner of Horticulture.

Compensation
of inspectors.

SEC. 12. District horticultural inspectors shall have power, and it shall be their duty:

Duties of
inspectors.

(a) To enforce the provisions of all laws relating to horticulture, within their respective districts;

(b) To arrange for and hold institutes and meetings of horticulturists for the discussion of horticultural subjects and the dissemination of information as to horticultural questions, and for the demonstrations of methods of preventing the diseases of or pests injurious to horticultural plants and fruits, and of curing and removing the same;

(c) To inspect orchards, nurseries, nursery stock, fruit, horticultural products, supplies, packing houses, warehouses and other places where fruit is packed, stored or shipped; also vines, ornamental shrubs and bushes, as well as other trees and property, for the purpose of ascertaining whether the same is infected with any disease or pests injurious to fruit trees or fruit, and of taking steps to disinfect the same and prevent the spread thereof; and, for that purpose, shall have free access to orchards, nurseries, packing houses, storage houses and any other place at all times;

Inspect
orchards.

(d) To require the disinfection of all trees, ornamental shrubbery, orchards, nurseries or nursery stock, fruit

Infected
trees and
shrubbery.

packing houses or other places infected with any pests, fungi or disease injurious to the horticultural industry of the State of Washington;

Inspection.

(e) Inspect and examine orchards, fruit, nursery stock and other horticultural plants and products at the request of the owner thereof for the existence of any disease or pest thereof, and report to the applicant the result of such investigation and prescribe proper remedies therefor;

Infected fruit.

(f) Prevent the shipping and sale of infected fruit, except for canning, preserving or jellifying or the making of cider or manufacture of other by-products within the State of Washington, and under such rules and regulations as may be established by the State Commissioner of Horticulture, and the delivery, sale, planting and shipping of infected nursery stock, trees, and other horticultural products and supplies, by notifying the owner thereof or the person having the same in charge, and requiring the proper disinfection of the same;

To disinfect orchards.

(g) To disinfect, or cause to be disinfected, orchards, nursery stock, trees, fruit and other horticultural products and supplies, in case the owner or person having the same in charge, shall not do so after notice; and, in case of trees, fruit, etc., which cannot be properly disinfected, to destroy the same, or cause same to be destroyed;

(h) To sort and repack, or cause to be sorted and repacked, infected fruit, if the owner thereof, or the person having the same in charge shall not do so after notice;

Prevent diseases.

(i) Prevent the introduction and spread of diseases of or pests injurious to fruit trees and horticultural plants, fruit and other products, and to prescribe and specify the means and methods to be employed for the disinfection of trees, fruit and horticultural products;

(j) To issue certificates of inspection to nurserymen and tree dealers on stock inspected; and

(k) Furnish to the board of county commissioners of each county, wholly or partially within their respective districts, an estimate of expenses for each year.

SEC. 13. No district horticultural inspector shall act as agent or solicitor for the sale or distribution of any

nursery stock or horticultural products or recommend any nursery to prospective purchasers of fruit trees, or act as agent for supplies or machinery for use in orchards or engage in the purchase or sale of fruits or horticultural products from any orchards save his own. Not to act as agent.

SEC. 14. The State of Washington is hereby divided into fifteen horticultural districts, the boundaries and descriptions of said districts being as follows, to-wit: Districts.

District No. 1 shall comprise and include Whatcom and San Juan counties.

District No. 2 shall comprise and include Yakima and Kittitas counties.

District No. 3 shall comprise and include Skagit, Snohomish, and Island counties.

District No. 4 shall comprise and include Chelan, Douglas and Okanogan counties.

District No. 5 shall comprise and include Clallam, Jefferson and Kitsap counties.

District No. 6 shall comprise and include Grant, Benton, Franklin and Adams counties.

District No. 7 shall comprise and include Thurston, Mason and Chehalis counties.

District No. 8 shall comprise and include Spokane and Lincoln counties.

District No. 9 shall comprise and include King county.

District No. 10 shall comprise and include Ferry and Stevens counties.

District No. 11 shall comprise and include Pierce county.

District No. 12 shall comprise and include Whitman and Asotin counties.

District No. 13 shall comprise and include Lewis, Cowlitz, Pacific and Wahkiakum counties.

District No. 14 shall comprise and include Garfield, Columbia and Walla Walla counties.

District No. 15 shall comprise and include Clarke, Skamania, and Klickitat counties.

SEC. 15. No person, firm or corporation shall engage in, continue in, or carry on the business of selling or dealing in nursery stock, fruit trees, or ornamental shrubbery

or solicit purchasers of nursery stock, fruit trees or ornamental shrubbery within this state, or engage in the business of importing into this state for sale or distribution, nursery stock, fruit trees or ornamental shrubbery either as owner thereof, or as agent of such owner, without first obtaining a license to carry on and conduct such business in this state.

License
to deal in
nursery
stock.

License fee.

SEC. 16. The form of license shall be prescribed by the State Commissioner of Horticulture, and shall be issued by him upon proper application therefor. All licenses shall run for one year from date of issue. The license fee shall be \$5.00 per annum for nurserymen and tree dealers, and \$1.00 per annum for agents, salesmen or solicitors.

Issue of
license.

The State Commissioner of Horticulture shall prescribe the form of application for licenses, and no license shall be issued until the license fee shall have been paid and bond furnished as herein provided. All licenses shall be issued in the name of the owner, solicitor, salesman or agent as the case may be, and shall designate the business which may be carried on thereunder, and no license shall be assigned or transferred. Licenses to salesmen, agents or solicitors shall show the name and location of nursery or place of business of the nurserymen or tree dealers for whom he acts, and no license shall be granted to an agent, salesman or solicitor unless the party whom he represents shall have taken out a license and furnished bond as herein provided.

Bond of
licensee.

SEC. 17. Each licensed nurseryman and tree dealer under provisions of this act shall make, execute and deliver to the State Commissioner of Horticulture, a bond running to the State of Washington in the sum of one thousand dollars (\$1,000.00) with sureties to be approved by said commissioner, conditioned for the compliance by such licensee with all of the laws of the State of Washington, relative to the sale, disposition, delivery, inspection and disinfection of nursery stock, fruit trees or horticultural plants, dealt in, sold, handled, or delivered by such licensee; also that all nursery stock, fruit trees

or horticultural plants sold or delivered by such licensee shall be true to name and variety as represented: *Provided*, No liability shall attach by reason of stock being untrue to name, unless at least 5% of any variety in any order shall so prove untrue to name.

Fruit to be true to name.

SEC. 18. The State Commissioner of Horticulture shall keep in his office a record of all licenses issued as herein provided, which records shall show the character of the license, the name of the holder, the date of issuance, and the date of expiration. The bonds taken from tree dealers and nurserymen, as herein provided, shall also be filed with and held by said State Commissioner of Horticulture.

Record of licenses.

SEC. 19. Upon report being made to the Commissioner of Horticulture by any horticultural inspector that any person, firm or corporation holding a license has not complied with, or is not complying with the laws of the State of Washington relative to such business, said State Commissioner of Horticulture may suspend the license of the person, firm or corporation and shall investigate the facts, and if it be ascertained that such licensee has violated the laws of the state relating to such business in any particular, such license shall be revoked. The cancellation or revocation of any bond furnished by any nurseryman or tree dealer as herein provided, shall *ipso facto* work a revocation of the license of such person and all agents, solicitors and salesmen employed by and representing him.

License suspended.

SEC. 20. Any person or persons suffering damage for any cause by reason of the infection of nursery stock bought by him or them or by reason of receiving nursery stock, fruit trees or horticultural plants not true to the name as represented by the owner, solicitor, or agent selling the same, shall have recourse against the bond filed by the person from whom such stock was purchased for all damages sustained, which damages may be recovered by suit in any court of competent jurisdiction: *Provided*, No liability shall attach to bond unless at least five per cent. of each variety ordered shall prove untrue to name.

SEC. 21. Any person, firm or corporation who shall carry on or conduct any business within this state for

Conducting
business
without
license—
penalty.

which a license is required as herein provided, and without first having procured said license and furnished bond as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be subject to a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), together with the costs of prosecution and shall be committed to the county jail until such fine and costs are paid.

False repre-
sentation—
penalty.

SEC. 22. Any person who shall falsely represent that he is agent or representative of any tree dealer, nurseryman or dealer in fruit trees or horticultural plants, or ornamental shrubbery shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), together with the costs of prosecution, and shall be committed to the county jail until such fine and costs are paid.

Nursery
stock to be
kept free
from pests.

SEC. 23. It shall be the duty of each person within the State of Washington owning premises on which there is or shall be growing or grown any nursery stock, fruit trees, shade trees, ornamental shrubbery or other horticultural plants, or the owner of any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants situated upon premises leased or occupied by him or the owner of any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants situated or being at any place within the State of Washington, for the sale or delivery to any person, firm, or corporation to take, adopt, and use all methods and means provided by law or prescribed by the State Commissioner of Horticulture for the prevention of pests or diseases to which such nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants may be subject, and keep the same in a healthful condition and free from disease and pests; and in event it is found that such nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants at any time are infected with any disease or pest to which the same may be subject, to

promptly take and use such methods as may be prescribed by law or by the State Commissioner of Horticulture to disinfect the same, and in event such nursery stock, fruit trees, shade trees, ornamental shrubbery and horticultural plants can not be disinfected to promptly destroy the same.

SEC. 24. The diseases of and pests injurious to nursery stock, fruit trees, shade trees, ornamental shrubbery and horticultural plants to be guarded against and treated and disinfected for as in the next preceding section provided shall include any and all such diseases or pests as the State Commissioner of Horticulture shall specify and describe in the bulletins to be issued by him as injurious to the fruit and horticultural interests of the state.

Commissioner to specify diseases and pests.

SEC. 25. The State Commissioner of Horticulture shall prescribe the remedy for and the methods and means for the disinfection of fruit trees, horticultural plants, fruits and horticultural products, and shall make such rules and regulations relative thereto as he shall deem proper, which prescription and rules and regulations shall be promulgated by him by means of bulletins to nurserymen, fruit tree dealers, and their solicitors or salesmen, and to horticulturists of the State of Washington, through the district horticultural inspectors herein provided for, and any person interested shall be entitled to receive a copy of all such prescriptions and rules and regulations at any time, upon application for the same.

Directions for disinfecting.

SEC. 26. For the purpose of ascertaining whether any nursery stock, fruit trees, shade trees, ornamental shrubbery, or other horticultural plants are infected with any disease or pests to which the same may be subject, the district horticultural inspectors, within their respective districts, shall be authorized to enter upon any premises at any time for the purpose of inspecting and examining any nursery stock, fruit trees or horticultural plants growing or stored thereon, or being situate thereon.

Inspectors may enter premises.

SEC. 27. Said district horticultural inspectors shall also have the power, within their respective districts and at any time, to enter upon any premises where fruit or horticultural products are stored, or are being prepared or

Same.

packed for shipment, or offered for sale, or are held for the purpose of delivery upon any shipment or sale thereof, for the purpose of inspecting said premises and such fruit or products to ascertain whether the same, or any part thereof, is infected with any of the diseases or pests declared injurious by the State Commissioner of Horticulture.

Owner to
disinfect.

SEC. 28. If, after inspection, as provided in sections 26 and 27 hereof, the district horticultural inspector shall ascertain that any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants, or any fruit or horticultural products, or any place where such fruit or horticultural products is kept for sale or is being prepared for shipment or is stored is infected with any diseases or pests declared by the State Commissioner of Horticulture to be injurious to the horticultural industries of the state, said district horticultural inspector shall notify the owner or person having possession or charge of such nursery stock, fruit trees, shade trees, ornamental shrubbery, horticultural plants, fruit, horticultural products or places of storage, sale or preparation for market, in writing, requiring the disinfection of any or all thereof which is capable of disinfection, and the destruction of such as is incapable of proper disinfection, subject to the provisions hereof relative to the sale, disposition and use of infected fruit, and shall fix the time in said notice within which the same shall be so disinfected, or destroyed, as the case may be, and such owner or person having the same in charge shall proceed to disinfect or destroy such stock, trees or products, as the case may be, in the manner required by law and in the manner prescribed by the State Commissioner of Horticulture, and within the time specified in said notice.

May separate
infected
from healthy.

SEC. 29. In event of the infection of stock, trees or products, as hereinbefore specified, if a part only thereof is affected so that it can not be properly disinfected, the owner or person in charge of the same shall have the privilege of separating the same into one or more of three classes, to-wit: Such as does not need disinfection; such

as can be properly disinfected; and, such as cannot be properly disinfected; and such owner or person in charge shall destroy such stock, trees or products as cannot be disinfected within the time specified in said notice, except in case of fruit which may be used or disposed of under the rules and regulations prescribed by the State Commissioner of Horticulture, as herein provided, and shall proceed to disinfect such as can properly be disinfected within the time specified in said notice.

SEC. 30. In event of the failure of the owner or person in charge of such stock, trees or products to separate or disinfect or destroy the same, as in the last preceding section provided, and within the time specified in said notice, the district horticultural inspector shall have the right to enter upon the premises and perform the acts herein provided for, or cause the same to be performed, at the expense of the owner or person so having charge of such stock, trees or products, and shall have the right to destroy all stock or products which are infected so that they cannot be properly disinfected.

Inspector
may disinfect
at cost of
owner.

SEC. 31. In event of disinfection of any orchard, fruit trees, ornamental trees, shrubs, vines, horticultural plants, or other plants; fruits, horticultural products or other property by the district horticultural inspector, or any person under his direction or orders, the costs thereof shall be charged against the owner of such stock and the premises upon which the same may be growing, for the costs of such disinfection, or the destruction of the property which cannot be properly disinfected, which charge may be recovered in an action at law in the name of the State of Washington upon the relation of the district horticultural inspector against the owner or person having charge of such property, and shall also constitute a lien against the said property and the premises upon which the same may be growing, which lien may be enforced in any court of competent jurisdiction, and the bringing of an action at law to recover such costs shall not be deemed to be, and shall not constitute, a waiver of such right of lien.

Recovery
of cost of
inspection.

Penalty for failure to disinfect.

SEC. 32. Any person failing to disinfect or destroy any nursery stock, shade trees, ornamental shrubbery, fruit, horticultural products or disinfect the premises upon which the same may be situate, as herein provided, within the time specified after notice from the district horticultural inspector of the district wherein the same is situated shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than \$50.00 nor more than \$250.00, and shall be imprisoned in the county jail until such fine is paid.

Notice of shipment.

SEC. 33. It shall be the duty of each person, firm or corporation dealing in nursery stock or horticultural plants, whether a resident of this state or of some other state or county, to notify the State Commissioner of Horticulture of his, their or its intention to ship any nursery stock, fruit trees or horticultural plants from one point in this state to another point in this state, or from any point without the state to a point therein, for sale or delivery or for planting or propagation. A copy of such notice shall also be mailed to the district horticultural inspector of the district into which such stock is to be shipped for sale or delivery. Said notice shall be mailed not later than the date of shipment, and the same shall show the name and address of both the consignor and consignee, a descriptive invoice of the goods to be shipped, specifying quantities and varieties, and the name of the person or transportation company from whom the consignee is to receive such goods. Said notice shall also show whether such stock, trees or horticultural plants have been inspected and passed at the initial point of shipment within this state by a district horticultural inspector.

Carrier not to release shipment until released.

SEC. 34. Upon the arrival of any shipment of nursery stock, fruit trees or horticultural plants at its destination, it shall be the duty of the freight agent, express agent or the agent of the persons or transportation company having such shipment in charge for delivery, unless the same is accompanied by a certificate of inspection and approval by a district horticultural inspector showing that same was inspected and passed at the initial point

of shipment within this state, to notify the district horticultural inspector of the district within which delivery is to be made, of the receipt of such shipment, giving the name of the consignor and consignee and stating that such shipment is ready for inspection and delivery. Said notification may be by telephone or telegraph, or by written notice delivered personally to said inspector, or left with some person of suitable age and discretion at his residence or office, or by mail addressed to said inspector at his place of residence; and the person having such stock in charge for delivery shall not deliver or turn over such shipment until the same shall have been inspected by said district horticultural inspector: *Provided, however,* Such agent shall not be required to hold such goods more than 72 hours after notifying said district Horticultural Inspector as aforesaid, except in case the notice is given by mail, in which event such goods be held for such period beyond said 72 hours as is ordinarily required from said point of delivery to the address of said inspector: *And provided further,* No inspection at point of delivery shall be necessary if shipment is accompanied by the certificate of a district horticultural inspector showing inspection and approval at initial point of shipment in the state as aforesaid, unless the person having same for delivery be notified by inspector of district where delivery is to be made, to hold for inspection by him: *And provided further,* That any nurseryman or tree dealer within the state may demand the services of an inspector during shipping season by paying \$4.00 per day for his services.

SEC. 35. No inspection of goods as provided in the last preceding section shall be made until all transportation charges thereon have been paid: *Provided, however,* The agent of any person or transportation company having such goods in charge for delivery may waive, in writing, the payment of such transportation charges prior to inspection: *Provided further,* The district horticultural inspector shall have privilege, at his option, to inspect said goods before payment of transportation charges, but in the event of any stock suffering damage by such second in-

Transportation charges paid before inspection.

spection or exposure, the owner thereof may have recourse against the bond of said inspector, if shipments shall have been accompanied by a copy of former inspector's certificate, unless it is proven that the shipment contains stock not previously inspected.

SEC. 36. The district horticultural inspector shall have the right to enter upon any premises where nursery stock, fruit trees or horticultural plants are held or stored, when same have been shipped or sent to any point within his district for the purpose of sale or delivery, and to inspect such stock, trees and plants for the purpose of ascertaining whether the same is infected with any of the diseases or pests to which the same may be subject, hereinbefore described; and, in event he shall find that such stock, trees, or plants, or any thereof, are infected with any such disease or pest, he shall at once notify the person in charge thereof, and having the same in his possession, not to deliver the same nor permit the same to be removed from his possession until they are disinfected; and he shall also notify the owner thereof or the agent of the owner, or the shipper thereof, that said stock is infected and requiring such owner, or his agent, to disinfect such part thereof as is capable of proper disinfection, within five days from the date of such notice, in the manner required by law and prescribed in the rules and regulations of the State Commissioner of Horticulture; and it shall be the duty of such owner or his agent, or the shipper of such goods to so disinfect or destroy such infected property within five days.

SEC. 37. Any person violating any of the provisions of the last preceding section hereof shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than \$50.00 nor more than \$200.00, together with costs of action, and shall be committed to the county jail until such fine and costs are paid.

SEC. 38. In event of the failure of the said owner or his agent, or the shipper of such disinfected goods to properly disinfect and destroy same as required by the notice hereinbefore provided for, it shall be the duty of said dis-

Inspector
may enter
premises to
inspect
shipments.

Penalty.

trict horticultural inspector, and he shall have power, to forthwith enter upon premises where such stock, trees or plants are situated and to properly disinfect or cause to be disinfected such part thereof as is capable of disinfection and to destroy such part thereof as is not capable of disinfection.

Inspector to disinfect shipment.

SEC. 39. In case of disinfection and destruction of infected stock by the district horticultural inspector, as in the last preceding section provided, the cost thereof shall be paid by the owner of said stock or his agent or the shipper of said stock, and such charge shall be a lien upon said property, and the enforcement of such charges may be had in the same manner as provided for the enforcement of charges for inspection and disinfection of nursery stock and orchards as hereinbefore provided.

Cost of disinfecting shipment.

SEC. 40. Any person or persons who shall wilfully and intentionally bring into this state, or offer for sale or distribution whether gratuitous or for profit, within this state, any nursery stock, fruit trees or horticultural plants infected with any of the diseases or pests injurious to the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not exceeding one hundred dollars (\$100.00), together with the costs of the action, and shall stand committed to jail until said fine and costs are paid.

Importation of infected stock—penalty.

SEC. 41. Any person who shall suffer damage by reason of having purchased any nursery stock, fruit trees or horticultural plants delivered within this state, or shipped from a point within or without this state for delivery within this state, by reason of such stock, fruit trees or plants being infected with any disease or pest injurious to the same, or by reason of the destruction of such stock, trees or plants after inspection thereof as herein provided, shall have a recourse upon the bond of the tree dealer, or nurseryman furnishing such stock, which damages may be recovered in any court of competent jurisdiction of this state, at the suit of such injured party: *Providing*, No damages shall be recovered on account of infection of stock after the same has been inspected and passed.

Damages by reason of infected stock.

Inspection
defined.

SEC. 42. The term "infection" as used in this act shall mean the finding of any nursery stock, fruit trees, or horticultural products or supplies used in connection with horticultural products to be affected by any one of the species of infection and disease or pest specified and described by the State Commissioner of Horticulture, as provided in section 24 of this act.

Appeals from
inspector.

SEC. 43. Any person deeming himself aggrieved by any finding, order or act of the district horticultural inspector may appeal from such finding, order or act of the State Commissioner of Horticulture and said State Commissioner of Horticulture shall forthwith proceed to hear and determine such appeal, and render his decision therein, and report the same to the appellant and to the district horticultural inspector from whose action or decision such appeal is taken; and such decision shall specify the further proceedings to be had in the premises.

Inspectors'
institute.

SEC. 44. There shall be held annually a district horticultural inspectors' institute, which institute shall be held at the State College at Pullman, Washington, and shall be held in the month of January, February or June. The State Commissioner of Horticulture shall fix the date of such institute and direct the attendance of all district horticultural inspectors by notice in writing, and said institute shall continue for four days, and the State Commissioner of Horticulture shall outline the proceedings of said institute and preside over the same. It shall be the duty of the district horticultural inspectors to attend such institute, unless prevented by sickness or excused by the State Commissioner of Horticulture. Failure to attend on the part of any inspector, unless prevented by sickness or excused by the State Commissioner of Horticulture, shall work a forfeiture of his office, and he shall be discharged forthwith by the State Commissioner of Horticulture. The actual traveling expenses and hotel bills of inspectors attending said institute shall be allowed and paid upon vouchers endorsed by the State Commissioner of Horticulture.

Failure to
attend for-
feits office.

SEC. 45. Every candidate for appointment to any position in the service of the department of the Commissioner of Horticulture, unless he be a graduate of an agricultural college or similar institution in a department of agriculture and horticulture, shall be required to pass as examination satisfactory to the Commissioner of Horticulture.

Qualifications
for service.

SEC. 46. The district horticultural inspectors of the several districts in this state shall arrange for district institutes, horticultural meetings, lectures upon horticultural subjects and practical demonstrations shall be presided over by said district horticultural inspectors.

District
institutes.

SEC. 47. All fruit trees one year old or over shall be sprayed annually during the dormant season, in a careful and thorough manner by the owner thereof, or the lessee in charge of the property, with a lime and sulphur solution of the formula as prescribed by the State Commissioner of Horticulture: *Provided*, They are infected.

Trees
sprayed
annually.

SEC. 48. Any fruit grown in the State of Washington and offered for sale or shipment in closed packages, shall be marked on the outside on the box or package with the name of the variety, or if the variety is unknown, shall be marked "variety unknown" and show the location where grown and the name of the grower or owner, and all boxes or packages of apples, pears and peaches shall be marked with the number in each package or the tiers packed; and the name of no other place or locality shall appear on any box or package of such fruit, except the address of the place to which it is shipped, in case of shipment.

Shipments
labeled.

SEC. 49. The secretary of the State Horticultural Association shall within thirty days after the regular annual session of the association deliver the minutes and proceedings of said session to the State Commissioner of Horticulture, who shall edit and cause the same to be published in connection with such official information as may be available for their purpose in the office of the Commissioner of Horticulture. An appropriation shall be made by the legislature to cover the cost of such publication and the public distribution of the same.

Proceedings
of State
Horticultural
Association.

Inspectors
may be
transferred.

SEC. 50. The State Commissioner of Horticulture shall have power to temporarily transfer district horticultural inspectors from one district to another, as he may deem necessary to properly transact the business required of such inspectors: *Provided*, That such work shall be charged to the county in which such work is done.

Records
open to
public.

SEC. 51. All records, reports, data and information kept and compiled by the State Commissioner of Horticulture shall be kept in his office and shall be a public record, open to the inspection of any person interested, during the regular office hours of each business day.

Oaths and
bonds, filed
where.

SEC. 52. All oaths and bonds provided for herein shall be filed with the State Commissioner of Horticulture, except the oath and bond of said commissioner, and his deputy, which shall be filed with the Secretary of State.

Removal of
Commis-
sioner.

SEC. 53. The State Commissioner of Horticulture may be removed from office by the Governor for inefficiency, neglect of duty, immoral conduct, failure to keep bond good, or other cause rendering him unfit for said office; but no commissioner shall be removed for political reasons and shall not be removed without notice and a copy of the charges made against him and an opportunity to be heard thereon, except in case of failure to keep his bond good, upon which cause no hearing shall be necessary.

Orders.

SEC. 54. All nurserymen and dealers in fruit trees or horticultural plants, and all salesmen, solicitors and agents for such, shall give to any person ordering any fruit trees or horticultural plants from or through them, a duplicate copy of such order, which shall show:

(a) The name and location of the nursery where such stock is grown;

(b) The name of the nurseryman, dealer, solicitor, salesman or agent taking such order;

(c) The date of the order and date when delivery to be made; and

(d) The number, name and price of each variety of trees or plants ordered.

SEC. 55. Any nurserymen, tree dealer, salesman, solicitor or agent falsely representing or stating that nursery stock, fruit trees or horticultural plants for which an order is taken are or have been grown in, or are to come from, a certain nursery or locality when in fact the stock, trees, or plants actually delivered are or have been grown in, or come from another nursery or locality, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in any sum not less than \$50.00 nor more than \$200.00, and shall be committed to the county jail until such fine and costs are paid.

Misrepresentation—
penalty.

SEC. 56. The several district horticultural inspectors shall, upon the inspection of any nursery stock, trees, or plants, issue and deliver to the owner or person in charge thereof a certificate of inspection, over his signature showing date of inspection, and condition of such stock, trees or plants.

Certificate of
inspection.

SEC. 57. Any person to whom a certificate of inspection shall have been issued, showing approval of the stock, property or material so inspected, who shall substitute for such work, property or material so inspected and approved, any other stock, property or material not covered by said certificate, and ship, sell or dispose of the same under said certificate of inspection, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), together with the costs of action, and shall be committed to the county jail until such fine and costs are paid.

Misuse of
certificate.

SEC. 58. In event of the shipment into the State of Washington from a point without said state, of any nursery stock, fruit trees, horticultural plants, shade trees, ornamental shrubbery, bushes or vines, by any person, firm or corporation not licensed as herein provided, the purchaser or the person receiving shipment of such trees, stocks, plants, ornamental shrubbery or vines, shall have the same inspected in the same manner as is required upon the delivery of stock sold and delivered by licensed nursery-

Foreign
stock.

men or tree dealers, and shall pay as inspector's fee ten per cent of the invoice price, the minimum fee to be fifty cents: *Provided*, That nurserymen or tree dealers, licensed under the provisions of this act to do business in this state, shall not be required to pay the inspector's fees provided for in this section.

Salaries and
expenses,
how paid.

SEC. 59. The salaries, compensation and expenses of all district horticultural inspectors and their assistants shall be paid by order drawn on the State Treasurer upon vouchers presented to the State Auditor signed by such district horticultural inspectors under oath and countersigned by the State Commissioner of Horticulture.

"District
Horticultural
Fund."

SEC. 60. There is hereby created a special fund in the hands of the State Treasurer to be known as the "District Horticultural Fund," from which shall be paid the salaries, compensation and expenses of the district inspectors and their assistants, as hereinbefore provided; and into which fund shall be paid any and all fines imposed and collected for any violation of the provisions of this act together with inspection fees collected and license fees issued to persons within the state, and which said fund shall also be supplied by the payment to the State Treasurer by the several counties of the state of all funds arising from the state horticultural tax to be levied as hereinafter provided. All moneys turned over to the State Treasurer for said fund by any county, as well as all moneys received from inspection fees and license fees and all moneys received from fines imposed under this act in such county, shall be credited to the state horticultural district in which the county is situated, from which the same is received; and all orders and vouchers issued as herein provided and presented to the State Treasurer for the salaries, compensation and expenses of district horticultural inspectors and their assistants, shall be paid from the moneys on hand to the credit of the district for which such inspectors and their assistants are appointed.

SEC. 61. Any county in the state which shall have heretofore provided and levied a tax for horticultural purposes

shall pay and turn over to the State Treasurer, as such taxes collected, all moneys received thereon, which shall be placed to the credit of the district composed of or comprising said county. In event warrants shall be drawn in favor of any district horticultural inspector or his assistants, for salaries, compensation and expenses, and presented for payment to the State Treasurer, when there shall be no moneys on hand in said fund to pay said orders or warrants, they shall be registered by the State Treasurer and shall draw interest at the rate of six per cent per annum until called for payment; and the county commissioners of each county shall include in the estimate of expenses for horticultural purposes, as herein provided, a sum [which] shall be deemed sufficient to take up and retire warrants outstanding against such fund.

Tax.

Warrants draw interest.

SEC. 62. All license fees collected under the provisions of this act from persons, firms or corporations, not residents of the State of Washington, as herein provided, shall be paid into the general fund of the State Treasurer.

Non-resident license fees paid to general fund.

SEC. 63. The district horticultural inspectors shall annually between the first day of July and the first day of September, of each year, furnish to the county auditor of each county included or partially included in their respective districts a statement showing the expenses of their office with respect to work done under provisions of this act in each county or portion of county included in their respective districts, together with an estimate of the expense of such work within said county, or portion of a county for the ensuing year.

Inspectors to report expenses to counties.

SEC. 64. It shall be the duty of the board of county commissioners at the time of making the regular annual tax levy in each year to include and levy a tax upon the taxable property of such county in such an amount as they shall find will produce funds sufficient to meet the estimated expense for horticultural purposes for the ensuing year, which tax shall be known as a "horticultural tax" and which shall be levied and collected the same as other general taxes; and, upon the collection of said tax, the same

Tax levy.

shall be turned over to the State Treasurer for the benefit of the "district horticultural fund" and to be credited to the horticultural district, or districts, within which said county is included.

Penalty. SEC. 65. Any person offering any hindrance to the carrying out of this act or in any manner preventing or hindering any inspection herein provided for shall upon conviction be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200) together with costs, and shall be committed to the county jail until such fine and costs are paid.

Repeals. SEC. 66. All acts and parts of acts in conflict herewith are hereby repealed.

Emergency. SEC. 67. An emergency exists and this act shall take effect immediately.

Passed by the Senate February 25, 1909.

Passed by the House March 6, 1909.

Approved March 15, 1909.

CHAPTER 136.

[S. B. 214.]

RELATING TO TOWNSITES.

AN ACT amending section 6 of an act entitled, "An act to provide for the alteration, replat or vacation of any townsite, city plat or plats, addition or additions, or parts thereof, and the assessment, collection and payment of any damages connected therewith," approved March 14, 1903.

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

SECTION 1. That section 6 of an act entitled, "An act to provide for the alteration, replat or vacation of any townsite, city plat or plats, addition or additions, or parts thereof, and the assessment, collection and payment of any damages connected therewith," approved March 14, 1903, be amended to read as follows: Sec. 6. That any plat or replat so adjudicated, adjusted and approved, showing the lines of the original and adjudicated plat, shall be filed and recorded with the auditor of the county

[Am'd. § 6,
ch. 92, p. 140,
L.'03, § 3817c
Pierce.]

Plats to be
filed.

where the property is situated, and shall thereafter be the lawful plat and substitute for all former plats: *Provided, however,* That should the said townsite, city plat or plats, addition or additions, or parts thereof, be vacated and not otherwise altered or replatted, it shall only be necessary to file with the county auditor the order, resolution or ordinance vacating the same, and the auditor shall thereupon note upon the original plat the part thereof so vacated. Vacations.

Passed by the Senate February 19, 1909.

Passed by the House March 10, 1909.

Approved March 15, 1909.

CHAPTER 137.

[S. B. 239.]

RELATING TO THE POWERS OF THE RAILROAD COMMISSION.

AN ACT for the regulation of public warehouses, relating to the shipping, grading, inspection and weighing of grain and hay, defining the duties of railroads, warehousemen and millers in relation thereto, providing penalties for the violation of this act, and repealing Chapter CIX of the Session Laws of 1895.

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

SECTION 1. The Railroad Commission of the State of Washington shall exercise general supervision over the handling, weighing, inspection and storage of grain and hay, and the management of public warehouses. Such commission shall investigate all complaints of fraud or injustice in the grain and hay trade, fix the charges of public warehouses, and make all necessary rules and regulations for carrying out and enforcing the provisions of this act and of all laws of the state relating to this subject. Public
warehouses.

SEC. 2. The Railroad Commission, with the approval of the Governor, shall appoint a chief inspector, who shall be thoroughly familiar with the grains of Washington, and shall have had at least five years' experience in handling said grains. He shall, before entering upon the duties Grain
inspector.

Qualifica-
tions.

of his office, give a surety bond (the cost of said bond to be paid by the state) to the State of Washington in the sum of ten thousand dollars, to be approved by the Railroad Commission and the Attorney General, and conditioned upon the faithful discharge of his duties, and take the usual oath required of state officers. He shall receive a salary of two thousand dollars per annum and shall reside at Tacoma.

Deputy
inspectors.

SEC. 3. The chief inspector with the approval of the Railroad Commission shall appoint such number of inspectors and weighers as may be necessary to properly and thoroughly inspect the grain and hay as received and to carry out the provisions of this act. The duties of the inspectors and weighers may be interchangeable. One of such inspectors in each of the cities of Seattle, Tacoma, Spokane, and such other cities as may be designated by the Railroad Commission, shall be styled chief deputy inspector. Such chief deputy inspectors shall be expert grain men with at least three years' experience in handling grain in Washington. The chief deputy inspectors shall each give a surety bond (the cost of said bonds to be paid by the state) to the State of Washington in the sum of five thousand dollars, to be approved by the Railroad Commission and the Attorney General, conditioned upon the faithful discharge of their duties. Such chief deputies shall receive a salary of fifteen hundred dollars per annum. All other inspectors and weighers shall give bond (the cost of said bonds to be paid by the state) to the State of Washington in the sum of three thousand dollars, to be approved by the Railroad Commission and the Attorney General, conditioned upon the faithful discharge of their duties, and the salaries of such other inspectors and weighers shall not exceed one hundred dollars per month. The chief deputy inspectors, inspectors and weighers shall be required to take an oath to faithfully perform their duties.

Chief
deputies.

Bond.

Salary.

Bonds filed.

SEC. 4. The bonds given by the chief inspector, his deputies and weighers, and all warehouses, shall be filed in the office of the Secretary of State of the State of Washington, and any person injured by any official act or the

neglect of duty of any such inspector or weigher, or by reason of neglect or failure of such inspector, weigher or warehouseman, to comply with the provisions of this act or of the rules and regulations of the Railroad Commission shall have a right of action upon such official bond for the recovery of all damages suffered thereby.

SEC. 5. No chief inspector, deputy inspector or weigher, shall, during his term of office, be interested directly or indirectly in the handling, storing, shipping, purchasing or selling of grain or hay.

Not to have pecuniary interest.

SEC. 6. Any weigher or inspector of grain or hay, who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect or weigh any grain or hay improperly, or who shall directly or indirectly accept any money or other consideration for any neglect of duty or any improper performance of duty as such inspector or weigher of grain or hay, or any person, persons, corporation or agent who shall improperly influence or attempt to improperly influence any inspector or weigher of grain or hay in the performance of his duties as such inspector or weigher, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars, in the discretion of the court.

Malffeasance.

Penalties.

SEC. 7. The cities of Seattle, Tacoma, Spokane, and such other cities as the Railroad Commission may from time to time designate, are hereby provided with state inspection and weighing under this act: *Provided*, That the expenditures for inspection and weighing at such other places designated shall not exceed the receipt of fees at such place or places, so as to make this department self-sustaining.

Certain cities to have inspection.

SEC. 8. The chief inspector, his deputies and weighers, shall be employes of the Railroad Commission and may be removed at any time by the commission. They shall be paid in the same manner as other employes of said commission. The appropriation available for the office of the State Grain Inspector for the biennial period beginning

Under control of Railroad Commission.

April 1, 1909, or so much thereof as may remain at the time of the taking effect of this act, shall be credited to the Railroad Commission and used by it to carry out the provisions thereof.

Storage rates
fixed by
commission.

SEC. 9. All charges made by any public warehouseman subject to the provisions of this act for the handling or storage of grain or hay shall be just, fair and reasonable; and the Railroad Commission is hereby vested with power and authority upon the complaint of any person interested or by inquiry upon its own motion, after a full hearing, to declare any existing charge for the handling or storage of grain or hay, or any regulation whatsoever affecting such charge, or the receipt, handling or storage, to be unreasonable or unjust, and to declare and order what shall be a just and reasonable charge or regulation to be imposed or enforced in place of that found to be unreasonable or unjust.

General rules
applicable to
procedure.

SEC. 10. All provisions of law relating to the method of procedure by the Railroad Commission in fixing the rates to be charged by railroad companies for the transportation of freight and passengers, or the promulgation or issuance of rules and regulations, and the review of the acts or orders of such commission with reference thereto, and the enforcement of such orders, shall, so far as the same are applicable, govern the procedure of such commission in regulating public warehouses, and the review and enforcement of the acts and orders of the commission under the provisions of this act.

Standards of
grain.

SEC. 11. The Railroad Commission shall, on or before the 20th day of September of each year fix the standard grades of all grain and hay bought or handled by public warehouses in this state, which shall be known as Washington grades. For the purpose of determining the grades to be established the Railroad Commission shall hold a public hearing and subpoena such witnesses as it may deem advisable, one of whom shall be from eastern Washington and prominently identified with grain raising. The persons subpoenaed shall receive five dollars per diem for the

time they are actually employed, and necessary traveling expenses.

SEC. 12. It shall be the duty of the chief inspector immediately after the establishment of the grades as herein provided to supply all public warehousemen with a placard copy of such grades and such rules and regulations as may be established by the Railroad Commission, and it shall be the duty of every public warehouseman to keep such placard posted in a conspicuous place in his office. Notice of standards.

SEC. 13. The Railroad Commission shall fix the fees for inspection and weighing of grain and hay, such fees to be a lien upon said grain and hay and to be paid by the carrier and treated as advance charges. Fees. The Railroad Commission shall so adjust the fees to be collected under this act as to meet the expenses necessary to carry out the provisions thereof: *Provided*, That the fees fixed for weighing and inspection shall in no case exceed seventy-five cents per car for sacked grain, one dollar per car for bulk grain and hay: *Provided further*, That the Railroad Commission may fix an additional fee of not to exceed twenty-five cents per car for the inspection of sacked grain, where such car contains more than one grade. All moneys collected under the provisions of this act and all fines and penalties for violation thereof shall be paid into the state treasury.

SEC. 14. The chief inspector, his deputies and weighers, shall at the places provided for state inspection under this act have exclusive control of the weighing and grading of grain and hay which may be subject to inspection under the provisions of this act, and the action and certificate of such inspectors and weighers in the discharge of their duties shall be conclusive upon all parties interested. Action of inspector conclusive. They shall keep suitable books of record in which shall be kept a faithful and true record of every car of grain or hay inspected or weighed by them, showing the number and initial or other designation of such car, its weight, the kind of grain or hay and its grade, and if graded below No. 1 grade the reason for such grade, the amount of fees and forfeitures and disposition of same; and for Records.

each carload of grain or hay inspected they shall give a certificate of inspection showing the kind and grade of the same and the reason for all grades below No. 1, the number of sacks if sacked grain, with the grade or grades and weight of same, or the number of bales of hay with the grade or grades and weight of the same if requested to do so by consignor or consignee. They shall also furnish the agent of the railroad company over which such grain or hay was shipped a certificate showing the weight of the grain or hay if requested to do so. They shall also keep a true record of all appeals, decisions, and a complete record of every official act, which books and records shall be open to inspection by any party in interest.

Re-inspection. SEC. 15. In case any owner, consignee, or shipper of grain or hay, or his agent or broker, or any public warehouseman shall be aggrieved at the original grading of his grain or hay, such aggrieved person may before or after unloading said grain call upon the chief inspector or his chief deputy for a re-inspection. It shall thereupon be the duty of such inspector to inspect carefully the same, and if in his opinion the grades should be changed he shall at once make the change, but any such re-inspection shall be called for within thirty-six hours after the first inspection, not counting Sundays and legal holidays. A charge of one dollar a car in addition to the regular charge for inspection shall be paid to the chief inspector or deputy by the person calling for the re-inspection under this section before the case is taken up, which shall be returned to the person paying it if the decision is in his favor; otherwise it shall be paid into the state treasury. Should any owner, consignee, shipper, or warehouseman in charge if such grain or hay mingle it with other grain before such inspection and thereby lose its identity the person so mingling such grain or hay shall accept and account for it as No. 1 in grade: *Provided*, Notice has been given him that such grain or hay is to be held for re-inspection.

SEC. 16. Appeal may be taken to the chief inspector from the decision of any of his deputies as to the grade of grain or hay, and in case of such appeal the decision of the chief inspector shall be final and binding on all parties concerned.

Appeals to
chief
inspector.

SEC. 17. Every railroad or common carrier delivering grain or hay in cars at any of the places provided with state inspection under this act shall provide convenient and suitable sidetracks at such places as the Railroad Commission may designate on which all cars of grain or hay delivered by them shall upon arrival be set and arranged convenient for inspection, and after inspection such railroad company or common carrier shall promptly distribute all such cars of grain and hay and set them at the proper place or places to be unloaded as designated by the consignor or consignee. Such railroad company or common carrier shall provide at such place or places as the Railroad Commission may designate suitable track scales for weighing cars of grain or hay. Such scales shall be under the control of the chief inspector and his weighers. It shall be the duty of the chief inspector or his deputies to examine, test and require the railroad company to correct all scales so provided as often as may be necessary to insure the correct weighing of grain or hay. Whenever scales have been installed by any railroad company or common carrier as above provided, it shall be the duty of the state weigher to use such scales in weighing all grain or hay received over the line of such railway: *Provided*, That if [in] any mill or terminal warehouse in inspection cities there are provided proper scales and weighing facilities, the chief inspector or his deputies may weigh the grain upon the scales so provided. The chief inspector or one of his deputies shall, at least once each year, examine, test and require to be corrected all scales used in weighing grain or hay at any public warehouse in this state, and after such scale is tested, if found to be correct and in good condition, to seal the weights with a seal provided for that purpose and issue to the owner or proprietor of such warehouse a certificate authorizing the use of such

Tracks for
inspection.

Examine
scales.

scales for weighing grain or hay for the ensuing year unless sooner revoked by the chief inspector or his deputy. If such scales be found to be inaccurate or unfit for use, the chief inspector or his deputy shall notify the party operating or using them, and the party thus notified shall at his own expense thoroughly repair the same before attempting to use them, and until thus repaired to the satisfaction of the inspector or his deputy, the certificate of such party shall be suspended or revoked in the discretion of the inspector or his deputy. The party receiving such certificate shall pay to the chief inspector or his deputy the sum of one dollar for each scale, which sum shall be paid into the state treasury.

All ware-
houses
included.

SEC. 18. Any elevator or warehouse in which grain or hay is received from the public for storage, shipment or handling situate on the right-of-way of any railroad company, or adjacent thereto, to be used in connection with the line of railway of such company, at any station or siding in this state, shall be a public warehouse within the provisions of this act, and any person, firm, company, corporation or association of persons owning or operating any such elevator or warehouse shall be a public warehouseman within the provisions of this act.

License.

SEC. 19. Any person, firm, company, corporation or association of persons owning or operating any public warehouse or warehouses in this state, shall on or before June 30 of each year, procure from the Railroad Commission a license for each such warehouse so owned or operated for the ensuing year before transacting business at such public warehouse. Such license shall be posted in a conspicuous place in the office of such warehouse. The fee for such license shall be one dollar for each public warehouse, and the Railroad Commission may revoke any such license for cause upon notice and hearing. Any person, corporation or association operating any public warehouse in this state without a license shall forfeit to the state for each day's operation fifty dollars, and such operation may be enjoined upon complaint of the Railroad Commission.

SEC. 20. If any public warehouseman subject to the provisions of this act shall, directly or indirectly, by any special charge, rebate, drawback or other device, demand, collect or receive from any person or persons a greater or lesser compensation for any service rendered or to be rendered in the handling or storage of grain or hay than he demands, collects, or receives from any other person or persons for doing for him or for them a like and contemporaneous service in the handling or storage of grain or hay under substantially similar circumstances or conditions, or if any such public warehouseman shall make or give any undue or unreasonable preference or advantage to any person, company, firm or corporation in any respect whatsoever, or shall subject any particular person, company, firm or corporation to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, such warehouseman shall forfeit and pay to the State of Washington a sum of not less than one hundred dollars nor more than five hundred dollars for each offense, to be recovered in a civil action in the name of the State of Washington, such action to be instituted by the Attorney General.

Discrimination.

Penalty.

SEC. 21. Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain (or hay in a warehouse used for this purpose) in suitable condition for storage, tendered him in the usual course of business, without discrimination of any kind. A warehouse receipt in form prescribed by the commission, consecutively numbered, shall be issued and delivered to the owner or his representative immediately upon receipt of each load or parcel of grain or hay, or as he may demand, giving the true and correct grade and weight thereof: *Provided*, That upon request of the owner grain or hay may be put in a special pile or bin without grading, and if grain or hay has been wet or damaged it shall be received and piled in a special pile marked with the distinguishing mark, which shall be shown on the receipt for the same and given for the number of sacks or bales only. The failure to issue said receipt as directed, or the issuance of slips, memoranda or other form of receipt, shall be deemed a misdemeanor.

Duty of warehouseman.

Delivery. SEC. 22. On the return and surrender of any receipt and payment of lawful charges, the hay or grain represented therein shall be immediately delivered to the owner or his order, and shall not be subject to any further charge for storage after the demand for delivery shall have been made, and facilities for receiving or shipping the same have been provided by such owner.

Annual report of warehouseman. SEC. 23. On June 30th of each year every public warehouseman shall make report under oath to the Railroad Commission on blanks or forms prepared by it showing the total number of sacks of each kind of grain or bales of hay received and shipped from each warehouse licensed under this act, and also the amount of outstanding storage receipts on said date, and a statement of the amount of grain or hay on hand to cover the same. Each person, firm, corporation or association of persons operating any public warehouse subject to the provisions of this act shall on or before the first day of August of each year give a bond with good and sufficient surety to the State of Washington, in such sum as the Railroad Commission may require, to be approved by such commission and the Attorney General, conditioned upon the faithful performance of the acts and duties enjoined upon them by law.

Sidetracks for loading. SEC. 24. Whenever required by the Railroad Commission every railroad company shall construct and maintain at each station and siding in this state suitable facilities for the purpose of loading bulk grain direct from wagons into cars for shipment. The Railroad Commission may require an increase in such facilities or additional facilities whenever it deems it necessary for the purpose of such loading.

Fees for tonnage inspection. SEC. 25. In case grain or hay is sold for delivery on Washington grade to be shipped from places provided with state inspection under this act, or from any other place, the buyer, seller, or persons making the delivery, may have it inspected out by notifying the chief inspector or a chief deputy, whose duty it shall be to have such grain inspected, and after it is inspected to issue to the buyer, seller or person delivering it on request an inspector's cer-

tificate showing the grade of such grain. The person or persons calling for such inspection shall pay for such inspection fees as follows: On lots from ten to fifty tons, five cents per ton; from fifty to three hundred tons, three cents per ton; from three hundred to one thousand tons, two cents per ton; for every ton in addition to one thousand tons, one cent per ton: *Provided*, That the above scale of charges must be for a continuous delivery of the lot until completed. The chief inspector or his deputies may in their discretion make the charge for such inspection fifty cents per hour without reference to the quantity of grain inspected.

SEC. 26. The Railroad Commission shall be allowed, at its office in Olympia, one additional clerk for the purposes of this act at a salary of not to exceed one hundred dollars per month, to be paid in the same manner and out of the same funds as other employes under this act. The chief inspector and deputies shall be allowed necessary traveling expenses when engaged in the discharge of their duties.

Additional
clerk.

SEC. 27. The chief inspector shall furnish standard samples of grain No. 1 Washington grade to any public warehouseman in this state or adjoining states upon request and payment of the cost thereof.

Samples of
grain.

SEC. 28. Any grain or hay originally consigned to a destination outside of the state shall not be subject to state inspection or weighing nor to the fees provided for in this act, unless it passes through some mill or warehouse, at an inspection point, in which case it shall pass the regular weighing and inspection and pay the regular fees.

Shipments
beyond
state.

SEC. 29. The chief inspector or any deputy or weigher serving under him before opening the doors of any cars containing grain or hay upon arrival at any of the places designated herein for inspection shall first ascertain the condition of such cars and determine whether any leakages have occurred while said cars were in transit, whether or not the doors were properly secured and sealed at point of shipment, and shall make a record of such facts in all

Loaded cars
inspected.

cases, giving seal and plug numbers. After such examination shall have been made and recorded, and the inspection of such grain or hay has been made, the said officials shall securely close and reseal such doors as have been opened by them, using the special seal of the said state grain inspection department for the purpose. A record of all original seals broken by said officials and the date when broken, and also a record of all state seals substituted therefor, and the date and number of said seals shall be made by said officials.

Police
protection.

SEC. 30. All railroad companies, warehousemen and millers operating in the cities provided for inspection by this act shall furnish ample and sufficient police protection at all of their several terminal yards and terminal tracks to securely protect all cars containing grain or hay, while the same are in their possession. They shall prohibit and restrain all unauthorized persons, whether under the guise of samplers, sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or tracks and from entering any car of grain or hay under their control, or removing grain or hay therefrom, and shall employ and detail such number of watchmen as may be necessary for the purpose of carrying out the provisions of this section.

Penalties.

SEC. 31. Any railroad company or common carrier, and every officer, agent or employe of any railroad company or common carrier, and every person, persons, corporation or association who shall violate any of the provisions of this act for which penalties are not specifically provided in the various sections thereof shall, upon conviction, be fined and pay a sum not less than one hundred dollars nor more than five hundred dollars for each offense.

Ch. 109, p.
253. L. '95,
§§ 2868-2909
Bal. §§ 5393-
5434 Pierce
repealed.

SEC. 32. Chapter CIX of the Session Laws of 1895, providing for inspection and weighing of grain, is hereby repealed, together with all other acts or parts of acts in conflict with this act.

Passed by the Senate February 26, 1909.

Passed by the House March 5, 1909.

Approved March 15, 1909.

CHAPTER 138.

[H. B. 300.]

RELATING TO REVENUE AND TAXATION.

AN ACT relating to revenue and taxation, prescribing the method of levying taxes in counties, cities, towns, road and school districts, requiring the publication of estimates of public expenses, making the violation thereof a misdemeanor and providing a penalty.

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

SECTION 1. It shall be the duty of county commissioners, city and town councils, and school directors of school districts lying wholly, or in part, within the limits of any incorporated city or town, on or before the first Monday in September of each year, to make estimates of the amount required to meet the public expense for the ensuing year, and to be raised by taxation in such county, city, town, road, school, or other taxing district. Such estimates shall be fully itemized, showing under separate heads the amount required for each department, public office, public official, for each public improvement, for the maintenance of each public building, structure, or institution, the salary of each public officer or employe, the maintenance of public highways, roads, streets, bridges, the construction, operation and maintenance of each public utility, and shall contain a full and complete disclosure and statement of the contemplated expenditures for the ensuing year, showing the amount proposed to be expended from each separate fund, and the total amount of public expense. Said statement shall also contain an estimate of the receipts for the ensuing year from sources other than direct taxation, and the amount, or amounts, proposed to be raised by taxation upon the real and personal property of such county, city, town, road, school, or other taxing district.

Estimates
to be
itemized.

SEC. 2. The estimates required in section one (1) of this act, together with a notice that such board of county commissioners, city or town council, or board of school

Notice of
time of
making
levies.

directors, will meet on the first Monday in October for the purpose of making tax levies, as stated in said estimates, and naming the time and place of holding such meeting, shall be published for at least two (2) consecutive weeks following the adoption of such estimates as follows: Estimates of expenditures, required to be disbursed by county commissioners, shall be published in the official newspaper of the county, if there be one; if not, then in a newspaper of general circulation in such county. All other estimates shall be published in a newspaper of general circulation in such county, town, school, or other taxing district.

Hearings.

SEC. 3. It shall be the duty of county commissioners, city and town councils, and of school directors of school districts, lying wholly, or in part, within the limits of any incorporated city or town, to meet on the first Monday in October, and at the time and place designated in said notice, when and where any taxpayer who may appear shall be heard in favor or against any proposed tax levies. When such hearings shall have been concluded, such county commissioners, city or town councils, and school directors, shall proceed to make, determine, and decide the amount of taxes to be levied upon the current assessment rolls. All taxes shall be levied or voted in specific sums, and shall not exceed the amount specified in such published estimates.

Penalties.

SEC. 4. Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars.

Passed by the House February 25, 1909.

Passed by the Senate March 8, 1909.

Approved March 15, 1909.

CHAPTER 139.

[H. B. 374.]

RELATING TO ADMISSION OF PERSONS TO PRACTICE LAW.

AN ACT relating to attorneys and counsellors at law.

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

SECTION 1. No person shall be permitted to practise as an attorney and counsellor at law or to commence, conduct or defend any action or proceeding in which he is not a party concerned, in any of the courts of this state, either by using or subscribing his own name or the name of any other person, or to solicit business as, or to advertise, or represent himself, in any way, as an attorney or counsellor at law, unless he has been previously admitted to practise law in this state.

Attorney defined.

SEC. 2. No person shall hereafter be admitted to practise law in this state except by order of the supreme court, either on motion or by examination. Each applicant for admission shall show by his affidavit to the court that he is over twenty-one years of age, a citizen of the United States and a resident of this state, or has come into this state for the purpose of making it his permanent residence, that he intends to actively engage in the practise of the law as a profession, and that he is not laboring under suspension or disbarment of any court whatsoever, and that he never was suspended or disbarred by any court, or if so, in what courts and when, and giving the time of reinstatement, and shall also file a certificate of at least two members of the bar of the supreme court to the effect that he is of good moral character and recommending his admission: *Provided*, That attorneys living outside of this state may practise in the courts of this state on the same terms and conditions as attorneys of this state are permitted to practise in the courts of their respective states, territories or districts, and not otherwise. The fee for admission shall be twenty-five dollars, to be paid to the clerk of the court at the time of filing his application, and in case the

Supreme court to admit.

Qualification.

Attorneys residing outside the state.

court refuses to admit the applicant the fee shall be returned to him, otherwise to be accounted for as other court fees. It shall be competent for any person to present to the court any reason why an applicant should not be admitted as an attorney and counsellor at law in this state.

SEC. 3. The following applicants may be admitted on motion:—

Admitted
on motion.

(a) Graduates of the law department of the State University.

Probation.

(b) Members of the bar of other states having been entitled to practise in the highest courts of record in their respective states for at least two years immediately preceding their application for admission to practise in this state: *Provided*, That such applicant upon showing the qualifications as provided in section 2 of this act, the court, if satisfied of the applicant's fitness, shall enter an order permitting such applicant to practise law in this state for a period of one year, at the end of which time, the court being satisfied that such applicant is of good moral character and a fit and proper person to practise law in this state, an order shall be entered so admitting such applicant.

Examination.

SEC. 4. Examinations for admission to the bar shall be held at the state capital on the first Thursday and Friday after the second Monday in January, May, and October of each year, and shall be both oral and written as to the applicant's knowledge of the law. No person shall be admitted to such examination unless he present to the court evidence that he has sufficient general education to admit him to the freshman or higher class in the State University, or has completed a full four years' course in a high school of approved standing, or holds a certificate or diploma recognized as equal or equivalent to a diploma from such high school, or is the holder of a first grade teachers' certificate in this state, or a certificate of a higher grade. Nor shall any such applicant be examined unless he shall have filed with the clerk of the supreme court, two years before such examination, a notice of his commencement of the study of the law: *Provided*, This provision shall not apply to any one taking the examination within two years

General
education.

Two years'
study,
notice of.

after the taking effect of this act, who shall on or before the first day of January, 1910, file with the said clerk a statement in which the time he commenced the study of the law is set forth, provided the time he applies for admission is at least two years after the time named in such statement. Every applicant shall also present an affidavit by some member of the bar of the supreme court, or a certificate from the dean, or head, of some law school of approved standing, to the effect that such applicant has regularly and attentively studied law under the direction of the affiant, or dean or head of such law school, as the case may be, for a period of two years: *Provided*, That thirty-five full weeks of study in a law school in any one year shall be equivalent to a year's study.

Notice of commencement of study.

Certificate of study.

SEC. 5. The supreme court shall make such other rules as may be necessary for the admission of applicants to practise law, and for the purpose of conducting the examination of applicants may appoint a board consisting of three lawyers, who shall hold their office for a term of three years unless sooner removed by the court: *Provided, however*, That the first appointments after the taking effect of this act one member shall be appointed for one year, one for two years and one for three years, and thereafter each member shall be appointed for a term of three years, except to fill a vacancy. No person shall be eligible as a member of such board unless he shall have been a member in good standing of the bar of the supreme court of this state for not less than five years immediately preceding his appointment, and no person shall be eligible to succeed himself on such board. Each member of said board shall be allowed ten dollars (\$10) per day for each day actually spent in the performance of his duties, and five cents per mile for each mile actually and necessarily traveled in going to and returning from attendance on the court to conduct such examinations.

Board of examiners.

Qualification of members.

Compensation.

SEC. 6. Every person before being admitted to practise law in this state shall take and subscribe the following oath:

Oath of attorney.

1. I will support the constitution of the United States and the constitution and laws of the State of Washington;

2. I will maintain the respect due to the courts of justice and judicial officers;

3. I will not counsel or maintain any suit or proceedings which shall appear to be illegal and unjust except such as I believe to be honestly debatable under the law of the land;

4. I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth, and never seek to mislead the judge or jury by any artifice or false statement of fact or law;

5. I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with his business except from him or with his knowledge and approval;

6. I will abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a fellow attorney, party or witness unless required by the justice of the cause with which I am charged;

7. I will never reject from any consideration of personal matters the cause of the defenseless or oppressed or delay any man's cause for lucre or malice, so help me God.

SEC. 7. That upon the production of proof to the supreme court that any person admitted to practise law in this state, has been at the time of his admission to practise law, disbarred or suspended from practise in any state or territory of the United States, or that there was pending against such person any proceedings for disbarment or suspension in any such state or territory at the time of his admission to practise here laboring under any disability to practise in the courts, of any such state or territory, or that such person had ever been, at the time of his admission to practise here, convicted of a felony or misdemeanor involving moral turpitude, then said supreme court shall revoke and cancel the certificate of admission granted to such person. The proceedings for the revocation and cancellation of such certificate may be taken by the court of its own motion, or may be taken upon the information of another, and in either case the party shall have the privilege

Proof of
disbarment.

Certificate
canceled.

of making his own defense; such proceedings shall be by motion and answer, and evidence may be examined on either side.

Passed by the House March 5, 1909.

Passed by the Senate March 10, 1909.

Approved March 15, 1909.

CHAPTER 140.

[S. B. 326.]

RELATING TO THE SALE OF INTOXICATING LIQUORS TO INDIANS.

AN ACT to prohibit the sale or disposal of intoxicating drinks to Indians or to mixed bloods, and providing penalties for the violation thereof, and repealing section 7316 Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous or vinous liquor of any kind whatever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label or brand, which produces intoxication, to any Indian, either of the whole or mixed blood to whom allotment of land has been made while the title to the same shall be held in trust by the government of the United States, or to any Indian of the whole or mixed blood, a ward of the government of the United States, under the charge of any Indian superintendent or agent, or any Indian of the whole or mixed blood, over whom the government of the United States, through its departments, superintendent or agent exercises or assumes to exercise guardianship, or to any Indian of the whole or mixed blood the subject of any foreign nation, or to any Indian of the whole or mixed blood a member of any tribe of Indians, or to any Indian whatsoever, or a mixed blood Indian being more than one-eighth Indian, shall be guilty of a felony and punished therefor by imprisonment in the penitentiary for a period of not less than one or more than two years, or by imprisonment in the

Anything
producing
intoxication.

Indian of
mixed blood.

Penalty.

county jail not less than thirty days nor more than six months or by fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by both such fine and imprisonment in the discretion of the court.

§ 7316 Bal.,
§ 1781 Pierce,
repealed.

SEC. 2. That section 7316 Ballinger's Annotated Codes and Statutes of Washington is hereby repealed.

Passed by the Senate March 2, 1909.

Passed by the House March 5, 1909.

Approved March 11, 1909.

CHAPTER 141.

[H. B. 294.]

DEFICIENCY APPROPRIATION FOR PUBLIC PRINTING.

AN ACT making a deficiency appropriation for public printing.

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

Appropriation
§30,000.

SECTION 1. There is hereby appropriated out of the general fund in the state treasury the sum of thirty thousand dollars, or so much thereof as may be necessary, to be used in paying for public printing of the state for the fiscal period ending March 31, 1909.

Passed by the House March 1, 1909.

Passed by the Senate March 3, 1909.

Approved March 11, 1909.

CHAPTER 142.

[S. S. B. 162.]

REGULATING THE BUSINESS OF LIFE INSURANCE.

AN ACT to regulate the business of life insurance, the issuing of policies of endowment or of annuity, and the organization and operations of companies formed to transact such business.

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

SECTION 1. No life, endowment or annuity company shall be authorized to transact business in this state unless

it shall comply with the provisions of this act. Before any such life, endowment, or annuity company goes into operation, under the laws of this state, a guaranty capital, of at least one hundred thousand dollars, shall be subscribed and at least fifty per cent. of said capital paid in cash, and the remaining fifty per cent. to be paid in cash within one year from the date of filing the articles of incorporation. If said balance is not paid within one year as aforesaid, or if any impairment shall occur in the capital of such company, which impairment is not made good within sixty days, the certificate of said corporation shall be declared forfeited by the State Insurance Commissioner.

Guaranty capital.

SEC. 2. Any number of persons, not less than seven, may incorporate a company to write insurance upon the lives of persons, and every insurance pertaining thereto, or connected therewith, and to grant or dispose of annuities, or to write policies of endowment.

Number of persons to incorporate.

SEC. 3. The persons proposing to organize such company shall file with the State Insurance Commissioner articles of incorporation, as provided under the laws of the State of Washington for the formation of private corporations, and said corporations shall pay the fees and penalties provided by law.

Articles of incorporation.

SEC. 4. No policy shall be issued until a certificate from the Insurance Commissioner has been obtained authorizing such company to issue policies. The said Insurance Commissioner shall examine the assets and amount of capital, and a majority of the trustees shall make oath that the money has been paid in cash by the stockholders towards payment of their respective shares and not for any other purpose, and that it is intended that the same shall remain as the capital of the company, to be invested as required by the laws of this state. Every insurance company incorporated in this state shall pay to said Insurance Commissioner, for the examination required by this section, in addition to the costs of examination, the sum of thirty dollars, which latter sum shall be paid into the general fund of the state.

May commence business, when.

Oath of trustees.

Fees for
examination.

Guaranty
deposit.

Withdrawal
of deposit.

SEC. 5. Any such insurance company organized under the laws of this state may at its option deposit with the Treasurer of the State of Washington, the sum of one hundred thousand dollars (\$100,000) in cash, or in such securities as are elsewhere approved in this act. Such deposit shall be considered pledged for the security of all persons holding or interested in the policies of such company, and any such company may change the character of its deposit at any time by depositing other above described securities of equivalent value thereto. All interest and profits accruing from said securities shall be paid to the company depositing the same. Any such company may withdraw all or any part of such deposit by notifying the State Treasurer of its intention so to do, and by specifying the amount to be withdrawn: *Provided*, That the State Treasurer shall first publish a notice of such proposed withdrawal in some daily paper issued at the state capital, and in a daily paper in one of the larger cities of the state, once a week for six consecutive weeks, notifying all persons interested to file claims against such deposit. After the expiration of six months after the first publication of the said notice, the State Treasurer shall surrender to the depositing company all of its deposit except such part thereof as may be sufficient to secure the payment of claims filed. If such claims have not been confirmed by a decision of the proper courts within six months thereafter, any remaining portion of such deposit shall be returned to the said company. The State of Washington shall be held responsible for the safety of all deposits made under this act, and the State Treasurer and his sureties shall be responsible both to the state and to the depositing company.

Certificate of
authority.

SEC. 6. Whenever the incorporators shall have fully organized such company, and the said company shall have satisfied the Insurance Commissioner that it has the required amount of capital paid in cash, it shall become his duty to furnish the incorporators with a certificate of authority which, with the certified copy of said declaration previously received from the Insurance Commissioner, when

filed for record in the office of the county auditor in the county where such company is to be located, shall be authority to commence business and issue policies, and the same, or a certified copy thereof, shall be evidence in all suits.

SEC. 7. The stockholders of any company organized under this act shall have power to make such by-laws not inconsistent with the constitution and laws of this state as may be deemed necessary for the government of the officers and the conduct of its affairs, and the same, when necessary, to alter or amend; and they, and their successors, may have a common seal, and may change and alter the same at their pleasure; and such company, in its corporate name, may sue and be sued, may own so much real and personal property as shall be necessary for the transaction of its business, and may sell and dispose of the same when deemed necessary; but all real estate acquired through the collection of debts shall not be held longer than five years, except on written permission from the State Insurance Commissioner, when necessary to protect the company in obtaining its fair market value. Each stockholder of any company organized under this act shall, in his individual capacity, be severally liable for all debts of such company to the amount of double his subscribed stock.

Powers of stockholders.

Corporate powers.

SEC. 8. It shall not be lawful for any person to act within this state, as agent or otherwise, in receiving or procuring applications for life insurance, or in any manner aid in transacting the business of life insurance, referred to in the first section of this act, for any company or association incorporated by or organized under the laws of any other state government, unless such company has an unimpaired paid up cash capital of at least two hundred thousand dollars, or in lieu thereof assets in excess of its liabilities of not less than two hundred thousand dollars.

Qualification of foreign corporation.

SEC. 9. Every life insurance company incorporated in this state, or doing business in this state, shall, on or before

Annual
statement.

the first day of March in each year, transmit to the Insurance Commissioner and file in his office a statement of its business standing and affairs in the form prescribed or authorized by law, and adapted to the business done by such company, and prescribed and adopted by the Insurance Commissioners in their convention blank, and signed and sworn to by the president or vice-president and secretary of such company, and made out for the year ending on the preceding thirty-first day of December; and such statement must show among other required items: First, The amount of capital stock of such company, corporation or association, including a statement of the amount of stock actually paid up in cash; second, the property or assets held by the same; third, the liabilities of the organization, which must include the net value of its outstanding policies, as provided by this act; fourth, the income of the organization during the preceding year; fifth, the expenditures of the preceding year; sixth, the amount of risks written during the same period, the amount of risks expired during the same period, and the total amount at risk on the 31st day of December next preceding. No such company in making such report shall change the text of the blank submitted by the Insurance Commissioner for such purpose without the written authority of the commissioner so to do, and such company shall be required to answer all questions in such blank in full regarding its income, disbursements, assets and liabilities.

Additional
information.

SEC. 10. The Insurance Commissioner of this state is authorized and empowered to add to the provisions and requirements of the blank referred to in section 8 of this act, and to enlarge the blank provided in said act, and to call for such other and additional information as the said Insurance Commissioner may deem desirable and necessary, and all insurance companies doing business in this state shall be subject to such additional requirements and shall comply therewith, and the failure so to do shall subject any company so failing to comply with such additional requirements to all such penalties as provided by said act.

SEC. 11. All such insurance companies chartered or organized in any other state of the United States, or beyond the limits of the United States, and doing business in this state, shall make an annual statement of their condition and affairs to the insurance department, in the same manner and in the same form as similar companies organized under the laws of this state. The Insurance Commissioner shall have authority to extend the time for filing such statement, for reasons which he shall deem good and sufficient, whether the company is organized in this state or elsewhere.

Annual statement of foreign company.

SEC. 11½. Life insurance companies chartered beyond the limits of the United States, and doing business in this state shall make a return of their standing on the thirty-first day of December in each year, agreeable to the form required by this act of other companies doing a similar business in this state; said return to be made to the Insurance Commissioner on or before the first day of March annually, and verified and sworn to before some consul or vice consul of the United States, by two or more of the principal officers of such insurance company.

When made.

SEC. 12. Any company doing business in this state neglecting to make returns, in the manner and within the time hereinbefore authorized and prescribed, shall forfeit one hundred dollars for each day's neglect; and every company that wilfully makes false statements shall be liable to a fine of not less than five hundred dollars, nor more than one thousand dollars. Any new business done by any company or its agents in this state, after neglect to make the prescribed returns, shall be deemed to be done in violation of law.

Failure to make statement—penalty.

SEC. 13. All valuations of the policies of life insurance shall be made by the Insurance Commissioner or by his authority according to the standard of valuation adopted by the company: *Provided*, That in either case the standard of valuation employed shall be stated in his annual report: *And provided*, That no such standard of valuation, whether on the net level premium, preliminary term,

Value of policies.

or select and ultimate reserve basis, for policies issued after the passage of this act shall be less than that determined upon such basis according to the American Experience Table of Mortality with three and one-half per cent. interest. The Commissioner may vary the standard of valuation in particular cases of invalid lives and other extra hazards: *Provided*, Same is at least on basis of three and one-half per cent. value policies in groups, use approximate averages for fractions of a year and assume as accurate the valuation of the department of insurance of any other state, if the insurance officer of any other state likewise accredits the valuation made by the Insurance Commissioner of this state.

Business in
other states.

SEC. 14. When any such insurance company, organized under the laws of this state, shall transact business in any other state, it may invest its surplus funds in such state in like securities and under the same restrictions as in this state.

Person on
whom process
may be
served.

SEC. 15. Every such insurance company not organized in this state, before doing business in this state, shall, in writing, appoint the State Insurance Commissioner, or the deputy Insurance Commissioner in his absence, an attorney upon whom all lawful process against the company may be served with like effect as if the company existed in this state; and said writing or power of attorney shall stipulate and agree, on the part of the company making the same, that any lawful process against said company which is served on said attorney, shall be of the same legal force and validity as if served on said company. A copy of the writing, duly certified and authenticated shall be filed in the office of the Insurance Commissioner, and copies certified by him shall be sufficient evidence. This agency shall be continued while any liability remains outstanding against the company in this state. Service upon said attorney shall be deemed sufficient service upon the company.

Notice of
service.

When legal process against any such company is served upon said Commissioner of Insurance he shall immediately notify the association of such service by letter, prepaid and directed to the secretary or corresponding officer, and shall

within two days after such service forward in the same manner a copy of the process served on him to such officer. The plaintiff in such a process so served shall pay to the Commissioner of Insurance at the time of such service a fee of \$3.00, which shall be recovered by him as part of the taxable costs, if he prevails in the suit. The Commissioner of Insurance shall keep a record of all processes served upon him, which record shall show the day and hour when such service was made.

SEC. 16. No life insurance company organized under the laws of this state shall issue policies insuring fire or marine or livestock risks, nor engage in any banking business.

Limited to
life insurance.

SEC. 17. Whoever solicits insurance on behalf of any such insurance company, as provided for by this act, not chartered by and not established within this state, or who transmits for profit or value for any person other than himself, an application for such insurance, or a policy of such insurance, to or from such company, or advertises that he will receive or transmit the same, shall be held to be an agent of such company to all intents and purposes, and subject to the duties, requisitions, liabilities and penalties set forth in the laws of this state, relating to life insurance companies not incorporated by the legislature thereof.

Facts consti-
tuting agency.

SEC. 18. Any agent writing insurance in violation of any law of this state regulating life insurance companies shall forfeit, for each offense, a sum not exceeding five hundred dollars.

Penalty.

SEC. 19. No such insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insurants of the same class and expectation of life in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any company or any agent, sub-agent, or broker, make any contract of

Discrimina-
tion pro-
hibited.

insurance or agreement as to such contract, other than is plainly expressed in the policy issued thereon; nor shall any such company or agent, sub-agent, or broker, pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement whatever not specified in the policy of insurance. No person shall receive or accept from any company or agent, sub-agent, or broker, as inducement to insurance, any such rebate of premium payable on the policy, or any special favor or advantage, in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance. No person shall be excused from testifying or from producing any books, papers, contracts, agreements, or documents, at the trial of any other person charged with a violation of any provision of this section, on the ground that such testimony or evidence may tend to incriminate him, but no person shall be prosecuted for any act concerning which he shall be compelled to so testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying. Every officer or agent of an insurance company doing business in this state, who shall violate 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 (\$100), nor exceeding five hundred dollars (\$500), or imprisonment in the county jail of not less than thirty (30) days, nor more than ninety (90) days, or both, in the discretion of the court, and shall pay the costs of prosecution. It shall be the duty of the Commissioner upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Immunity.

Penalty.

SEC. 20. From and after the date this act takes effect no life insurance company shall issue in this state, nor permit its agents, officers or employes to issue in this state,

agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and no life insurance company shall be authorized to do business in this state, which issues or permits its agents, officers or employes to issue in the State of Washington or in any other state or territory, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employes, shall be permitted to agree, sell, offer to sell or give, or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance, or in connection therewith: *Provided*, That the provisions of this section relating to the issue and sale of stock of companies in good standing heretofore licensed by the Commissioner of Insurance to issue policies shall not apply to any part of the capital stock of said company as now organized. It shall be the duty of the Insurance Commissioner upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Agent not to sell stock.

Capital stock after inspection may be sold.

SEC. 21. Any person knowingly receiving any rebate or allowance or reduction from any premium, or any special contract of employment, or promising profits or dividends of any character, or any valuable thing, special favor or advantage whatever, as an inducement to take any policy of life insurance not specified in the policy contract, shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of one hundred dollars (\$100), or imprisonment in the county jail for thirty (30) days, or both, in the discretion of the court: *Provided*, That this section shall not apply to the payment of divi-

Penalty.

dends upon contracts made as inducements prior to the enactment hereof.

Duties of
commiss-
sioner.

Fees for
examination.

Fund.

Appropriation.

Lien.

SEC. 22. The Insurance Commissioner shall examine and inquire into violations of the insurance laws of this state and for this purpose, or to see if the laws are obeyed, or to examine the financial condition, affairs and management of any company, he may visit or cause to be visited, by any competent person or persons, he may appoint, the head office in the United States of any domestic or foreign insurance company applying for admission to, or already admitted to do business in this state, and may for these purposes examine or investigate any company organized under the laws of Washington, and any agency or company doing business in this state. The charges for making the examination shall be presented and shall be paid by the organization examined: *Provided*, That such charges shall not exceed the sum of \$5.00 per day in addition to the necessary expenses incurred in making such examination. All moneys paid by said companies for the examination, as provided by law, shall be paid into the state treasury and shall be converted into a special fund to be known as the Insurance Inspection Fund, from which special fund shall be paid all bills for expense of examinations made. Upon the presentation of vouchers properly signed by the Insurance Commissioner, to the State Auditor, the State Auditor is hereby authorized to draw his warrant against said fund in the same manner in which warrants are drawn for the payment of other bills. For the purpose of making said payments and authorizing the Auditor to draw warrants upon said fund, all of the moneys paid into said fund are hereby appropriated for the purpose of paying the examination expenses as provided for in this act. Should payment be refused, the bill shall be approved by the Insurance Commissioner, audited by the State Auditor, and paid on his warrant drawn in the usual manner on the State Treasurer, to the person making the examination. Said bill so approved by the Auditor shall be a first lien upon all the assets and property of such company and may be recovered by suit by the Attorney General on be-

half of the State of Washington. The Commissioner shall revoke the certificate of authority granted the company that refuses to pay the bill for expense of examination, and shall not again grant a certificate of authority until it has paid to the State Treasurer the amount of such bill and all costs, if any there be. The Commissioner may also examine companies upon the request of five or more of the policy holders, representing at least one hundred thousand dollars insurance in force, who shall make affidavit of their belief, with specifications of their reasons therefor in writing, that such company is in unsound or insolvent condition: *Provided*, That only the United States branches of companies incorporated in foreign countries shall be examined by said Commissioner. For the purposes of the examinations, inquiries or investigations as aforesaid, the Commissioner or his deputy, or the person authorized to make them, shall have free access to all books and papers of an insurance company that relate to its business, and the books and papers kept by any officer, agent or employe relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations, in the examination of the directors, trustees, officers, agents or employes of any such company, and any other person in relation to its affairs, transactions and conditions. He may require and compel the production of records, books, papers, contracts or other documents by attachment if necessary. Any person knowingly or wilfully testifying falsely in reference to any matter material to said investigation, examination or inquiry, shall be deemed guilty of perjury, and punished accordingly; and any person who shall wilfully refuse or fail to attend, answer or produce books or papers, or who shall refuse to give said Commissioner or the person authorized by him, full and truthful information and answer in writing to any inquiry or question made in writing by said Commissioner, or the person authorized by him, in regard to the business of insurance carried on by such person, or other matters under investigation, or refuse or wilfully fail to appear and testify under oath before the Insurance Commissioner

Branches
examined.

Authority
of commis-
sioner.

- or the person authorized by him, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500), or imprisonment in the county jail not exceeding three (3) months, or by both such fine and imprisonment. Any director, trustee, officer, agent or employe of an insurance company, or any other person, who shall knowingly or wilfully make any false certificate, entry or memorandum upon any of the books or the papers of any insurance company, or upon any statement filed or offered to be filed in the
- Penalty.
- False entries. insurance department of this state, or used in the course of any examination, inquiry or investigation with the intent to deceive the Commissioner or any person employed or appointed by him to make such examination, inquiry or investigation, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment for not less than two (2) months nor more than twelve (12) months in the county jail, or by both such fine and imprisonment. If upon such examination the Insurance Commissioner is of the opinion that the company is insolvent, or that its condition is such as to render its further continuance in business hazardous to the public or holders of its policies, if such deficiency or impairment is not immediately made good, he shall advise and communicate the facts to the Attorney General, who shall at once apply to the superior court of the county or any judge thereof, where the home office of a domestic company or an agency of a foreign company is located for an injunction to restrain the company from transacting further business, except the payment of losses already ascertained and due, until further hearing, and for appointment of a receiver, and, if a domestic company, for the dissolution of the corporation.
- Penalty.
- Injunction.
- Annual examination. SEC. 23. The Insurance Commissioner shall once each year visit each life insurance company incorporated by this state, thoroughly examine its financial condition, and ascertain whether it has complied with all provisions of law.

SEC. 24. The Commissioner shall in like manner examine any life insurance company not incorporated by this state but doing business herein, whenever he has reason to doubt its solvency, and may employ assistants in making the examination; and all the expenses of an examination without the state shall be borne by the company examined.

Examination
of foreign
company.

SEC. 25. For such purpose the Commissioner shall have free access to all books and papers of any life insurance company doing business in this state and may examine, under oath, its officers or agents relative to its condition; and if any company not incorporated by this state, or its officers or agents, shall refuse to submit to such examination, or to comply with any provisions of this chapter, the authority of such company to do business in this state shall be revoked.

Access to
books.

SEC. 26. No person shall act in the solicitation or procurement of applications for, or policies of, insurance for any company referred to in this chapter, without first procuring a certificate of authority as agent from the Insurance Commissioner, which certificate shall be renewed on the first of January of each year; and on the conviction of any person acting as such agent, sub-agent, or broker of the violation of any provision of the preceding section, the Insurance Commissioner shall forthwith revoke the certificate of authority issued to him, and no certificate shall be thereafter issued to said convicted person until after three years from the date of such conviction. Every person violating any provision of the preceding section or of this section shall be fined not more than five hundred dollars (\$500). No person shall be licensed to solicit or write insurance other than fire or marine insurance until each company, corporation or association represented by such person shall have paid a license fee as prescribed in this section. The annual license fee for an agent's license authorizing the solicitation and writing of insurance other than fire or marine insurance in this state shall be five dollars (\$5.00) for each company represented by any person, firm or corporation: *Provided, however,* That when any

Agent's
authority.

Penalty.

agent leaves the service of the company, during the term of his license, the company may, upon returning the original license to the office of the Insurance Commissioner, transfer the same, free of cost, to any person whom the company designates.

SEC. 27. All investments and deposits of the funds of any life insurance company, incorporated under this act, shall be made in its corporate name, and no trustee or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds, shall accept, or be the beneficiary of, either directly or remotely, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or in behalf of such company, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that, if a policy holder, he shall be entitled to all the benefits accruing under the terms of his contract. No investment, sale or loan, except on its own policies, shall be made which has not first been authorized by the board of trustees or by a committee thereof charged with the duty of investing or loaning the funds of the company, nor shall any deposit be made in a bank or banking institution unless such bank or banking institution has first been approved as a bank of deposit by the board of trustees or said committee thereof, and unless the vote authorizing such investment, sale or loan or approval of the place of deposit has been duly recorded in the books of the company.

Funds invested in corporate name.

Loans.

SEC. 28. No domestic company hereafter acquiring title to real estate under the conditions of any mortgage owned by it or by purchase or set off an execution upon judgment for debts due it previously contracted in the course of its business or by other process in settlement for debts, shall hold it for a longer period than five years without permission granted in writing by the Insurance Commissioner, except such real estate as it may require for its home or branch offices; nor shall any such company hereafter invest

Limit on holding real estate.

in real estate except for the purpose of a home or branch office.

SEC. 29. Such company shall not engage in any business other than as specified in its charter or agreement of association and expressly authorized by law. Other business prohibited.

SEC. 30. All policies issued by such company shall be signed by its secretary, assistant secretary, or, in their absence, by a secretary *pro tempore*, and by its president or vice president, or, in their absence, by two directors. Policies, by whom signed.

SEC. 31. Such company shall have its office in the city or town specified in its charter or agreement of association; and if it establishes agencies in other cities or towns, all signs, cards, pamphlets and advertisements exhibited or issued by them shall specify the city or town in which the company they represent is located. Advertisements must show head office.

SEC. 32. No life insurance company organized under the laws of or doing business in this state shall enter into any contract of insurance upon lives within this state, except industrial insurance or where the premiums are paid monthly or oftener, without having previously made or caused to be made a prescribed medical examination of the insured by a registered medical practitioner. Any insurance company violating the provisions of this section, or any officer, agent or other person soliciting or effecting, or attempting to effect, a contract of insurance contrary to the provisions hereof, shall be punished by a fine of not more than one hundred dollars for each offense. Assured to be examined.

SEC. 33. No policy of life or endowment insurance shall be issued or delivered in this state until a copy of the form thereof, has been filed at least thirty days with the Insurance Commissioner; nor if the Insurance Commissioner notifies the company in writing within said thirty days that in his opinion the form of said policy does not comply with the requirements of the laws of this state, specifying his reasons for his opinion: *Provided*, That this action of the Insurance Commissioner shall be subject to review by the supreme court of this state; nor shall such policy, except policies of industrial insurance where the premiums Form of policy filed with insurance commissioner.

Appeals.

are payable monthly or oftener, be so issued or delivered after January 1st, 1910, unless it contains in substance the following provisions: 1. A provision that the insured is entitled to a grace of one month within which the payment of any premium after the first year may be made, subject at the option of the company to an interest charge not in excess of six per cent. per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in force; but in case the policy becomes a claim during the said period of grace, the overdue premium or the deferred premiums of the current year, if any are paid, the amount of such premiums, with interest on any overdue premium, may be taken from the face of the policy in settlement. 2. A provision that all policies so far as they relate to life or endowment insurance, shall be incontestable after two years from its date of issue except for non-payment of premium. 3. A provision that the policy and the application therefor shall constitute the entire contract between the parties and that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, unless a copy of such statement is contained in or attached to the policy and that no such statement shall be used in defense to a claim under the policy unless it is contained in a written application; and a copy of such application shall be endorsed upon or attached to the policy when issued. 4. A provision that if the age of the insured has been misstated the amount payable under the policy shall be such as the premium would have purchased at the correct age. 5. A provision that the policy shall participate in the surplus of the company at least as often as every five years. 6. A provision specifying the option to which the policy holder is entitled in the event of default in a premium payment after three full annual premiums shall have been paid. 7. A provision that not later than the third anniversary of the policy the holder of the policy shall, upon a proper assignment thereof to the company, be entitled to borrow of the company on the sole security of the policy a sum not more than nine-

Delinquent premiums.

Policy incontestable.

Statements by insured.

Age of insured.

Options.

Loans on policy.

ty-five per cent. of the cash surrender value thereof, less any indebtedness to the company, at a rate of interest not exceeding six per cent. Said provision shall include such other condition as, in conformity to the laws of Washington, the company will impose when the application for the loan is made. 8. A table showing in figures the loan values and the options available under the policy each year upon default in premium payments, during at least twenty years of the policy, or its life if maturity is less than twenty years, beginning with the year in which such values and options first become available. 9. In case the proceeds of a policy are not payable in one sum but in installments or as annuity a table showing the amounts of the installments and annuity payments. 10. A provision that the holder of a policy shall be entitled to have the policy reinstated at any time within three years from the date of default, unless one of the options noted in the policy has been previously accepted by the holder thereof, upon the production of evidence of insurability satisfactory to the company and the payment of all overdue premiums and any other indebtedness to the company upon said policy with interest at the rate of not exceeding six per cent. per annum. Any of the foregoing provisions or portions thereof not applicable to single premium or non-participating or term policies shall to that extent not be incorporated therein, and paragraph seven shall not apply to foreign companies.

Tables in
policy.

Reinstatement.

SEC. 34. Every officer or director of any such company incorporated in this state who votes or assents to any payment, either to stockholders or policy holders, in violation of any provisions of this act, shall forfeit to the state the sum of five thousand dollars, to be recovered in an action brought in the name of the treasurer of the state.

Forfeitures
for viola-
tions of act.

SEC. 35. Every officer or director of any such insurance company incorporated in this state, consenting to a loan or investment in wilful violation of any provisions of this act shall be personally liable to the company for any loss which may be sustained by such investment or loan, to be recovered in an action brought by the Insurance Com-

Liability for
loans.

missioner on complaint of any policy holder or stockholder in the company suffering thereby, and shall be fined not more than one thousand dollars and imprisoned not more than five years.

Preference rights to proceeds of policy.

Creditors' rights.

Widows' rights.

Policy binding on company.

SEC. 36. If a policy of insurance is effected by any person on his own life, or on another life in favor of a person other than himself having an insurable interest therein, the lawful beneficiary thereof, other than himself, or his legal representatives, shall, unless contrary to the terms of the policy, be entitled to its proceeds against the creditors and representatives of the person effecting the same; and the person to whom a policy of life insurance is made payable may maintain an action thereon in his own name: *Provided*, That, subject to the statute of limitation, the amount of any premium for said insurance paid in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, but the company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless, before such payment, the company shall have written notice by or in behalf of a creditor, with specification of the amount claimed, claiming to recover for certain premiums paid in fraud of creditors. Every policy of life insurance made payable to or for the benefit of a married woman, or after its issue assigned, transferred or in any way made payable to a married woman, or to any person in trust for her or for her benefit, whether procured by herself, her husband or by any other person, and whether the assignment or transfer is made by her husband or by any other person, shall, unless contrary to the terms of the policy, inure to her separate use and benefit, and to that of her children, subject to the provisions of this section relative to premiums paid in fraud of creditors.

SEC. 37. In any claim arising under a policy which has been issued in this state by any life insurance company, without previous medical examination, or without the knowledge and consent of the insured, or, if said insured is under eighteen years of age, without the consent of the parent, guardian or other person having legal custody of

said minor, the statements made in the application as to the age, physical condition, and family history of the insured, shall be held to be valid and binding upon the company; but the company shall not be debarred from proving as a defense to such claim that said statements were wilfully false, fraudulent or misleading. Every policy, except industrial or those calling for premiums monthly or oftener, shall have attached thereto a correct copy of the application, and unless so attached the same shall not be considered a part of the policy or received in evidence.

SEC. 38. A solicitor, agent, examining physician or other person who knowingly or wilfully makes a false or fraudulent statement or representation in or relative to any application for life insurance, or who makes any such statement for the purpose of obtaining a fee, commission, money or benefit in a corporation transacting such business under the provisions of this act, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than one year, or by both such fine and imprisonment; and a person who wilfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a policy or certificate holder in any such corporation, for the purpose of procuring payment of a benefit named in the certificate of such holder, shall be guilty of perjury.

False statements to secure applicant—
Penalty.

SEC. 39. At least three-fourths of the assets of any domestic stock or mutual life insurance company shall be invested only as follows: 1. In the public bonds of the United States or District of Columbia, or of any state of the United States. 2. (a) In the legally authorized bonds or notes of any county, city, town, or school district in Washington. (b) In the legally authorized notes or bonds of any county, city, or school district in any other state in the United States which are a direct obligation of the county, city, or school district issuing the same, and which has a population, according to the last national or state census preceding the date of such investment, of more than twenty thousand inhabitants. (c) In the legally author-

Assets, how invested.

ized bonds or notes of any county, city, town, or school in any such other state of the United States which are a direct obligation of the county, city, town, or school district issuing the same whose indebtedness, after deducting the amount of its securities in the sinking funds which are available for payment of its bonds, does not exceed five per cent. of the valuation of property therein, as assessed for taxation next preceding the date of such investment.

In bonds of public service corporations.

3. In the bonds or notes of any railroad or street railway corporation incorporated or located wholly or in part in Washington, or in the mortgage bonds of any railroad corporation located wholly or in part in any state of the United States whose capital stock equals at least one-third of its funded indebtedness, which has paid regularly for the five years next preceding the date of such investment all interest charges on said funded indebtedness, and which has paid for such period regularly dividends of at least four per cent. per annum upon all its issues of capital stock, or in the mortgage bonds of any railroad, railway or terminal corporation which have been, both as to principal and interest, assumed or guaranteed by any such railroad or railway corporation. In the mortgage bonds of any railroad corporation located wholly or in part in any state of the United States whose liens junior to such mortgage bonds equal at least one-third of the funded indebtedness secured by such mortgage bonds and bonds prior thereto, which has paid regularly for the five years next preceding the date of such investment all interest charges on the said funded indebtedness, and which has paid for such period regularly at least four per cent. interest on such junior securities. 4. In loans upon improved and unencumbered real property in any state of the United States: *Provided*, That no loan on such property shall exceed sixty per cent. of the fair market value thereof at the time of such loan, and a certificate of the value of such property shall be executed before making such loan by the person or persons making or authorizing such loan on behalf of the corporation, which certificate shall be recorded on the books of the company. 5. In such

Mortgages on real estate.

real property as shall be requisite for convenient accommodation in the transaction of its business and subject to the provisions of section 28 of this act. 6. In loans upon the security of its own policies not exceeding the cash surrender value of the policy at the time of making the loan.

7. In loans secured by collateral security consisting of any of the above. 8. No domestic life insurance company shall invest any of its funds in any unincorporated business or enterprise, nor in the stocks or evidence of indebtedness of any corporation, the owners or holders of which stock or evidence of indebtedness may in any event be or become liable on account thereof to any assessment except for taxes, nor shall such life insurance company invest any of its funds in its own stock or in the stock of any other insurance company. No such company shall invest in, acquire or hold directly or indirectly more than ten per cent. of the capital stock of any corporation, nor shall more than ten per cent. of its capital and surplus be invested in the stock of any one corporation. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities or property, or enter into any transaction for such purchase or sale on account of said company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property; but the disposition of its property shall be at all times within the control of its board of directors. 9. Nothing herein shall prevent such company from investing or loaning any funds not required to be invested as provided in subdivisions one to seven, inclusive, of this section in any manner that the directors of such life insurance company may determine: *Provided, however,* That such funds shall not be invested in the purchasing of stocks or evidence of indebtedness prohibited by subdivision eight of this section: *And provided,* That no loan of such funds shall be made to an individual or firm unless it is secured by collateral security. 10. Nothing in this section shall prevent any such life insurance company from acquiring or holding any property that shall be acquired in satisfaction of any debt

Prohibited investments.

Property acquired to satisfy loan.

previously contracted, or that shall be obtained by sale or foreclosure of any security held by it: *Provided, however,* That if the property owned be such as is herein prohibited for investment by such corporation, it shall dispose of such property, if personal, within one year, and if real property within five years from the date when it acquired title to the same, unless the Insurance Commissioner shall extend the time for such disposition for the reason that the interests of the company will suffer materially by a forced sale of such property.

Report to insurance commissioner.

A record of such extension shall be made by the Insurance Commissioner, which shall state the time of the extension, and in that event the sale of said property may be made at any time before the expiration of the time of such extension. All property held by any domestic insurance company when this act takes effect, the investment in or loan on which property by such company is prohibited by the provisions of this section, shall be sold and disposed of within five years from the time when this act shall take effect, and such property shall not be held for a longer period, unless the time be extended by the Insurance Commissioner in the manner above provided.

Annual statement.

SEC. 40. All life insurance companies, corporations or associations now doing business in this state, or that may hereafter do business in this state, must file with the Insurance Commissioner annually, on or before the 15th day of March in each year, a statement under oath stating amount of all premiums collected or contracted for by said companies, corporations or associations in this state during the year ending December 31st preceding, the amounts actually paid policy holders on losses, the amounts paid policy holders as dividends and returned premiums, and the amount of insurance reinsured in other companies, and the amount of premiums received for reinsurance, with the name of the policy holders so reinsured. The Insurance Commissioner shall file a copy of such verified statement or schedule with the State Treasurer, and said companies, corporations or associations shall pay into the state treasury and through the Insurance Commissioner a

tax of two per centum on all premiums collected less dividends actually returned to the policy holders in cash. The tax herein provided for shall be due and payable on the first day of May succeeding the filing of statement provided for herein. Any organization failing or refusing to render such statement and to pay the required two per cent. tax as herein provided for more than thirty days after the time so specified, shall be liable for a fine of twenty-five dollars (\$25) for each additional day of delinquency, and the tax may be collected by distraint and the fine recovered by an action to be instituted by the Insurance Commissioner in the name of the state in any court of competent jurisdiction; and the Insurance Commissioner shall revoke and annul the certificate of authority of such delinquent organization until such taxes and fine, should any be imposed, are fully paid and notice thereof given to the State Insurance Commissioner: *Provided*, That if any such insurance company, corporation or association shall have fifty per centum or more of its assets invested in any bonds or warrants of this state, or bonds or warrants of any county, city or district within this state, or in taxable property within the state, or in first mortgages upon improved real estate within this state, then the tax shall be but one per centum on the amount so collected.

SEC. 41. Any such association refusing or neglecting to make the report as provided in this chapter shall be excluded from doing business within this state. The Insurance Commissioner must, within sixty days after failure to make such report, or in case any such association shall exceed its powers, or shall conduct its business fraudulently, or shall fail to comply with any of the provisions of this chapter, give notice in writing to the Attorney General, who shall immediately commence an action against such association to enjoin the same from carrying on any business in this state. No association so enjoined shall have authority to continue business until such report shall be made, or other act or violation complained of shall have been corrected, nor until the costs of such action be paid

by it: *Provided*, That the court shall find that such association was not in default as charged; whereupon the Insurance Commissioner shall reinstate such association, and not until then shall such association be allowed to again do business in this state. Any officer, agent or person acting for any such association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

Penalty.

Fraternal
solicitors
excluded.

SEC. 42. The provisions of this act shall not be construed as applying to any company, society or association falling under the statute controlling the organization and operation of fraternal beneficial societies, but shall apply to all other companies or associations conducting such business as is provided for in this act.

Accident or
health
policies.

SEC. 43. The provisions of this act shall not be construed as directly or indirectly prohibiting any life insurance company authorized to transact business under the laws of this state from issuing accident or health contracts separately or in connection with life, endowment or annuity policies.

Passed by the Senate March 1, 1909.

Passed by the House March 9, 1909.

Approved March 17, 1909.

CHAPTER 143.

[S. B. 261.]

RELATING TO DRAINAGE.

AN ACT to amend sections 5 and 12 of 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, and declaring an emergency.

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

SECTION 1. That section 5 of an act of the Legislature approved March 20, 1895, entitled, "An act to provide for the establishment and creation of drainage districts, and to provide for the means of payment thereof, and declaring an emergency," be and the same is hereby amended to read as follows: Sec. 5. Such election shall be held on the day designated in such notice, and shall be conducted in accordance with the general elections laws of the State of Washington, 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 limits of such district, as established by the board of county commissioners, for at least thirty days next preceding such election. The board of county commissioners shall meet on the Monday next succeeding such election and proceed to canvass the votes cast thereat, and if, upon such canvass, it appears that a majority of the votes cast are for drainage district, "Yes," the board shall have an order entered upon their minutes and declaring such territory duly organized as a drainage district under the name and style of Drainage District No. (here insert number) of (here insert name of county) of the State of Washington, and shall declare the three persons receiving respectively the highest number of votes to be duly elected as a board of commissioners for such drainage district. Said board shall cause a copy of said order, duly certified, to be filed in the office of the Secretary of State, and from and after the date of filing such organization

[Am'd. § 5, ch. 115, p. 275, L. '95; § 3719 Bal. §1, ch. 175, p. 360, L. '05; § 4534 Pierce.]

Voter.

Canvass of votes.

Bond of Com-
missioners.

shall be deemed complete, and such board of commissioners so chosen at such election shall be entitled to enter immediately upon the duties of their office, and upon qualifying as county officers are required to qualify, and giving a bond to the State of Washington for the benefit of said drainage district, for the faithful performance of their duties as such board of drainage commissioners in the penal sum of twenty-five hundred dollars, with two or more sureties, to be approved by the board of county commissioners, and shall hold such office until the next general election for the election of officers in such drainage district, and until their successors are elected and qualified. Each board of commissioners thereafter, which may be constituted either by appointment or election, shall enter into a like bond and of like effect before entering upon their duties, which bond shall be approved by the judge of the superior court of the county in which said district is located, and shall be filed in said court.

[Am'd. § 12,
ch. 115, p.
281. L. '95;
§ 3726 Bal.;
§ 4541
Pierce.]

SEC. 2. That section 12 of said act be, and the same is hereby amended to read as follows: Sec. 12. Any or all of said defendants may appear jointly or separately and admit or deny the allegations of said petition and plead any affirmative matter in defense thereof at the time and place appointed for hearing said petition, or to which the same may have been adjourned. If the court or judge thereof shall have satisfactory proof that all of the defendants in said action have been duly served with said summons, as above provided, and shall be further satisfied by competent proof that said improvement is practicable and conducive to the public health, welfare and convenience, and will increase the value of said lands for the purpose of public revenue, and that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use, and that the land, real estate, premises or other property sought to be appropriated are required and necessary for the establishment of said improvement, and that said improvement has a good and sufficient outlet, the court or judge thereof shall cause a jury of twelve qualified persons to be im-

paneled to assess the damages and benefits, as herein provided, if in attendance upon his court; and if not he may, if satisfied that the public interests require the immediate construction of said improvement, direct the sheriff of his county to summons from the citizens of the county in which petition is filed as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the parties to the proceedings consent to a less number, such number to be not less than three, and such consent shall be entered by the clerk in the minutes of the trial. If necessary, to complete the jury in any case, the sheriff, under the directions of the court or the judge thereof shall summon as many qualified persons as [may] be required to complete the jury from the citizens of the county in which the petition is filed. In case a special jury is summoned the cost thereof shall be taxed as part of the cost in the proceedings and paid by the district seeking to appropriate said land, the same as other costs in the case; and no person shall be competent as a juror who is a resident of, or land owner in, the district seeking to appropriate said land. The jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation or company, or to the state, by reason of the appropriation and use of such land, real estate, premises or other property for said improvements and shall ascertain, determine and award the amount of damages to be paid to said owner or owners, respectively, and to all tenants, incumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property for the establishment of said improvement; and shall further find a maximum amount of benefits per acre to be derived by each of the land owners, and also the maximum amount of benefits resulting to any municipality, public highway, corporate road, or district from construction of said improvement. And upon a return of the verdict into court the same shall be reported as in other cases; whereupon, a decree shall be entered in accordance with the verdict so rendered setting forth all the facts found by the jury, and decreeing that

Jury to
assess
damages.

Competency
of juror.

Benefits, to
whom
assessed.

said right-of-way be appropriated, and directing the commissioners of said drainage district to draw their warrant on the county treasurer for the amount awarded by the jury to each person for damages sustained by reason of the establishment of said improvement, payable out of the funds of said drainage district.

SEC. 3. An emergency exists and this act shall take effect immediately.

Passed by the Senate February 26, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 144.

[S. B. 75.]

RELATING TO SURVIVAL OF ACTIONS.

AN ACT amending section 4838 of Ballinger's Annotated Codes and Statutes of Washington, in relation to survival of actions for personal injury to any person, occasioning his death.

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

[Am'd.
§ 4838 Bal.;
§ 267 Pierce.]

Right of
action sur-
vives to
relatives.

SECTION 1. That section 4838 of Ballinger's Annotated Codes and Statutes of Washington be, and the same is, hereby amended to read as follows: Sec. 4838. No action for a personal injury to any person occasioning his death shall abate, nor shall such right of action determine, by reason of such death, if he have a wife or child living, or leaving no wife or issue, if he have dependent upon him for support and resident within the United States at the time of his death, parents, sisters or minor brothers; but such action may be prosecuted, or commenced and prosecuted, in favor of such wife or in favor of the wife and children, or if no wife, in favor of such child or children, or if no wife or child or children, then in favor of his parents, sisters or minor brothers who may be dependent upon him for support, and resident in the United States at the time of his death.

Passed by the Senate February 3, 1909.

Passed by the House March 11, 1909.

Approved March 16, 1909.

CHAPTER 145.

[H. B. 99.]

RELATING TO JUSTICE COURTS IN CITIES.

AN ACT relating to justices of the peace and constables in cities having a population of 80,000 or more inhabitants as shown by the government census of 1900, providing for their election and appointment, fixing their salaries, authorizing the clerks of such justice courts to administer oaths, and declaring an emergency.

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

SECTION 1. There shall be elected at the general election to be held in November, 1910, and biennially thereafter, in each city having a population of 80,000 or more inhabitants as shown by the government census of 1900, four justices of the peace and four constables, and no more, whose term of office shall be for the period of two years from the second Monday of January following their election.

Size of city.

SEC. 2. The board of county commissioners of each county in which there is a city having a population of 80,000 or more inhabitants as shown in the government census of 1900, are hereby authorized and directed, immediately after this act goes into effect, to appoint one additional justice of the peace and one additional constable in such city, so that there shall be four justices of the peace and four constables in such city.

Commissioners to appoint.

SEC. 3. The salaries of justices of the peace hereafter elected or appointed in cities having a population of 80,000 or more inhabitants, as shown by the government census of 1900, shall be as follows: First. Salaries of justices of the peace in such cities, \$1,800 per annum, payable as now provided by law. Second. Salaries of constables in such cities, \$1,200 per annum, payable as now provided by law.

Salaries.

SEC. 4. The clerks of any justice courts provided by this act shall have power to take testimony and administer

Power of clerks.

oaths and affirmations in any action, suit or proceeding in the court for which they are appointed.

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

Passed by the House February 2, 1909.

Passed by the Senate March 8, 1909.

Approved March 17, 1909.

CHAPTER 146.

[H. B. 201.]

REPEALING CERTAIN LAWS.

AN ACT repealing section 7319 and section 7320 of Ballinger's Annotated Codes and Statutes of Washington, relating, respectively, to enticing seamen to desert from any vessel while lying within the waters of this state, and harboring or secreting any seamen shipped on any such vessel.

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

SECTION 1. That section 7319 and section 7320 of Ballinger's Annotated Codes and Statutes of Washington, relating, respectively, to enticing seamen to desert from any vessel while lying within the waters of this state, and harboring or secreting any seamen shipped on any such vessel be, and the same are hereby repealed.

§§ 7319, 7320
Bal., §§ 1847-
8 Pierce re-
pealed.

Passed by the House February 25, 1909.

Passed by the Senate March 5, 1909.

Approved March 17, 1909.

CHAPTER 147.

[H. B. 208.]

RELATING TO FILLING LANDS BY CITIES OF SECOND AND THIRD CLASSES.

AN ACT empowering cities of the second and third class to fill low lands within their borders and for that purpose to exercise the right of eminent domain for the taking and damaging of property and providing a method for making compensation therefor and providing for levying and collection of special assessments on the property benefited and declaring an emergency.

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

SECTION 1. Whenever the city council of any city of the second and third class shall deem it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade or elevation of any marsh lands, swamp lands, tide lands, or lands commonly known as tide flats, or any other low lands situated within the limits of such city, and to clear and prepare said lands for such filling, such city council shall have power so to do and the expense thereof, including the cost of making compensation for property taken or damaged, and all other costs and expense incidental to such improvement, shall be assessed to the property benefited, except such amount of such expense as the city council in its discretion, may direct to be paid out of the current or general expense fund. Proceedings for the filling and of changing the grade and elevation of any such lands may be had in the manner provided in this act.

Tide or
swamp lands
may be filled.

Special as-
sessment dis-
trict.

SEC. 2. Whenever the city council of any such city shall desire to make any improvement contemplated in section one of this act, such city council shall provide therefor by ordinance and unless such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessments upon the property benefited, compensation therefor shall be made from any general funds of such city applicable thereto. If such ordinance shall provide that such improvement shall be paid for wholly or in

Ordinance.

Boundaries
of district to
be specified.

part by special assessments upon property benefited, the proceedings for the making of such special assessment shall be as hereinafter provided. Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which it is proposed to assess for said improvement. Where any parcel of land within the boundaries of such proposed improvement district shall be wholly filled to the proposed grade elevation of the proposed fill, such parcel of land may be excluded from the lists of lands to be assessed, when in the opinion of the city council justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment as in this act provided, but such changing of the boundaries shall be by ordinance.

Damages,
how de-
termined.

SEC. 3. Whenever an ordinance shall be passed as in the preceding section of this act provided, and it shall appear that in making of such improvement so authorized, private property shall be taken or damaged thereby, the city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation to be made for the property to be taken or damaged for the improvement specified in such ordinance, be ascertained by a jury or by the court, in case a jury be waived, and all of the provisions of an act of the Legislature of the State of Washington, approved March 13, 1907, entitled, "An act to enable cities of the first, second and third classes and having a population of over 1,500 inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor and providing for special assessments in certain cases upon property benefited," and acts amendatory thereof shall be applicable to the proceeding had in the superior court under the provisions of this act for the ascertainment of the compensation to be made for the taking and damaging of property, except in so far as the same may be consistent with this act. The filling of unimproved and uncultivated low lands of the

Ch. 153, p.
316, L. '07.

character mentioned in section 1 of this act, shall not be considered as damaging or taking of such lands. The damage, if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled, shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance referred to in section 2 of this act, defining the boundaries of the proposed improvement district: *Provided*, That the city shall after the passage of such ordinance, proceed with said improvement with due diligence. Where the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just proportion of said improvement as hereinafter provided.

Unimproved
land not
damaged.

Damaged
property
assessed.

SEC. 4. At the time of the initiation of the proceedings for any improvement as contemplated by this act, or at any time afterward, the city council of such city shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest, and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council.

Plans.

SEC. 5. When such plans and specifications shall have been prepared and such estimate of the cost and expense of making such improvement shall be made and adopted by the council as set out in the preceding section, and when an estimate has been made of the compensation to be paid for property damaged or taken, either before or after such compensation shall be ascertained in the said superior court as hereinbefore provided, the city council through the proper officer or officers, of such city, shall cause an assessment roll to be prepared containing a list of all of the property within such improvement district which it is proposed to assess for such improvement, together with the names of the owners, if known, and if unknown the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description. When so ordered by the council, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings and together with the entire cost and expense of making the improvement, may be assessed against the property within the district subject to assessment, but the council may order any portion of such costs paid out of the current or general expense fund of the city, in their discretion. The several parcels of land located within said improvement district to be assessed for such improvement shall be assessed according to and in proportion to surface area, one square foot of surface to be the unit of assessment: *Provided*, That where any parcel of land was partially filled by the owner prior to the initiation of the improvement an equitable deduction for such partial filling may be allowed. The cost and expense incidental to the filling of the streets, alleys and public places within such assessment district shall be borne by the private property within such district subject to assessment when so ordered by the council. When the assessment shall be payable in installments, the assessment roll when equalized, as hereinafter provided, shall show the number of installments and the amounts thereof. The assessment herein provided may be made payable in any num-

Assessment
roll.

Entire cost
assessed.

Installments.

ber of equal annual installments not exceeding ten in number.

SEC. 6. When such assessment roll shall be so prepared it shall be filed in the office of the city clerk and thereupon it shall be the duty of the city clerk to give notice by publication in at least three issues of the official paper that such roll is on file in his office and that at a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council of such city will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same. At the time specified in said notice, the city council of said city shall sit as a board of equalization to equalize the said roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council shall have power as such board of equalization to hear, consider and determine objections and protests against any assessment levied under the provisions of this act and shall have power as such board to make such alterations and modifications in the assessment roll as justice and equity may require.

Hearing on
assessment.

SEC. 7. Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county in which such city may be situated. Such appeal shall be made by filing a written notice of appeal with the clerk of such city within ten days after the equalization of said assessment by the council, and said notice shall describe the property and the objections of such appellant to such assessment; and the appellant shall also file with the clerk of the superior court aforesaid within ten (10) days from the time of taking such appeal a copy of said notice, appeal, assessment and proceedings thereon, certified by the clerk of such city, together with a bond to such city conditioned to pay all costs that may be awarded against appellant in such sums not less than two hundred dollars and with such security as shall be approved by the clerk of such court, and the case shall be docketed by the clerk of such court in the

Appeals to
superior
court.

Judgment. name of the person taking such appeal as plaintiff and such city or town as defendant. Said cause shall then be at issue and shall be tried immediately by such court as in the case of equitable causes, except that no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment in so far as the same affects the property of the appellant, with respect to which the appeal was taken, from which judgment an appeal shall lie to the supreme court as in other causes.

Lien at-
taches, when.

Assessments,
how col-
lected.

SEC. 8. From and after the equalization of the roll, the several assessments in such roll contained shall become a lien upon the real estate described in such roll and shall remain such lien until paid, and such lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments herein provided for shall be collected by the same officers and enforced in the same manner as now provided by law or which may be hereafter enacted for the collection and enforcement of local assessments for street improvements in cities of the class herein described, and all of the provisions of existing laws and ordinances relative to the enforcement and collection of local assessments for street improvements, including the certification of delinquent assessments to the county treasurer and the issuance and foreclosure of certificates of delinquency, shall be applicable to the assessments made pursuant to this act.

Payments.

SEC. 9. When the improvement contemplated by this act shall be ordered to be made upon the immediate payment plan, the city council shall provide for the payment of the same by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district. When such improvement shall be ordered to be made upon the bond installment plan, the city council shall provide for the issuance of bonds against the improvement district as hereinafter provided.

SEC. 10. When it is desired to issue bonds against any such improvement district, the city council shall have full

authority to provide for the issuance of such bonds. Such bonds may be in such denominations as the city council may provide and shall bear such rate of interest as the city council may fix, not exceeding, however, eight per centum per annum; interest shall be paid annually and said bonds shall become due and payable at such time, not exceeding ten years from the date thereof, as may be fixed by the council and shall be payable out of said local assessment district funds. If so ordered by the council, such bonds may be issued in such a way that different numbers of said bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district shall mature together. The city council of any such city shall have authority for and on behalf of such city to guarantee the payment of the whole or any part of the bonds so issued against any such local improvement district, but such guarantees on the part of the city shall only be made by ordinance duly enacted, the passage of which ordinance shall require the vote of not less than nine councilmen and the approval of the mayor of cities of the second class, and six councilmen and approval of the mayor in cities of the third class. The city council shall have power to enact all ordinances necessary for the issuance of the bonds herein provided for, and to give full force and effect to this act.

SEC. 11. The city council of any such city shall have power to negotiate sufficient warrants or bonds against any such local improvement district at a price not less than ninety-five per cent. of their par value as may be necessary to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the judicial proceedings hereinbefore mentioned, including the costs of such proceedings; but in lieu of so doing, the city council shall have power to negotiate current or general expense fund warrants at par to raise funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or

Interest
on bonds.

Maturity of
bonds.

Guarantees.

Preliminary
expense.

realized from the negotiation or sale of local improvement warrants or bonds.

Interest on
assessments.

SEC. 12. The local assessments herein provided for shall bear interest at such rate as may be fixed by the council, not exceeding the rate of eight per centum per annum from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city: *Provided*, That such assessment shall bear interest at the rate of fifteen per cent. per annum from and after the date of the certification of such assessments to the county treasurer of the county, as in cases of local street assessments. Warrants drawn against any such local improvement district shall bear interest from the date of issuance at the rate of eight per centum per annum.

Change of
assessment.

SEC. 13. The contract for the making of any improvement as contemplated by this act may be let either before or after the making up of the equalization of the assessment roll, and special fund warrants, or bonds may be issued against said local improvement district, either before or after the equalization of the roll as in the judgment of the council may best subserve the public interest. When the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement and it shall be later found that such estimate was too high, the excess shall be rebated *pro rata* to the property owners on the assessment roll, such rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan. When it is found that the estimated cost was too low and that the actual *bona fide* cost of the improvement is greater than the estimate, the city council, after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included, except that such additional amount shall be added to the last installment of such assessment in case such assessment be upon the installment plan. The same notice shall be re-

quired for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal.

SEC. 14. The city council in its discretion may provide in letting the contract for any such improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of such work, and that such warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city council may negotiate such special fund warrants or bonds against such local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds of such sales pay the contractor for such work and pay the other costs of such improvement.

Warrants or bonds in payment of contracts.

SEC. 15. Whenever moneys shall accumulate in any such improvement fund and is likely to lay idle awaiting the maturity of the bonds against the district, the city council, under proper safeguards, may invest such money temporarily, or may borrow the same temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the moneys so invested or borrowed from any such fund, with interest thereon, whenever required for the redemption of bonds maturing against such district.

Funds may be invested.

SEC. 16. In case any assessment made under the provisions of this act should be found to be invalid for any cause or in case the same should be set aside for any reason in any judicial proceeding, then a re-assessment may be made and all laws now in force, or which may be hereafter enacted relative to the re-assessment of local assessments, for street or other improvements, shall, as far as practicable, be applicable hereto.

Re-assessment.

SEC. 17. This act shall not be construed as repealing or in any wise affecting any existing laws relative to the making of any such improvements, as are embraced within

This act concurrent.

this act, but this act shall be considered as concurrent with such existing laws.

Emergency.

SEC. 18. An emergency exists and this act shall take effect immediately.

Passed by the House February 19, 1909.

Passed by the Senate March 3, 1909.

Approved March 17, 1909.

CHAPTER 148.

[H. B. 353.]

RELATING TO THE SALARY OF SUPREME COURT REPORTER.

AN ACT amending section 225 of Ballinger's Annotated Codes and Statutes of Washington, relating to the salary of the reporter of the Supreme Court.

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

SECTION 1. That section 225 of Ballinger's Annotated Codes and Statutes of Washington, relating to the salary of the reporter of the Supreme Court, be amended to read as follows:

[Am'd. § 1,
ch. 30, p. 38,
L. '97, § 225
Bal., § 4347
Pierce.]

Sec. 225. The annual salary of the reporter of the decisions of the Supreme Court shall be three thousand five hundred (\$3,500) dollars.

Salary.

Passed by the House February 25, 1909.

Passed by the Senate March 6, 1909.

Approved March 17, 1909.

CHAPTER 149.

[S. B. 295.]

RELATING TO GAME FISH.

AN ACT to provide for the protection of game fish, limiting the catch, the size taken, and providing penalties for the violation thereof.

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

SECTION 1. It shall be unlawful for any person in the State of Washington in any of the counties lying east of

the western boundary of the counties of Okanogan, Chelan, Kittitas, Yakima, and Klickitat, to take, capture, catch or kill in any of the lakes or streams therein, or have in their possession after the same has been so unlawfully taken, any trout, bass, perch, pickerel or pike, between the first day of November and the first day of May of the following year.

Applicable to certain counties.

SEC. 2. It shall be unlawful for any person to sell or offer for sale or for any person to purchase any trout, bass, or other game fish at any season of the year: *Provided*, That this section shall not apply to fish taken from private hatcheries.

Sale of certain fish prohibited.

SEC. 3. It shall be unlawful for any person at any time to take, capture, catch or kill any trout except native mountain brook trout or bass in the waters hereinabove described which shall be less than six inches in length, and any such fish which may be accidentally caught shall be immediately returned to the water.

Size of fish.

SEC. 4. It shall be unlawful for any person to take, capture, catch or kill more than twenty pounds of trout, bass or perch in any one day and no person shall have in his or her possession at any one time more than thirty pounds of such trout, bass or perch, which may have been caught in the waters above described.

Amount of catch.

SEC. 5. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars, together with the costs of prosecution of such action, and in default of the payment of any fine imposed under this act, shall be imprisoned in the county jail one day for each two dollars of such fine.

Penalty.

SEC. 6. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Repealed.

SEC. 7. *Provided*, That this act shall not apply to Garfield or Columbia counties.

Garfield and Columbia excluded.

Passed by the Senate March 9, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 150.

[S. B. 249.]

RELATING TO PUBLIC UTILITIES IN CITIES AND TOWNS.

AN ACT authorizing cities and towns to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate certain public utilities, providing for modes of payment therefor, repealing all acts in conflict herewith, and declaring an emergency.

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

SECTION 1. That any incorporated city or town with-

Waterworks. in the state be, and hereby is, authorized to construct, condemn and purchase, purchase, acquire, add to, maintain, conduct and operate waterworks, within or without its limits, for the purpose of furnishing such city or town and the inhabitants thereof, and any other persons, with an ample supply of water for all uses and purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution and price thereof; to construct and

Sewerage. maintain systems of sewerage, and systems and plants for refuse collection and disposal, with full jurisdiction and authority to manage, regulate and control the same within and without the limits of the corporation; to construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants and facilities for the preparation and manufacture of all such stone or asphalt products or compositions or other materials which may be

Road materials. used in street construction or maintenance, together with the right to use the same and also to fix the price of and to sell the same for use in the construction of municipal improvements of such city or town; and to construct, condemn and purchase, purchase, acquire, add to, maintain and operate works, plants and facilities for the purpose of furnishing such city or town and the inhabitants thereof, and any other persons, with gas, electricity and other means of power and facilities for lighting, heating, fuel and power purposes, public and private, with full author-

Light and heat.

ity to regulate and control the use, distribution and price thereof, together with the right to handle and sell, or lease, any meters, lamps, motors, transformers and equipment or accessories of any and every kind, necessary and convenient for the use, distribution and sale thereof; to authorize the construction of such plant or plants by others for the same purpose, and to purchase such gas, electricity or power from others either within or without the city or town for its own use and for the purpose of selling to its inhabitants and other persons doing business within such city or town, and to regulate and control the use and price thereof; to construct, condemn and purchase, purchase, acquire, add to, maintain, operate or lease cable, electric and other railways within the limits of such city or town for the transportation of freight and passengers above, upon or underneath the ground, with full authority to regulate and control the use and operation thereof, and to fix, alter, regulate and control the fares and rates to be charged thereon; and for the purposes aforesaid, it shall be lawful for any city or town in this state to take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake or water course, percolating or subterranean, or any underflowing water within the state, and, by means of aqueducts or pipe lines, to conduct the same to said city or town; and such city or town is hereby authorized and empowered to erect and build dams or other works across or at the outlet of any lake or watercourse in this state, for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams or waterworks or other necessary structures in storing and retaining water, as above provided, or for any of the purposes provided for by this act, such city or town shall have the right to occupy and use the beds and shores up to the high water mark of any such water course or lakes, and to acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this act, or nec-

Street rail-
ways.

Water
rights.

Storage of
water.

essary for any of said purposes, and any such city or town shall have the right to acquire by purchase or by condemnation and purchase any lands, properties or privileges necessary to be had to protect the water supply of such city or town from pollution: *Provided*, That should private property be necessary for any such purposes or for storing water above high water mark, such city or town may condemn and purchase, or purchase and acquire such private property: *And provided further*, That no such dam or other structure shall impede, obstruct or in any way interfere with public navigation of such lake or watercourse.

Navigation
to be un-
obstructed.

SEC. 2. Whenever the city council or other corporate authorities of any such city or town shall deem it advisable that the city or town of which they are officers shall purchase, acquire or construct any public utility mentioned in section 1 hereof or make any additions and betterments thereto or extensions thereof, the common council or other corporate authorities shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be, and the same shall be submitted for ratification or rejection to the qualified voters of said city at the general or special election, except in the following cases where no submission shall be necessary:

Ordinance.

Election.

(1) When the work proposed is an addition to, or betterment of, or extension of, or an increased water supply for, existing water works, or an addition, betterment or extension of an existing system or plant of any other public utility mentioned in section 1 hereof, for which no general indebtedness is to be incurred by such city or town: *Provided*, Such undertaking shall have been authorized by the common council of such city or town prior to July first, nineteen hundred and ten; or

Without elec-
tion.

(2) Where in any charter of any city or town in the State of Washington heretofore or hereafter adopted by a vote of the people, an article or provision has been adopted authorizing the city council or other corporate authorities of such city to provide by ordinance for

Charter
provisions.

acquiring, opening or operating any of said public utilities, for which no general indebtedness is to be incurred by such city or town. If a general indebtedness is to be incurred, the amount of such indebtedness and the terms thereof shall be included in the proposition submitted to the qualified voters as aforesaid and such proposition shall be adopted and assented to by three-fifths of the qualified voters of the said city or town voting at said election. If no general indebtedness is to be incurred such proposition may be adopted by a majority vote. Ten days' notice of such election shall be given in the newspaper doing the city or town printing, by publication in each issue of said paper during said time. Whenever a proposition has been adopted as aforesaid or in the cases mentioned in sub-divisions first and second of this section where no submission shall be necessary the common council or other corporate authorities of such city or town shall have power to proceed forthwith to purchase, construct and acquire the public utility contemplated or to make additions, betterments and extensions thereto and to make payment therefor as hereinafter provided in section 3 and section 4.

SEC. 3. Whenever the qualified voters of any such city or town shall have heretofore adopted or shall hereafter adopt a proposition for any public utility as aforesaid, and shall have authorized a general indebtedness, general city or town bonds may be issued as hereinafter provided. Said bonds shall be registered or coupon bonds; Bonds. shall be issued in denominations of not less than one hundred, or more than one thousand dollars; shall be numbered from one up consecutively; shall bear the date of their issue; shall be payable not more than twenty years from date; and shall bear interest not exceeding six per cent per annum, payable semi-annually, with interest coupons attached, and the principal and interest shall be made payable at such place as may be designated. The bonds and each coupon shall be signed by the mayor and attested by the clerk under the seal of the city or town. There shall be levied each year a tax upon the taxable

property of such city or town, as the case may be, sufficient to pay the interest on said bonds as the same accrue, and before seven years prior to the maturity thereof, an annual sinking fund sufficient for the payment of said bonds at maturity, which taxes shall become due and collectable as other taxes. Said bonds shall be printed and engraved, or lithographed, on good bond paper, and a duly authenticated copy of this act, together with the ordinance of the city or town directing the submission of such plan or system to the qualified voters of such city or town for ratification or rejection shall be printed on each bond, together with a printed copy of a signed statement by the mayor and clerk showing the result of said election. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. A register shall be kept of all the bonds, which register shall show the number, date, amount, interest, to whom delivered—if coupon bonds—and the name of the payee—if registered bonds; and when and where payable, and each and every bond executed, issued or sold under the provisions of this sub-division.

Tax.

Style of bonds.

Register of bonds.

Limit of indebtedness.

The total indebtedness incurred under the authority of this act, added to all other indebtedness of such city or town at any time outstanding, shall not exceed five per centum of the value of the taxable property therein, to be ascertained in the case of towns by the last assessment for state and county purposes, and in the case of cities by the last assessment for city purposes, previous to the incurring of such indebtedness: *Provided, however,* That any such city or town may become indebted to a larger amount, but not exceeding five per centum additional, for supplying such city or town with water, artificial light and sewers when works for supplying such water, light, and sewers shall be owned and controlled by the municipality.

SEC. 4. Whenever the qualified voters of any such city or town shall have heretofore adopted or shall hereafter adopt a proposition for any public utility as heretofore provided and either no general indebtedness shall have been authorized or the common council or other corporate

authorities shall not desire to incur a general indebtedness, and whenever the common council or other corporate authorities of any such city or town shall be authorized to exercise any of the powers conferred by section 1 hereof without submitting any proposition as provided in subdivision first and second of section 2 hereof, the common council or other corporate authorities shall have power to create a special fund or funds for the sole purpose of defraying the cost of such public utility or addition, betterment or extension thereto, into which special fund or funds the common council or other corporate authorities of such city or town may obligate and bind the city or town to set aside and pay a fixed proportion of the gross revenues of such public utility, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and to issue and sell bonds or warrants bearing interest not exceeding six per centum per annum, payable semi-annually, executed in such manner and payable at such times and places as the common council or other corporate authorities of such city or town shall determine, but such bonds or warrants and the interest thereon shall be payable only out of such special fund or funds. In creating any such special fund or funds the common council or other corporate authorities of such city or town shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or proportion of the revenue and proceeds than in their judgment will be available over and above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Any such bonds or warrants and interest thereon issued against any such fund as herein provided shall be a valid claim of the holder thereof only as against the said special fund and its fixed proportion or amount of the revenue pledged to such fund,

Special fund.

Considerations in creating fund.

Special fund only liable.

and shall not constitute an indebtedness of such city or town within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state upon its face that it is payable from a special fund, naming the said fund and the ordinance creating it. Said bonds and warrants shall be sold in such manner as the corporate authorities shall deem for the best interests of the city or town, and the corporate authorities may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made only in such bonds and warrants at par value thereof.

When any such special fund shall have been heretofore or shall be hereafter created and any such obligation shall have been heretofore or shall hereafter be issued against the same, a fixed proportion, or a fixed amount out of and not exceeding such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into said special fund as provided in the ordinance creating such fund, and in case any city or town shall fail to thus set aside and pay said fixed proportion or amount as aforesaid, the holder of any bond or warrant against such special fund may bring suit or action against the city or town and compel such setting aside and payment.

Suit to create fund.

SEC. 5. That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue

Ratification of former action.

of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds heretofore so authorized, may be hereafter issued or sold as if all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed: *Provided, however,* That any and all Repeals. proceedings heretofore begun under the provisions of any existing act may be proceeded with either under the provisions of such act or under the provisions of this act, as the corporate authorities may elect.

SEC. 7. An emergency exists and this act shall take Emergency. effect immediately.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 151.

[S. B. 282.]

RELATING TO STATE DEPOSITARIES.

AN ACT to amend chapter 37 of the Session Laws of 1907, being "An act to provide for the state depositaries and regulate the deposit of statements therein," and declaring an emergency.

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

SECTION 1. That section 2 of chapter 37 of the Session Laws of 1907 be and the same is amended to read as follows: Sec. 2. Every state depositary, before it shall be entitled to receive any state moneys, shall file with the State

[Am'd. § 2,
ch. 37, p. 50,
L. '07.]

Surety bond
required.

Treasurer a good and sufficient bond of a surety company authorized to do business in this state, to be approved by said board as security and pledge for the payment on demand to him or his order, free of exchange, at any place in this state designated by him, of all such moneys deposited with it, and of interest thereon at the rate fixed by said board, which bond shall be at least equal to the amount of the moneys to be received by said depositary of said state, and shall, before deposit, be approved by said board. The State Board of Finance may require the State Auditor or the State Bank Examiner to thoroughly investigate and report to it concerning the condition of any bank which makes application to become a state depositary, and may also as often as it deems necessary require such investigation and report concerning the condition of any bank which may have been designated as such depositary, the expense of such investigation to be borne by the depositary examined: *Provided*, That said depositary may deposit with the State Treasurer good and sufficient municipal, school district, county or state bonds or warrants or United States bonds, first mortgage railroad bonds listed on the New York Stock Exchange, local improvement bonds or warrants whose legality have been passed upon favorably by the Supreme Court, or public utility bonds or warrants issued by or under the authority of any municipality of the state for water, power or light plants or the mainten-

Investigation
of depositary.

Securities in
lieu of surety
bond.

ance thereof upon which principal or interest is not in default at the time of such deposit, the aggregate market value of which shall not be less than the amount required in said deposit, in lieu of the surety bond herein provided for.

SEC. 2. That section 5 of said act be and the same is hereby amended to read as follows: Sec. 5. The State Board of Finance shall not approve the bonds and warrants above mentioned, or in lieu thereof the bond of a surety company of any such depository until fully satisfied that said bond or bonds are good and sufficient, and that the depository is prosperous and financially sound and has unimpaired the paid up capital and surplus claimed by it. Said board may at any time require any state depository to furnish a new or additional bond or bonds, and upon failure so to do may after fifteen (15) days' notice to said depository revoke their designation and approval thereof, and immediately upon such revocation such corporation shall cease to be a state depository.

[Am'd. § 5,
ch. 37, p. 51,
L. '07.]

Revocation
of de-
pository.

SEC. 3. An emergency exists and this act shall take effect immediately.

Emergency.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 152.

[S. B. 255.]

RELATING TO AGRICULTURAL SEED.

AN ACT relating to the sale of and fixing the standard of purity of agricultural seeds, and providing penalties for violation thereof.

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

SECTION 1. The term agricultural seeds as used in this act shall include the seeds of red clover, white clover, alsike clover, alfalfa, Kentucky blue grass, timothy, brome grass, orchard grass, red top, meadow fescue, oat grass,

Agricultural
seed.

rye grass, and other grasses and forage plants, flax, rape and cereals, and every parcel, package or lot of seeds as herein defined, containing one pound or more, offered or exposed for sale in this state for use in this state, shall have affixed thereto in a conspicuous place on the outside thereof, distinctly printed in the English language, in legible type, not smaller than eight-point heavy Gothic caps, or plainly written, a statement certifying:

Statement of
quality.

(1) Name of seed.

(2) Full name and address of the seedsman, importer, dealer or agent.

(3) A statement of the purity of the seed contained, specifying the kind and percentage of the impurities as hereinbefore defined: *Provided*, Said seeds are below the standards fixed in this act.

(4) Locality where said seed was grown, if known.

Must be free
from certain
seeds.

SEC. 2. No person shall sell, offer or expose for sale or distribution for the purpose of seeding, any agricultural seeds as herein defined, unless such agricultural seeds are free from the seeds of the following weeds. Wild mustard or charlock (*brassica sinapistrum*), quack grass (*agropyron repens*), Canada thistle (*cnicus arvensis*), wild oats (*avena fatua*), clover and alfalfa dodder (*cuscuta epithimum*), field dodder (*cuscuta arvensis*), and corn cockle (*lychnis githago*).

Impurities.

SEC. 3. Seeds of the following weeds shall be considered as impurities in agricultural seeds as defined in section 1 of this act, so offered or exposed for sale for the purpose of seeding: White cockle (*lychnis vespertina*), nightflowering catchfly (*silene noctiflora*), curled dock (*rumex crispus*), smooth dock (*rumex altissimus*), sheep sorrel (*rumex acetosella*), yellow trefoil (*medotus alba* and *officinalis*), black mustard (*brassica nigra*), plantain, buckhorn (*plantago lanceolata*), bracted plantain (*plantago aristata*), bindweed (*convolvulus sepium*), smooth crab grass (*panicum glabrum*), common chickweed (*stellaria media*), August flower and Russian thistle. When such impurities or any of them are present in quantity exceeding a total

of two per cent. of the weight of said agricultural seeds, the approximate percentage of each shall be plainly indicated in statement specified in subdivision three (3) section one (1) of this act.

SEC. 4. For the purposes of this act seeds shall be deemed to be mixed or adulterated:

First. When orchard grass (*dactylus glomerata*) seed ^{Mixed seed.} contains ten per cent. or more by weight of meadow fescue (*festuca elatior pratensis*) seed, or Italian rye grass (*lolium italicum*) seed, or English rye grass (*lolium perenne*) seed.

Second. When blue grass or Kentucky blue grass (*poa pratensis*) seed contains five per cent. or more by weight of Canadian blue grass (*poa compressa*) seed, red top chaff, red top (*agrostis alba*) seed, or any other seed or foreign substance.

Third. When red clover (*trifolium pratense*), mammoth red clover (*trifolium pratense* var), or alfalfa (*medicago sativa*); contains five per cent. or more by weight of yellow trefoil (*medicago lupulina*), or sweet clover (*melilotus alba* and *M. officinalis*) seed or burr clover (*medicago denticulata*) seed.

Fourth. When rape (*brassica rapa*) contains five per cent. or more of common mustard (*brassica sinapistrum*) or black mustard (*B. nigra*).

SEC. 5. For the purpose of this act, seed shall be deemed to be misbranded:

First. When meadow fescue (*festuca elatior pratensis*), ^{Misbranded seed.} English rye grass (*lolium perenne*) or Italian rye grass (*lolium italicum*) is labeled or sold under the name of orchard grass (*dactylis glomerata*) seed.

Second. When Canadian blue grass (*poa compressa*) seed, red top (*agrostis alba*) seed, or any other seed not blue grass seed, is sold under the name of Kentucky blue grass or blue grass (*poa pratensis*) seed.

Third. When yellow trefoil (*medicago lupulina*), burr clover (*medicago denticulata*), or sweet clover (*melilotus alba*) is sold under the name of clover, June clover, red

clover (*trifolium pratense*), medium red clover, small red clover, mammoth red clover, sappling clover, peavine clover (*T. pratense* var) or alfalfa (*medicago sativa*) seed.

Fourth. When the seeds are not true to the name under which they are sold.

SEC. 6. The provisions concerning agricultural seeds contained in this act shall not apply to:

Application
of act.

First. Any person or persons growing or selling seeds for food purposes only, or having such seeds in possession for sale for such purposes.

Second. Any person selling goods direct to merchants, to be cleaned or graded before being offered for sale for the purpose of seeding. This shall not, however, exempt the seller from the restrictions of section . . . of this act.

Third. Seed that is held in storage for the purpose of being recleaned, and which has not been offered, exposed or held in possession of or for sale for the purpose of seeding.

Fourth. Seed marked "not absolutely clean," and held or sold for export outside the state only.

Fifth. The sale of seed that is grown, sold and delivered by any farmer on his own premises for seeding by the purchaser himself, unless the purchaser of said seeds obtains from the seller at the time of the sale thereof a certificate that the said seed is supplied to the purchaser subject to the provisions of this act.

Sixth. Mixtures of seeds for lawn or pasture purposes. This shall not, however, exempt the seller of such mixtures of seeds from the restrictions of sections . . and . . of this act.

Foreign
substances.

SEC. 7. Sand, dirt, chaff and foreign substances and seeds other than those specified in sections 4 and 5 of this act, or broken seed and seed not capable of germinating, shall be considered impurities when present in agricultural seeds sold, offered or exposed for sale for the purpose of seeding, and when such impurities or any of them are present in quantity exceeding the standards of purity and viability authorized by this act, the name and approximate

percentage of each shall be plainly indicated in the statement specified in subdivision 3, section 1 of this act.

SEC. 8. The following standards of purity (meaning freedom from weed seeds or other seeds) and viability are hereby fixed: Standard of
purity.

STANDARD OF PURITY AND VIABILITY OF AGRICULTURAL SEEDS

NAME OF SEED.	Per Cent. of Purity.	Per Cent. of Germinable Seeds.
Alfalfa (<i>medicago sativa</i>).....	96	80
Barley	98	90
Blue grass, Canadian (<i>poa compressa</i>)...	90	45
Blue grass, Kentucky (<i>poa pratensis</i>)....	80	45
Brome, awnless (<i>bromus inermis</i>).....	90	75
Clover, alsike (<i>trifolium hybridum</i>).....	90	75
Buckwheat	96	90
Clover, crimson (<i>trifolium incarnatum</i>)...	98	85
Clover, red (<i>trifolium pratense</i>).....	92	80
Clover, white (<i>trifolium repens</i>).....	90	75
Corn, field (<i>zea mays</i>).....	99	94
Corn, sweet	99	75
Fescue, meadow (<i>fescuca pratensis</i>).....	95	85
Flax (<i>linum usitatissimum</i>).....	96	89
Millet, common (<i>setaria italica</i>).....	90	85
Millet, hog (<i>panicum miliaceum</i>).....	90	85
Millet, pearl (<i>penisetum typhoideum</i>)....	99	65
Oats (<i>avena sativa</i>).....	98	90
Oat grass, tall (<i>arrhena therum avena-</i> <i>ceum</i>)	72	70
Orchard grass (<i>dactylis glomerata</i>).....	70	70
Rape (<i>brassica rapa</i>).....	99	90
Redtop (<i>agrostis alba</i>).....	90	70
Rye (<i>secala cereale</i>).....	98	90
Rye grass, perennial (<i>lolium perenne</i>)...	96	90
Rye grass, Italian (<i>lolium italicum</i>)....	95	80
Sorghum (<i>andropogon sorghum</i>).....	96	80
Sorghum, for fodder.....	90	60
Timothy (<i>phleum pratense</i>).....	96	85
Wheat (<i>triticum</i>)	98	90

Duties of Inspector. **SEC. 9.** The State Dairy and Food Commissioner shall cause to be made an analysis of all agricultural seeds sold or offered for sale in this state, and such Commissioner or his deputy is hereby authorized to take for analysis a sample from any lot or package of agricultural seeds, not to exceed four ounces in weight; that such sample shall be taken in the presence of the party or parties in interest, or their representative, from any parcel, lot or number of parcels, not less than five per cent. of the whole lot inspected, and such sample shall be thoroughly mixed, and divided into two samples, and placed in glass or metal vessels, carefully sealed, and a label placed on each, stating the names of the seed therein, name of the party from whose stock the sample was taken, and the place and date of taking such sample, and such label shall be signed by the said Commissioner or his deputy, or said sample may be taken in the presence of two disinterested witnesses. All of said samples shall be taken in duplicate, and one of such duplicate samples shall be left on the premises of the party whose stock was sampled; and the other shall be retained by such Commissioner for analysis and comparison. The result of the analysis of such sample, together with such additional information as the said Dairy and Food Commissioner may deem advisable, shall be published from time to time in bulletins to be issued by said Dairy and Food Commissioner.

Samples.

Samples may be submitted for inspection. **SEC. 10.** Any person purchasing any agricultural seed for his own use, may submit fair samples of said seeds to the said Dairy and Food Commissioner, who shall, upon the receipt of a fee of fifty cents for each such sample so submitted, cause an analysis of the same to be made and furnished to the person submitting the same.

Rules. **SEC. 11.** It is especially made the duty of the said Dairy and Food Commissioner to enforce the provisions of this act, and for that purpose he may make all necessary rules and regulations not inconsistent herewith. Any deputy of said Commissioner shall have the same authority and power in the performance of his duties under this act as said Commissioner.

SEC. 12. Any person who sells, offers or exposes for sale any agricultural seeds herein enumerated, that do not conform to the standard of purity as provided in this act, and shall not have the statement provided in section 1 of this act attached to the receptacle containing such seed, or who shall put any such statement on any such receptacle knowing said statement to be false, or who shall prevent or hinder the said Dairy and Food Commissioner or any deputy in the performance of his duties under this act, or who shall otherwise violate any of the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days, or both such fine and imprisonment. Penalty.

Passed by the Senate March 5, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 153.

[S. B. 41.]

RELATING TO DELINQUENCY OF PARENTS.

AN ACT to provide for the punishment of parents or persons responsible for, or contributing to, the neglect or delinquency of children of the age of 18 years or under, and repealing chapter 11, Laws of 1907, relating to the punishment of persons contributing to the delinquency of children.

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

SECTION 1. In all cases where any child shall be a delinquent or neglected child, as defined by the statutes of this state, the parent or parents or person having custody of such child, or any other person, responsible for, or by any act encouraging, causing or contributing to, the delinquency or neglect of such child, shall be fined in any sum not exceeding one thousand dollars (\$1,000), or imprisoned in the county jail for a period not exceeding one (1) year, or punished by both such fine and imprisonment. The court may impose conditions upon any person found guilty under this act, and so long as such person shall comply

Parents
criminally
liable.

Sentence may be suspended. therewith to the satisfaction of the court the sentence may be suspended: *Provided*, That no such sentence or execution thereof shall be stayed to exceed a period of two (2) years, and if at the expiration of the stay of such sentence or at such time prior thereto as the court may deem proper, it shall appear to the satisfaction of the court that such person has complied faithfully with the conditions of his probation, or such suspended sentence, the court may suspend such sentence absolutely, in which case such person shall be released therefrom. If, at any time during the stay of execution of any sentence, it shall be made to appear to the satisfaction of the court that the sentence ought to be enforced, the court shall have the power to revoke the stay of such sentence and execution, and enforce the same, and the term of such sentence shall commence from the date upon which the same is ordered to be enforced.

Ch. 11, p. 16,
L. '07, re-
pealed.

SEC. 2. Chapter 11 of the Laws of 1907 is hereby repealed.

Passed by the Senate March 2, 1909.

Passed by the House March 9, 1909.

Approved March 17, 1909.

CHAPTER 154.

[S. S. B. 338.]

RELATING TO ASSESSING OF STATE LANDS FOR LOCAL IMPROVEMENTS.

AN ACT authorizing the assessment for local improvements of certain lands owned by the State of Washington and situated within the limits of incorporated cities, towns, diking or drainage districts, and also authorizing such assessment of leasehold, contractual or possessory interests in tide and other lands owned by the state, situated within such cities, towns or districts and which have been leased or sold under contract, repealing section 1 of chapter 73 of the Session Laws of 1907, relating to local improvement assessments, and declaring an emergency.

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

SECTION 1. That all leasehold, contractual or possessory interests in any tide lands owned by the State of

Washington in fee simple (in trust or otherwise), situated within the limits of any incorporated city or town in this state, and which have been leased by the state, or which are held by any person, firm, association, private corporation or municipal corporation under a contract of purchase from the state, may be assessed and charged for the cost of all local improvements specially benefitting such leasehold, contractual, contractual or possessory interest, which may be ordered by the proper authorities of such city or town; and such leasehold, contractual or possessory interest, for all purposes of the assessment and collection of the cost of any such local improvement, shall be treated as the private property of such lessee or owner of such contractual or possessory interest: *Provided*, That nothing in this section shall be construed to effect the title of the state, nor shall any lien for such assessment attach to the fee simple title of the state.

Interest in
land
assessable.

Limitation.

SEC. 2. That when any city has made or caused to be made an assessment for any such local improvement the treasurer of said city shall immediately give notice to the Commissioner of Public Lands of said state, and thereupon said assessment shall become a lien against the leasehold, contractual or possessory interest upon which said assessment is levied, and its collection may be enforced against such interests as provided by law for the enforcement of other local improvement assessments.

Notice of
assessment.

SEC. 3. When any such tide lands are under lease at the time of the making of any local improvements abutting upon or benefiting the same, and said lands are thereafter offered for sale, any such improvements shall be deemed and considered as improvements upon said land and shall be appraised at their then value as provided by law for the appraisal of improvements upon leased, school and granted lands, and upon the sale of said property the lessee shall be entitled to receive the value thereof as in case of improvements upon school and granted lands: *Provided*, Said lessee has theretofore paid the assessment for said improvements as provided by law.

Assessment
considered as
improvements.

Interest of
state in tide
land as-
sessed.

SEC. 4. That all lands, except tide lands, held or owned by the State of Washington in fee simple (in trust or otherwise), situated within the limits of any incorporated city, town, dike or drainage district in this state may be assessed and charged for the cost of local improvements specially benefitting such lands which may be ordered by the proper authorities of any such city, town, diking, or drainage district: *Provided, however,* That the interest of the state in such property shall not be sold to satisfy the lien of such assessment, but only such interest or contract or other right therein as may be in private ownership shall be subject to such sale: *Provided further,* That when an assessment is made against any land in a diking or drainage district such improvement shall be assessed according to the subdivision thereof.

All state
property
assessable.

Not to affect
present con-
tracts.

SEC. 5. In all local improvement assessment districts in any incorporated city, town, diking or drainage district in this state, property in such district, other than tide lands, held or owned by the state shall be assessed and charged for its proportion of the cost of such local improvements in the same manner as other property in such district: *Provided,* That none of the provisions of this act shall have the effect, or be construed to have the effect, to alter or modify in any particular any existing lease of any lands or property owned by the state, or release or discharge any lessee of any such lands or property from any of the obligations, covenants or conditions of the contract under which any such lands or property are leased or held by any such lessee.

Certificate of
assessment.

SEC. 6. Upon the approval and confirmation of the assessment roll for any local improvement ordered by the proper authorities of any incorporated city, town, diking or drainage district, the treasurer of such city, town, diking or drainage district shall certify and forward to the Commissioner of Public Lands of the State of Washington (if such lands are within the jurisdiction of said commissioner), or to the State Board of Control (if such lands are occupied by, or used in connection with, any state institution), a statement of all the lots or parcels of land

(other than tide lands), held or owned by the state and charged on such assessment roll for the cost of such improvement, separately describing each such lot or parcel of the state's land, with the amount of the local assessment charged against it; the Commissioner of Public Lands shall charge against each such lot or parcel of land owned or held by the state for sale the amount of the local assessment so certified by such treasurer, and shall then certify said statement to the State Auditor; and the State Board of Control shall cause a proper record to be made in its office of the cost of such improvement upon land occupied by state institutions or used in connection therewith, and shall certify said statement to the State Auditor, and the State Auditor at the next session of the legislature shall certify to the legislature the amount of all local improvement assessments charged against such lands of the state, and the legislature shall provide for the payment of the same, with interest, by appropriation out of the general fund of the state: *Provided*, That no city, town, diking or drainage district shall have jurisdiction to make such local improvement or levy an assessment against any of the lands of the State of Washington until notice of the making of such proposed improvement and the fixing of the time for hearing and confirming the same by the city, town, diking or drainage district has been served upon the Land Commissioner or the Board of Control, as the case may be. Said notice shall be served at least twenty days before the time fixed for said hearing, and an acceptance in writing by said Land Commissioner or the secretary of the said Board of Control, duly filed with said city, town, diking or drainage district, shall be deemed and considered due proof of such service: *And provided further*, That no land belonging to the State of Washington shall be included in any bonding district, and that no penalty shall be provided or enforced against the state, and no interest on the assessment levied to pay for said improvement greater than six per cent per annum shall be taxed to, or allowed by, the state for or on account of making such improvement.

Assessment
charged
against
each lot.

Notice to be
served, when.

Six per cent.
interest.

Assessment
added to
appraised
value.

SEC. 7. When any land, other than tide lands and lands occupied and used in connection with state institutions, owned or held by the state within incorporated cities, towns, diking or drainage districts in this state, against which local improvement assessments have been paid, as herein provided for, is offered for sale, there shall be added to the appraised value of such land, as provided by law, the amount of the local improvement assessments paid by the state, which amount so added shall be paid by the purchaser in cash at the time of the sale of said land, in addition to the amounts otherwise due to the state for said land, and no deed shall ever be executed until such local assessment has been paid.

Application
of act.

SEC. 8. The provisions of this act shall apply to all municipal corporations, diking and drainage districts, and charter or ordinance provisions to the contrary notwithstanding.

Appropriation
for im-
provements.

SEC. 9. Where the state has made no lease or contract, or has granted no right with reference to any such lands or any part thereof, against which an assessment has been made for local improvements, the state shall at the next session of the legislature after such improvement is made, if it still owns the land, appropriate sufficient money to pay for such improvements, or the person entitled to such money may apply to the proper state officers to have such lands sold in the manner provided by law, and if the said lands have not been appraised, the State Land Commissioner shall, upon said application being made, cause the same, exclusive of benefits, to be appraised, and the assessment for such improvement shall be added to the appraised valuation of all such tracts owned by the state, and such Land Commissioner shall cause the sale of such lands to be made in the manner provided by law, but no sale shall be made for less than the appraised value, plus the assessment, against the tract to be sold. When such lands are sold, the proper state officers are authorized to pay to the party entitled to receive the same, the amount or amounts of said assessments for local improvements.

[See, also,
§ 3, ch. 73, p.
124, L. '07.]

SEC. 10. Whenever any such tide, state, school, granted or other lands situated within the limits of any city, town, diking or drainage district has been included within any local improvement district, by such city, town, diking or drainage district, and the contract, leasehold or other interest of any individual has been sold to satisfy the lien of such assessment for local improvement, the purchaser of such interest at such sale shall be entitled to receive from the State of Washington, on demand, a conveyance of the property purchased by him upon the payment to the state of the amount of balance which his predecessor in interest was obligated to pay.

Subrogation.

[See, also, § 2, Ch. 73, p. 123, L. '07.]

SEC. 11. Nothing in any of the provisions of this act shall have the effect, or be construed to have the effect, to alter or modify in any particular any existing lease of any lands or property owned by the state or any contract to purchase from the state any of its land or property, or any agreement under which any possessory or contractual interest in any lands of the state may be owned or held by any person, firm, association, private corporation or municipal corporation, or to waive, release or discharge any covenant, stipulation or obligation of any such lease, contract or agreement, and whether the lands involved be tide lands or other lands.

Contracts not affected by this act.

SEC. 12. That section 1 of chapter 73 of the Session Laws of 1907, relative to the assessment of state school and granted lands for local improvements, is hereby repealed.

§ 1, Ch. 73, p. 123, L. '07, repealed.

SEC. 13. An emergency exists and this act shall take effect immediately.

Emergency.

Passed by the Senate March 11, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 155.

[S. B. 301.]

APPROPRIATION FOR THE EXTERMINATION OF SEALS
AND SEA LIONS.

AN ACT making an appropriation for the destruction of seals and sea lions on the Columbia river.

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

SECTION 1. There is hereby appropriated out of the general fund in the state treasury, not otherwise appropriated, the sum of one thousand dollars to be expended under the supervision of the state fish commissioner for the destruction of seals and sea lions in the Columbia river and in the vicinity of the mouth thereof.

Appropriation \$1,000.

Passed by the Senate March 10, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 156.

[S. B. 299.]

GIVING CITIES THE RIGHT TO OWN CEMETERIES.

AN ACT authorizing cities to acquire, hold, and improve land for cemetery purposes, to sell lots therein and to provide, receive and invest funds, the income therefrom to be used in the betterment, care and improvement of such cemeteries.

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

SECTION 1. That any city may acquire, hold and improve land for cemetery purposes and may sell lots therein and may provide by ordinance that a certain specified percentage of the moneys for any lots sold may be set aside and invested, and the income from said investment be used in the care of said lots, and may take and hold any property, real and personal, bequeathed or given upon trust, and apply the income thereof for the improvement or embellishment of such cemeteries or the erection or preservation of any buildings or structures, fences or walks erected

Cemeteries may be owned and regulated by cities.

or to be erected upon the cemeteries of such city, or for the repair, preservation, erection or renewal of any tomb, monument, grave-stone, fence, railing or other erection at or around any cemetery lot or plat, or for planting and cultivating trees, shrubs, flowers or plants in or around such lot or plat or for improving or embellishing such cemetery in any other manner or form consistent with the design and purpose of such city, according to the terms of such grant, devise or bequest.

SEC. 2. It shall be the duty of the cemetery board or other body or commission having in charge the care and operation of cemeteries to invest all sums set aside from the sale of lots, and all sums of money received, and to care for the income of all money and property held in trust for the purposes designated herein: *Provided, however,* That all investments shall be made in municipal, county, school or state bonds, or in first mortgages on good and improved real estate.

Cemetery board, duty.

SEC. 3. That all investments shall be approved by the council or legislative body of the city.

Investments.

SEC. 4. That all moneys received or obtained in the manner herein provided shall be deposited with the city treasurer of said city, and shall be kept separate and apart in a fund known as the cemetery improvement fund, and shall be paid out by the said treasurer only upon warrants drawn by the order of the cemetery board and indorsed by the mayor and attested by the city comptroller of said city, or other authorized officer.

Separate fund.

SEC. 5. That accurate books of account shall be kept of all transactions pertaining to said fund, which books shall be open to the public for inspection and shall be audited by the auditing committee of said city.

Records.

SEC. 6. That the said city shall, by ordinance, make all necessary rules and regulations concerning the control and management of said fund to properly safeguard the same, but shall in no wise be liable for any of said funds except a misappropriation thereof, and shall not have power to bind the city or said fund for any further liabil-

Management of funds.

ity than whatever net interest may be actually realized from such investments, and shall not be liable to any particular person for more than the proportionate part of such net earnings.

Passed by the Senate March 6, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 157.

[S. B. 325.]

REPEALING CERTAIN ACTS.

AN ACT repealing chapter 1 of the Session Laws of 1893, entitled "An act regulating and fixing railroad freight rates in the State of Washington," repealing chapter 85 of the Laws of 1893, entitled "An act regulating and fixing maximum railroad freight rates in the State of Washington, and providing a penalty for the violation thereof," repealing chapter 68 of the Laws of 1897, entitled "An act regulating common carriers, fixing maximum railroad freight rates in the State of Washington, forbidding discrimination by railroad common carriers in the matter of such rates and of facilities for shipment, and providing for due enforcement and observance of the rates so fixed, and of the regulations and prohibitions before referred to, and providing a method of determining the reasonableness of such rates and regulations, and making an appropriation therefor," repealing chapter 113 of the Laws of 1905, entitled "An act regulating and fixing the maximum railroad passenger rates in the State of Washington, and providing for the due enforcement and observance of the rates so fixed."

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

SECTION 1. That chapter 1 of the Session Laws of 1893, entitled "An act regulating and fixing railroad freight rates in the State of Washington," chapter 85 of the Laws of 1893, entitled "An act regulating and fixing maximum railroad freight rates in the State of Washington, and providing a penalty for the violation thereof," chapter 68 of the Laws of 1897, entitled "An act regulating common carriers, fixing maximum railroad freight rates in the State of Washington, forbidding discrimina-

Ch. 1, p. 3, L.
'93; Ch. 85,
p. 210, L.
'93; Ch. 68,
p. 113, L.
'97; §§ 4313-
4331 Bal., §§
7782-7800
Pierce, and
C. 113, p.
220, L. '05,
repealed.

tion by railroad common carriers in the matter of such rates and of facilities for shipment, and providing for due enforcement and observance of the rates so fixed, and of the regulations and prohibitions before referred to, and providing a method of determining the reasonableness of such rates and regulations, and making an appropriation therefor," chapter 113 of the Laws of 1905, entitled "An act regulating and fixing the maximum railroad passenger rates in the State of Washington, and providing for the due enforcement and observance of the rates so fixed," be and the same are hereby repealed.

Passed by the Senate March 2, 1909.

Passed by the House March 8, 1909.

Approved March 17, 1909.

CHAPTER 158.

[S. S. B. 168.]

GRANTING TO MUNICIPAL CORPORATIONS THE RIGHT TO CROSS WATERWAYS.

AN ACT granting to municipal corporations the right to cross state waterways with trestles or bridges for highway purposes, and granting unto railroads, interurban railroads and street railroads operating as common carriers, the right to cross state waterways, with trestles or bridges, for railroad and roadway purposes, and prescribing the conditions under which such crossings may be made, and declaring an emergency.

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

SECTION 1. Municipal corporations shall have, and hereby are given the right to construct bridges or trestles across waterways heretofore or hereafter laid out under the authority of the State of Washington over which the projected line or lines of any highway will run: *Provided*, Such bridges or trestles are constructed in good faith for the purpose of being made a part of the constructed line of such highway. Any corporation, co-partnership, person or trustee heretofore or hereafter by any state or municipal law or ordinance authorized to con-

Bridges may
be built.

Railroads
may cross.

struct and operate railroads, interurban railroads or street railroads as common carriers within this state, shall have, and hereby is given, the right to construct bridges or trestles across waterways heretofore or hereafter laid out under the authority of the State of Washington over which the projected line or lines of railroad will run: *Provided*, Such bridges or trestles are constructed in good faith for the purpose of being made a part of the constructed line of such railroad, and may also have included therewith the purpose of providing a roadway for the accommodation of vehicles and foot passengers.

Consent of
federal gov-
ernment.

SEC. 2. The location and plans of such structures shall be submitted to, and approved by, the commissioner of public lands of the State of Washington before construction is commenced: *Provided*, That in case the portion of such waterway at the place to be so crossed is navigable water of the United States, or otherwise within the jurisdiction of the United States, such location and plans shall also be submitted to, and approved by, the secretary of war and the chief of engineers of the United States before construction is commenced: *And provided further*, That when plans for any bridge or trestle have been approved by the commissioner of public lands, or the commissioner of public lands, the secretary of war and the chief of engineers aforesaid, it shall not be lawful to deviate from such plans either before or after the completion of such structure, unless the modification of such plans have previously been submitted to, and received the approval of, the commissioner of public lands, or the commissioner of public lands, the secretary of war and chief of engineers, as the case may be. Any structure hereby authorized and approved as aforesaid shall remain within the jurisdiction of the respective officer or officers approving the same, and shall be altered or changed from time to time at the expense of the municipality owning the highway or at the expense of the common carriers, at the time owning the road or roads using such structure, to meet the necessities of navigation and commerce, in such manner as may be from time to time ordered by the re-

Plans to be
followed.

Improve-
ments.

spective officer or officers at such time having jurisdiction of the same, and such orders may be enforced by appropriate action at law or in equity at the suit of the state.

SEC. 3. An emergency exists and this act shall take ^{Emergency.} effect immediately.

Passed by the Senate February 23, 1909.

Passed by the House March 8, 1909.

Approved March 17, 1909.

CHAPTER 159.

[S. B. 97.]

APPROPRIATION FOR INSPECTION OF VESSELS.

AN ACT to appropriate one thousand dollars (\$1,000.00) to carry on the inspection of steam vessels, and vessels or boats operated by machinery, navigating the waters within the jurisdiction of this state, excepting vessels which are subject to inspection under the laws of the United States.

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

SECTION 1. That a sum of one thousand dollars (\$1,000.00) be appropriated, in addition to fees and fines ^{Appropriation \$1,000.} collected, for the inspection of steam vessels, and vessels or boats operated by machinery, navigating the waters within the jurisdiction of this state, excepting vessels which [are subject] to inspection under the laws of the United States.

Passed by the Senate March 2, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 160.

[S. B. 20.]

RELATING TO GARNISHMENTS.

AN ACT in relation to garnishments in justice courts in the State of Washington.

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

SECTION 1. The justice of the peace in the various precincts in the state may issue writs of garnishment,

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

Writs, how issued.

SEC. 2. Before the issuance of the writ of garnishment, the plaintiff, or someone in his behalf, shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, and that he has reason to believe and does believe that the garnishee is indebted to the defendant or that he has in his possession or under his control personal property or effects belonging to the defendant, or that the garnishee is a corporation and that the defendant is the owner of shares of the capital stock thereof.

Basis of writ.

SEC. 3. When the foregoing requisites have been complied with, the justice of the peace shall immediately issue a writ of garnishment directed to the garnishee, commanding him to appear before the court from which it is issued, on the return day of the summons and notice or notice and complaint in the main action, and to answer on oath in what amount, if any, he was indebted to the defendant when such writ was served upon him and what personal property or effects, if any, of the defendant he had in his possession or under his control when such writ was served upon him; and where it appears from the affidavit for the writ that the garnishee is a corporation in which the defendant is the owner of shares, the writ of garnishment shall further require the garnishee to answer what number of shares, if any, the defendant owned in such corporation when such writ was served upon it.

Contents of writ.

SEC. 4. Said writ shall be substantially in the following form:

Form.

To *Greeting:*

Whereas, in the justice court in and for precinct, county, State of Washington, in a certain cause wherein is plaintiff and is defendant, the plaintiff claiming an indebtedness against the said of dollars, besides interest

and costs of suit, has applied for a writ of garnishment against you:

Now therefore, you are hereby summoned to be and appear before the said justice, at his office in said county, on the day of, 19. . . ., at o'clock in thenoon of said day, that being the return day of the summons (or notice and complaint) in the main action, then and there to answer upon oath in what amount, if any, you were indebted to the said when this writ was served upon you, and what personal property or effects, if any, of the said you had in your possession or under your control when this writ was served upon you (and if the garnishee be a corporation in which the defendant is alleged to be the owner of shares, then the writ shall proceed: And further to answer what number of shares, if any, the said owned in, a corporation, when this writ was served upon you).

SEC. 5. The writ of garnishment shall be dated and signed by the justice of the peace, and the name and office address of the attorney for the plaintiff shall be endorsed thereon, or in case the plaintiff has no attorney, then the name and address of the plaintiff shall be endorsed thereon. The writ, when so issued and endorsed, shall be delivered by the justice of the peace who issues it to the party applying therefor, or to his attorney.

Writ. to
whom de-
livered.

SEC. 6. The writ of garnishment may be served by the sheriff or any constable of the county in which the garnishee lives, or it may be served by any citizen of the State of Washington over the age of twenty-one years and not a party to the action in which it is issued, in the same manner as a summons in an action is served. And in case such writ is served by an officer, such officer shall make his return thereon, showing the time, place and manner of service and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit

How served.

showing his qualifications to make such service and the time, place and manner of making service, but no fee shall be allowed for the service of such writ unless the same is served by an officer.

Bank as
garnishee.

SEC. 7. In cases where the writ of garnishment issued under the provisions of this act is directed to a corporation carrying on a general banking business in the State of Washington, the plaintiff, in addition to serving the writ of garnishment upon said garnishee, shall at the same time and as a part of said service deliver to said garnishee a statement in writing signed by the plaintiff or his attorney, stating the place of residence of the defendant and his business, occupation, trade or profession, and unless such statement is so delivered with said writ of garnishment, the service of said writ shall not be deemed complete and the garnishee shall not be held liable thereon.

Duty of
garnishee.

SEC. 8. From and after the service of such writ of garnishment, it shall not be lawful for the garnishee to pay to the defendant any debt owing to him at the time of such service, or to deliver to him any personal property or effects belonging to the defendant in his possession or under his control at the time of such service, nor shall the garnishee, if it be a corporation in which the defendant is alleged to be the owner of shares, permit or recognize any sale or transfer of any shares owned by said defendant at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects or shares as may be necessary to satisfy the plaintiff's demand.

Bond by de-
fendant re-
leases
garnishee.

SEC. 9. If the defendant in the principal action causes a bond to be executed to the plaintiff, with sureties, to be approved by the justice of the peace issuing the writ, conditioned that he will pay any judgment that may be rendered against him in favor of the plaintiff in said action, and shall file said bond with said justice of the peace, the writ of garnishment shall, upon the filing and approval of said bond, be immediately discharged, and all proceedings had thereunder shall be vacated and said

justice shall issue and deliver to said defendant a certificate to the effect that said writ of garnishment has been discharged, and upon the delivery of said certificate to the garnishee he shall be discharged of any further liability under said writ: *Provided*, That the garnishee shall not be thereby deprived from recovery of costs in said proceeding to which he would otherwise be entitled under this act.

SEC. 10. The answer of the garnishee shall be in writing and signed and verified as other pleadings and shall make true answers to the several matters inquired of in the writ of garnishment and shall be served upon the plaintiff or his attorney and filed with the justice of the peace who issued said writ.

Answer of
garnishee.

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

Garnishee
discharged,
when.

SEC. 12. Should the garnishee fail to make answer to the writ within the time prescribed therein, the court shall, upon application of the plaintiff therefor, declare and enter the default of the garnishee and shall thereafter render judgment as follows:

Default of
garnishee.

In case judgment has not been rendered in the principal action at the time when the default of garnishee is declared and entered, final judgment shall not be rendered against said garnishee until the final judgment in the principal action is entered, and if the plaintiff recovers judgment against the principal defendant the court shall enter judgment against the garnishee for the full amount of the judgment awarded to the plaintiff against the de-

Failure of
action dis-
charges
garnishee.

fendant; and if the plaintiff fails to recover judgment against the defendant, the garnishee shall be discharged without costs.

Judgment
against
garnishee.

SEC. 13. Should it appear from the answer of the garnishee, or should it be otherwise made to appear as hereinafter provided, that the garnishee was indebted to the defendant in any amount when the writ of garnishment was served upon him, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due from the garnishee, less the amount of the costs awarded to the garnishee, unless the amount so admitted or found to be due shall exceed the amount of the judgment rendered or thereafter rendered in favor of the plaintiff against the defendant, with interest and costs, in which case it shall be for the amount of such judgment rendered or thereafter to be rendered, with interest and costs: *Provided, however,* That judgment shall not be rendered against the garnishee until the final judgment in the principal action is entered, and if the plaintiff fails to recover judgment against the defendant the garnishee shall be discharged and shall have and recover his costs against plaintiff: *Provided, however,* If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the trial hereinafter provided for that the garnishee was indebted to the defendant in any sum at the time of the service of said writ, but that said indebtedness is not matured and is not due and payable, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, less the amount of the costs awarded to the garnishee, the date when such payment is to be made to be specified in said order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found to be due. In case the garnishee shall pay said sum at the time specified in said order, said payment shall operate as a discharge; otherwise judgment shall be entered against him as above provided: *Provided further,* That if judgment shall be rendered in favor of the prin-

Unmatured
liability of
garnishee.

cipal defendant, or if any judgment rendered against him shall be satisfied prior to the date of payment specified in said order, the garnishee shall not be required to make the payment hereinbefore provided for, nor shall any judgment in such case be against him.

Satisfaction of judgment discharges garnishee.

SEC. 14. Execution may be issued on the judgment against the garnishee herein provided for in like manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing the same to the justice of the peace from whom such execution was issued, and shall be applied to the satisfaction of such judgment, interest and costs, and also to the satisfaction of the judgment against the defendant, and the surplus, if any, shall be paid to the garnishee.

Execution.

SEC. 15. Should it appear from the answer of the garnishee, or should it be made otherwise to appear, as hereinafter provided, that the garnishee had in his possession or under his control when the writ was served upon him, any personal property or effects of the defendant liable to execution, the court shall render a decree requiring the garnishee to deliver up to the justice on demand, such personal property or effects, or so much of them as may be necessary to satisfy the plaintiff's claim. In cases where a judgment has been rendered in the principal action, such personal property or effects may be sold in like manner as other property is sold upon execution on a judgment. In cases where judgment has not been rendered in the principal action, the justice of the peace shall retain such personal property or effects in his possession until the rendition of the judgment therein, and in case judgment is entered in such principal action in favor of the plaintiff, said goods, or effects, or sufficient of them to satisfy said judgment, may be sold in like manner as other property is sold upon an execution issued on a judgment. In case judgment shall be rendered in such action against the plaintiff and in favor of the defendant, such effects and personal property shall be by the justice returned to the defendant.

Garnishee to surrender property to court.

Court to hold personal effects.

SEC. 16. Should the garnishee adjudged to have effects or personal property of the defendant in his possession or under his control, as provided in the preceding section, fail or refuse to deliver them to the justice on such demand, the garnishee shall, on motion of the plaintiff, be cited to show cause why he should not be attached for contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal he shall be fined for such contempt and imprisoned until he shall deliver such personal property or effects.

Garnishee
attached
for
contempt.

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

Shares of
stock sold.

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

Sales, how
conducted.

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

What title
passes.

SEC. 20. If the plaintiff should not be satisfied with the answer of the garnishee, he shall state such fact to the justice of the peace, who shall thereupon enter the fact in his docket, and an issue shall be formed under the direction of the court and tried as other cases: *Provided, however,* No pleading shall be necessary on such issue other than the affidavit of the plaintiff, the answer

Pleadings.

of the garnishee and the statement of the plaintiff that he is not satisfied with the answer.

SEC. 21. Where the answer is controverted and the garnishee is subsequently discharged upon the trial thereof, his costs, including a reasonable attorney's fee to be fixed by the court, shall be taxed against the plaintiff; and if the garnishee upon his answer being controverted by the plaintiff is held liable to an extent greater than the liability admitted in his answer, the costs of the plaintiff upon such proceeding, including a reasonable attorney's fee to be fixed by the court, shall be taxed against the garnishee.

Attorney's
fee.

SEC. 22. It shall be a sufficient answer against any claim of the defendant against the garnishee founded on any indebtedness of such garnishee or upon the possession by him of any personal property or effects, or, where the garnishee is a corporation in which the defendant was the owner of shares of stock, for the garnishee to show that such indebtedness was paid or such effects delivered, or such shares of stock were sold under judgment of the court in accordance with the provisions of this act.

Garnishee's
defense
against
defendant.

SEC. 23. Where the garnishee in his answer states that he was indebted or had personal property or effects in his possession or under his control at the time of the service of the writ of garnishment upon him to a person of the same or similar name to the defendant, and stating the place of business or residence of said person, and that he does not know whether or not such person is the same person as the defendant, and prays the court to determine whether or not the person to whom he was indebted or whose personal property or effects he had in his possession is the same person as the defendant, the court, before rendering judgment against the garnishee defendant as hereinbefore provided, shall take proof as to the identity of said persons, and if he should find therefrom that they are not one and the same individual, the garnishee shall be discharged and shall have and recover his costs against the plaintiff; and if he should find that said persons are

Similarity
of names.

Trial as to
identity.

one and the same individuals, he shall make a similar judgment as to the payment of the money or the delivery of personal property and effects and as to costs of the garnishee as is hereinbefore provided, where the garnishee is held upon his answer. Before any such hearing on the question of identity is had, the plaintiff shall cause the justice of the peace to issue a citation directed to the person to whom the garnishee answers he was indebted or whose personal property or effects the garnishee has answered he had in his possession or under his control, commanding him to appear before the justice of the peace from which it is issued within ten days after the service of the same upon him, and to answer on oath whether or not he is the same person as the defendant in said action. Said citation shall be dated and attested in like manner as a writ of garnishment and be delivered to the plaintiff or his attorney and shall be served in the same manner as a summons in an action is served. If upon the hearing in this section provided for, the court shall find that the defendant or judgment debtor is the same person as the person to whom the garnishee defendant was indebted, or whose personal property or effects said garnishee defendant had in his possession or under his control, it shall be sufficient answer to any claim of said person against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects for the garnishee to show that such indebtedness was paid or such personal property or effects delivered under the judgment of the court in accordance with the provisions in this act.

Garnishee
need not
defend.

SEC. 24. It shall not be necessary for the garnishee to plead or set forth in his answer any defense which the defendant might have to the cause of action against him, nor to plead or set forth in his answer any claim of exemption which may be available to the defendant, but this section shall not be construed to preclude the defendant from pleading, claiming or asserting any exemption which

may be available to him under the laws of the State of Washington now in force or hereafter to be enacted.

Passed by the Senate February 9, 1909.

Passed the House March 5, 1909.

Approved March 17, 1909.

CHAPTER 161.

[S. B. 227.]

GIVING CITIES LIEN FOR SERVICES FURNISHED.

AN ACT granting to cities owning their own water-works, electric light or power plants a lien for delinquent charges, and providing for the enforcement thereof.

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

SECTION 1. That cities owning their own water-works, electric light or power plants, are hereby granted a lien for delinquent and unpaid charges for water or electric light or power, against the premises to which the same has been furnished. Lien for unpaid charges.

SEC. 2. Said lien may be enforced by cities only by cutting off water or electric light or power against the premises to which the same has been furnished, after the charges become delinquent and unpaid, until such charges are paid. In the event of a disputed account, and tender by the owner of the premises of the amount claimed by him to be due prior to the city discontinuing such a service, the right to so refuse service to any premises shall not accrue until suit has been entered by the city, and judgment entered in such case. Enforcement of lien.

Passed by the Senate March 6, 1909.

Passed by the House March 8, 1909.

Approved March 17, 1909.

CHAPTER 162.

[S. B. 254.]

RELATING TO RAILROAD CROSSINGS.

AN ACT to regulate the manner in which railroads shall cross highways and other railroads and the manner in which highways shall cross railroads in the State of Washington.

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

SECTION 1. That all railroads and extensions of railroads hereinafter constructed within the State of Washington shall cross all established and existing railroads and established and existing highways by either passing over or under such highways and railroads and shall not cross the same at grade without first obtaining the consent of the Railroad Commission of Washington permitting the same to be done, and all highways and extensions of highways hereafter laid out and constructed shall cross railroads by either passing over or under such railroad and shall not cross at grade without first obtaining the consent of such Commission authorizing the same to be done.

Grade crossings abolished.

SEC. 2. Whenever any railroad company desires to cross any established and existing highway or railroad at grade, it shall file with the Railroad Commission of Washington its petition in writing setting forth the objections and difficulties to making such crossing either above or below the grade of such highway or railroad; and whenever the county commissioners of any county or the municipal authorities of any city or town desire to lay out or extend any highway over and across any established and existing railroad at grade, they shall file with the Railroad Commission of Washington their petition in writing setting forth the objections and difficulties of making such crossing either above or [below] the grade of such railroad. On receiving such petition it shall be the duty of the Railroad Commission to immediately investigate the same, notifying the railroad company and the county or municipality affected thereby of the time and place of

Petition for grade crossing.

Hearings.

such investigation, to the end that all parties interested may be present and heard at such investigation. The evidence introduced shall be reduced to writing and filed by the Commission. If the Commission finds that it ought not to require such highway or railroad to be so constructed as to cross above or below the grade of the existing railroad or highway, it shall by resolution filed in the cause and duly entered upon its minutes, grant the right and privilege to construct such railroad or highway across such established railroad or highway at grade. The Commission may in its discretion provide that such railroad shall, before operating its trains over any established highway or at any subsequent time, install and maintain proper signal, warnings, gates or other devices to warn and protect the public, and it may also require such railroad before operating its trains over and across such established railroad at grade, or at any subsequent time, to install and maintain proper interlocking devices and gates or flagmen to protect the traveling public and railroad employees, and may order the installation and maintenance of proper signals, warning, gates or other devices to warn and protect the public, before granting permission for such highway to be constructed across said established railroad at grade. The cost and expenses of such installation shall be apportioned by the Railroad Commission in such manner as shall be just and equitable under the circumstances surrounding each case.

Safety devices
at grade
crossings.

Expenses of
safety
devices.

SEC. 3. This act shall not be construed as applying to highways and railroads in cities framing their own charters.

Cities of first
class ex-
cluded.

Passed by the Senate February 19, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 163.

[S. B. 56.]

RELATING TO SALES OF REAL PROPERTY FOR TAXES.

AN ACT relating to the foreclosure and sale of real property for delinquent taxes and amending section 18, chapter 141, of the Session Laws of 1899.

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

SECTION 1. That section 18 of chapter 141, Session Laws of 1899, is hereby amended to read as follows: Sec. 18. The court shall examine each application for judgment foreclosing tax lien, and if defense (specifying in writing the particular cause of objection) be offered by any person interested in any of said lands or lots to the entry of judgment against the same, the court shall hear and determine the matter in a summary manner, without other pleadings, and shall pronounce judgment as the right of the case may be; or said court may, in its discretion, continue such individual cases, wherein defense is offered, to such time as it may be necessary, in order to secure substantial justice to the contestants therein; but in all other cases said court shall proceed to determine the matter in a summary manner as above specified. In all judicial proceedings of any kind for the collection of taxes, assessments, and penalties, interest and costs thereon, all amendments which by law can be made in any personal action pending in such court, and no assessments of property or charge for any of said taxes shall be considered illegal on account of any irregularity in the tax lists or assessment rolls or on account of the assessment rolls or tax list not having been made, completed or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name or any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, shall vitiate or in any manner affect the tax or the

[Am'd. §18,
ch. 141, p.
299, L. '99;
§8697
Pierce;
§103, ch. 71,
p. 184, L. '97,
§1756, Bal.]

Hearings.

Amendments.

Irregularities
not to
affect.

assessment thereof, and any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of such taxes or any omission or defective act of any officer or officers connected with the assessment or levying of such taxes, may be, in the discretion of the court, corrected, supplied and made to conform to the law by the court. The court shall give judgment for such taxes, assessments, penalties, interest and cost as shall appear to be due upon the several lots or tracts described in said notice of application for judgment or complaint, and such judgment shall be a several judgment against each tract or lot or part of a tract or lot for each kind of tax or assessment included therein, including all penalties, interest and costs, and the court shall order and direct the clerk to make out and enter an order for the sale of such real property against which judgment is made, or vacate and set aside the certificate of delinquency or make such other order or judgment as in the law or equity may be just. Said order shall be signed by the judge of the superior court and attested by the clerk thereof, and a certified copy of said order, together with the list of the property therein ordered sold, shall be delivered to the county treasurer, and shall be full and sufficient authority for him to proceed to sell said property or so much of each tract or lot as may be necessary for said sum as set forth in said order and to take such further steps in the matter as are provided by law: *Provided, however,* That before such sale shall be held, the county treasurer shall notify the record owner of such real estate of the pending sale, or in case of unknown owner shall post a notice of same in some public place at the county court house. The county treasurer shall immediately after receiving the order and judgment of the court proceed to sell said property as provided in this act. All sales shall be made on Saturday between the hours of nine o'clock in the morning and four o'clock in the afternoon, and shall continue from day to day (Sundays excepted) during the same hours until all lots or tracts are sold, after first giving notice of the time and place where

Several
judgment.

Notice of
sale.

Sales, when
made.

such sale is to take place for ten days successively by posting notice thereof in three public places in such county, one of which shall be in the office of said treasurer. Said notice shall be substantially in the following form:

TAX JUDGMENT SALE.

Form of notice.

Public notice is hereby given that pursuant to real estate tax judgment of the superior court of the county of, in the State of Washington, and an order of sale duly issued by said court, entered the day of,, in proceedings for foreclosure of tax liens upon real estate, as per provisions of law, I shall on the day of,, at . . . o'clock, at the front door of the court house in the city of, and county of, State of Washington, sell the following described lands or lots, or so much of each of them as shall be sufficient to satisfy the full amount of taxes, assessments, penalties, interest, and costs adjudged to be due thereon as follows, to-wit: (Description of property).

In witness whereof, I have hereunto affixed my hand and seal this day of,

Treasurer of county,
State of Washington.

Portion of land taken.

The person at such sale offering to pay the amount on each tract or lot for the least quantity thereof shall be the purchaser of such quantity, which shall be taken from the easterly side of such tract or lot, and the remainder thereof shall be discharged from the lien, except when said easterly side of such tract or lot abuts upon or is the natural outlet to the public highway; in which event, such quantity shall be taken from the northerly and southerly side of such tract or lot at the option of the purchaser at such sale: *Provided*, That no county officer shall directly or indirectly be a purchaser of such property at such sale. In determining such piece or parcel or such tract or lot, a line is to be drawn northerly and southerly,

or easterly and westerly as the case may be, parallel to the boundary of the tract or lot on the side from which the portion is sold under this proceeding and far enough therefrom to make the requisite quantity. The treasurer may include in one notice any number of separate tracts or lots. The county treasurer shall execute to the purchaser of any piece or parcel of land a tax deed. The deed so made by the county treasurer, under the official seal of his office, shall be recorded in the same manner as other conveyances of real estate, and shall vest in the grantee, his heirs and assigns the title to the property therein described, without further acknowledgment or evidence of such conveyance, and shall be substantially in the following form:

State of Washington, county of..... ss.

This indenture, made this.....day of....., between....., as treasurer of..... county, State of Washington, party of the first part, and....., party of the second part:

Witnesseth, That, whereas, at a public sale of real estate held on the.....day of..... pursuant to a real estate tax judgment entered in the superior court in the county of..... on the.....day of....., in proceedings to foreclose tax liens upon real estate and an order of sale duly issued by said court,..... duly purchased in compliance with the Laws of the State of Washington, the following described real estate, to-wit: (Here place description of real estate conveyed) and that said.....has complied with the Laws of the State of Washington necessary to entitle (him, her or them) to a deed for said real estate.

Now, therefore, know ye, That, I....., county treasurer of said county of....., State of Washington, in consideration of the premises and by virtue of the statutes of the State of Washington, in such cases provided, do hereby grant and convey unto....., his heirs and assigns, forever, the said real estate hereinbefore described.

Given under my hand and seal of office this day of, A. D.

County Treasurer.

Passed by the Senate February 10, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 164.

[S. B. 289.]

INSURANCE CODE COMMISSION.

AN ACT providing for the appointment of a commission for the purpose of preparing a code of insurance laws of the State of Washington and making appropriation to pay traveling expenses.

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

Governor to appoint.

SECTION 1. The Governor shall appoint, within sixty days from the taking effect of this act, five citizens of the State of Washington, to be known as the Washington Insurance Code Commission. Said Commissioners shall be selected as far as practicable from men representing various kinds and interests of insurance.

Code of laws.

SEC. 2. It shall be the duty of said Commissioners to prepare and present to the next legislature of the State of Washington, a proposed act or acts covering all such subjects relating to insurance of various kinds. Said Commissioners shall receive no salary or other compensation other than actual traveling expenses, to be paid by the State Treasurer upon vouchers properly drawn and certified as in other cases.

Appropriation \$500.00.

SEC. 3. There is hereby appropriated out of the general fund the sum of five hundred-(\$500.00) dollars to pay the traveling expenses of said Commissioners.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 165.

[S. B. 216.]

CONDEMNATION OF STATE LANDS.

AN ACT relating to procedure in condemnation proceedings affecting lands owned by the state, or in which it has an interest, and amending section 2 of chapter 219 of the Laws of 1907.

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

SECTION 1. That section 2 of chapter 219 of the Laws of 1907 be amended to read as follows: Sec. 2. When a decree is entered appropriating lands owned by the State, or in which the State has an interest, before any such decree shall be effective, the plaintiff shall cause to be filed in the office of the Commissioner of Public Lands a certified copy of such decree, together with a plat of the lands appropriated and contiguous thereto, in form and substance as prescribed and required by the Board of State Land Commissioners, showing in detail the lands appropriated, together with the amount of damages fixed and awarded in the decree. Upon receipt of such decree, plat and damages, the Commissioner of Public Lands shall examine the same, and if he shall find that the final decree and proceedings comply with the original petition and notice and any amendment duly authorized, and that no additional interest of the state has been taken or appropriated through error or mistake, he shall cause notations thereof to be made upon the abstracts, records and tract books of his office, and shall issue to the plaintiff his certificate, reciting compliance, in substance, with the requirements of this act, particularly describing the lands appropriated, and thereupon the appropriation shall become effective and the Commissioner of Public Lands shall forthwith transmit the amount received as damages to the State Treasurer, as in case of the sale of land, and the sub-division of land through which such right-of-way is appropriated shall thereafter be sold, or leased subject to the right-of-way.

[Am'd. §2,
ch. 219, p.
507, L. '07.]

Decree filed
with commis-
sioner of pub-
lic lands.

records to
be made.

Passed by the Senate February 26, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 166.

[H. B. 147.]

RELATING TO LIENS.

AN ACT to amend section 1 of an act entitled, An act to secure and perpetuate liens upon chattels for labor, skill and materials expended thereon and providing for the enforcement thereof, approved March 6, 1905.

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

[Am'd. §1. ch.
72, p. 137, L.
'05; §6152b
Pierce.]

Lien for labor
or material.

SECTION 1. That section 1 of an act entitled An act to secure and perpetuate liens upon chattels for labor, skill and material expended thereon and providing for the enforcement thereof, approved March 6, 1905, be and the same is amended to read as follows: Sec. 1. Every person, firm or corporation who has expended labor, skill or material on any chattel, at the request of its owner, or authorized agent of the owner, shall have a lien upon such chattels for the contract price for such expenditure, or in the absence of such contract price, for the reasonable worth of such expenditure, for a period of one year from and after such expenditure, notwithstanding the fact that such chattel be surrendered to the owner thereof: *Provided, however,* That no such lien shall continue after the delivery of such chattel to its owner as against the rights of third persons who may have acquired an interest in, or the title to, such chattel in good faith, for value, and without actual knowledge of the lien.

Passed by the House February 27, 1909.

Passed by the Senate March 5, 1909.

Approved March 17, 1909.

CHAPTER 167.

[H. B. 335.]

RELATING TO ACTIONS IN TORT.

AN ACT relating to claims for damages against cities and towns of the second, third and fourth classes

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

SECTION 1. All claims for damages against any city or town of the second, third or fourth class must be presented to the city or town council and filed with the city or town clerk within thirty days after the time when such claim for damages accrued, and no ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until such claim has first been referred to the proper department or committee, nor until such department or committee has made its report to the council thereon pursuant to such reference. All such claims for damages must accurately locate and describe the defect that caused the injury, accurately describe the injury and state the time when the same occurred, give the residence for six months last past of claimant, contain the items of damages claimed and be sworn to by the claimant. No action shall be maintained against any such city or town for any claim for damages until the same has been presented to the council and sixty days have elapsed after such presentation.

Claim to be presented within thirty days.

Requisite of claim.

Passed by the House February 25, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 168.

[H. B 268.]

RELATING TO REGISTRATION OF VOTERS.

AN ACT relating to the registration of voters, and amending section 1 of chapter 118 of the Session Laws of 1907 of the State of Washington.

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

[Am'd. §1, ch.
118, p. 216,
L. '07.]

SECTION 1. That section 1 of chapter 118 of the Session Laws of the State of Washington for the year 1907 be amended to read as follows: Sec. 1. Such poll books shall at all times, except as herein otherwise provided, be kept at the office of such city or town clerk or officer of registration of such city, town or precinct; and the city or town clerk, and the person designated by the board of county commissioners as herein provided, shall be the officer of registration of such city, town or precinct, and it shall be his duty to register all citizens of such city, town or voting precinct, on such poll books, as hereinafter provided: *Provided*, That in all cities of the first class, the city council may, by ordinance or resolution, direct that in all or certain of the precincts of such city, designated in such ordinance or resolution, the poll books of such precincts shall be kept open in such precincts for the registration of the voters thereof, at and during such time as shall be designated in such ordinance or resolution. It shall be the duty of the city clerk, in cities of the first class, to designate by the notice required by section 2 of the act of which this act is amendatory the time and place where the registration poll books for each precinct so designated by ordinance or resolution will be open in such precinct for the registration of voters of such precinct, and the city clerk shall provide for the precinct book in charge of an officer of registration to be at the place and kept open for the registration of voters qualified to regis-

Poll books,
where kept.

Poll books
in precincts.

Notice of
places.

ter, between the hours of 9 a. m. and 9:30 p. m. on the days designated in said published notice.

Passed by the House March 6, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 169.

[H. B. 247.]

DEFICIENCY APPROPRIATION FOR NORMAL SCHOOLS.

AN ACT making appropriations for the maintenance and sundry expenses of the State Normal Schools for the fiscal term beginning April 1, 1907, and ending March 31, 1909.

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

SECTION 1. The following sums, or so much thereof as severally may be found necessary, are hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the maintenance and sundry expenses of the State Normal Schools for the fiscal term beginning April 1, 1907, and ending March 31, 1909.

For the State Normal School at Bellingham—

For maintenance	\$7133.40	Appropriation
		\$11,692.06.

For State Normal School at Cheney—

For maintenance	\$1307.70
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For State Normal School at Ellensburg—

For maintenance	\$1685.96
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For library	1565.00	\$3250.96
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Total	\$11692.06
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Passed by the House February 23, 1909.

Passed by the Senate March 9, 1909.

Approved March 16, 1909.

CHAPTER 170.

[H. B. 87.]

RELATING TO CANCELLATION OF COUNTY WARRANTS.

AN ACT amending section 402a of Ballinger's Annotated Codes and Statutes of Washington, relating to the cancellation of county warrants.

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

SECTION 1. That section 1 of an act entitled An act relating to cancellation of county warrants is hereby amended to read as follows: Sec. 1. In each of the counties of the State of Washington where warrants have been drawn and remain uncalled for for a period of six years from the date of their issue, the county commissioners of any county in which such warrants remain shall cancel the same, whereupon it shall be the duty of the auditor and treasurer of any such county to cancel all record of such warrants, so as to leave the funds upon which said warrants were originally drawn intact, as if such warrants had not been so drawn.

[Am'd. §1, p. 161, L. '86; 402a Bal; 4242 Pierce.]

Cancelled if not called for within six years.

Passed by the House February 18, 1909.

Passed by the Senate March 10, 1909.

Approved March 17, 1909.

CHAPTER 171.

[H. B. 42.]

RELATING TO DIKING DISTRICTS.

AN ACT amending section 41 (Pierce's Code Sec. 4522) of an act entitled "An act to provide for the establishment and creation of diking districts, and the construction and maintenance of a system of dikes, and to provide the means of payment thereof, and declaring an emergency," approved March 20, 1895.

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

[Am'd. §41, ch. 117, p. 327, L. '95; §3713 Bal.; §4522 Pierce.]

SECTION 1. That section 41 (Pierce's Code Sec. 4522) of an act entitled "An act to provide for the establishment and creation of diking districts, and the construction and

maintenance of a system of dikes, and to provide the means of payment thereof, and declaring an emergency," approved March 20, 1895, be and the same is hereby amended to read as follows: Sec. 41. In performing their duties under the provisions of this act, the board of diking 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 board, that the same is just, reasonable, necessary and actually performed and that 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 so 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 repairing or maintenance of such improvement, such allowance shall be added to the annual cost of maintenance of such system: *Provided*, That any person interested therein may file objections to the allowance asked for, either in whole or in part, and such claims 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 the members thereof presenting such claim for allowance, shall at the time of the filing thereof in the court, post notices in at least four public places within said district, which said notice shall set forth therein the fact that an application for allowance has been filed in said court, giving the date of the filing thereof and the amount of the allowance applied for, and demand that any and all persons having any 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,

Compensation.

Statement of expenses.

Objections to claim.

Notice of claim.

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.

Passed by the House February 18, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 172.

[H. B. 73.]

PROHIBITING THE TAKING OF GAME BIRDS IN CERTAIN COUNTIES.

AN ACT prohibiting the taking, killing and having in possession for other than breeding purposes, certain game birds, in certain counties of the State of Washington prior to the first day of October, 1911.

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

SECTION 1. Every person who shall take, kill or have in his possession, for other than breeding purposes any quail, Chinese, ring-neck, Hungarian, golden or English pheasant, of any kind, in the counties of Skagit and Snohomish, Washington, before the first day of October, 1911, shall be deemed guilty of a misdemeanor.

SEC. 2. Any person violating any provision of this act shall upon conviction be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment at the discretion of the court.

Passed by the House March 6, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

Skagit and
Snohomish
counties.

Penalty.

CHAPTER 173.

[H. B. 195.]

RELATING TO JUDGMENTS AGAINST SURETIES.

AN ACT relating to the rendition of judgments against sureties on cost bonds filed in any court.

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

SECTION 1. Whenever any bond or undertaking for the payment of any costs to any party shall be filed in any action or other legal proceeding in any court in this state and judgment should be rendered for any such costs against the principal on any such bonds or against the party primarily liable therefor in whose behalf any such bond or undertaking has been filed, such judgment for costs shall be rendered against the principal on such bond or the party primarily liable therefor and at the same time also against his surety or sureties on any or all such bonds or undertakings filed in any such action or other legal proceeding.

Entry
against
surety.

Passed by the House February 16, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 174.

[H. B. 53.]

REGULATING 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 repealing all acts or parts of acts in conflict herewith.

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

Prohibited
class.

minded person, idiot or insane person, or person who has theretofore been afflicted with hereditary insanity, or 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.

Direction to
clergyman.

SEC. 2. No clergyman, or other officer authorized by law to solemnize marriages within this state shall hereafter perform a marriage ceremony uniting persons in matrimony either of whom is an epileptic, imbecile, feeble minded person, common drunkard, insane person, 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.

Medical
certificate.

SEC. 3. The county auditor, before a marriage license is issued, shall require each applicant therefor to file in his office upon blanks to be provided by the county for that purpose, an affidavit of at least one duly licensed physician other than the persons seeking the license, showing that the contracting parties are not feeble minded, imbeciles, epileptics, insane persons, common drunkards, or persons afflicted with pulmonary tuberculosis in its advanced stages: *Provided*, That in addition, the affidavit as to the male contracting party shall show that such male is not afflicted with any contagious venereal disease. He shall also require an affidavit of some disinterested credible person showing that said persons are not habitual criminals; the female is over the age of eighteen years and the male is over the age of twenty-one years, unless the consent in writing is obtained of the father, mother, or other guardian of the person for whom the license is required in cases where the female is under the age of eighteen years and 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. Said affidavit may be subscribed and sworn to before any person authorized to administer oaths.

Venereal
disease.

Consent of
parent.

Female must
be fifteen.

False
swearing.

Anyone knowingly swearing falsely to 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.

SEC. 4. Any person violating any of the provisions of this act shall, upon conviction thereof, be punished by ^{Penalty.} a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the state penitentiary for a period of not more than three years, or by both such fine and imprisonment.

SEC. 5. All acts or parts of acts in conflict herewith ^{Repeal.} be, and the same are hereby repealed.

Passed by the House February 18, 1909.

Passed by the Senate March 3, 1909.

Approved March 17, 1909.

CHAPTER 175.

[H. B. 113.]

RELATING TO EXHIBITIONS OF FARM PRODUCTS.

AN ACT to encourage the exhibiting of poultry, livestock or agricultural products, and to provide funds therefor.

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

Section 1. That any corporation organized for the purpose of holding poultry, livestock, or agricultural produce exhibits, may apply to the board of county commissioners of such county for a grant to pay expenses and premiums awarded. ^{County may pay expenses.}

SEC. 2. To enable the said board of county commissioners to give said grant, they are hereby authorized to appropriate any sum not exceeding two hundred and fifty dollars (\$250.00) annually out of the general fund: ^{Limit.} *Provided*, That the board of county commissioners shall be *ex-officio* members of such corporation in all counties where appropriations are made under the provisions of this act.

SEC. 3. The said board of county commissioners may not later than July 31st annually cause to be paid to the

Exhibition
annually.

directors of such corporation or their duly authorized secretary or treasurer the amount appropriated: *Provided*, That said corporation so applying must have held at least one annual exhibition of poultry, livestock or agricultural produce immediately preceding the application for the grant and must provide buildings and other necessary improvements for said annual exhibition.

Passed by the House February 18, 1909.

Passed by the Senate March 3, 1909.

Approved March 17, 1909.

CHAPTER 176.

[H. B. 47.]

RELATING TO LIENS ON DOMESTIC ANIMALS.

AN ACT for the protection of farmers, ranchmen, herders of cattle, tavern keepers, livery and boarding stable keepers and other persons for herding, keeping, pasturing, feeding and caring for stock.

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

Lien.

SECTION 1. Any farmer, ranchman, herder of cattle, tavern keeper, livery and boarding stable keeper or any other person, to whom any horses, mules, cattle or sheep shall be entrusted for the purpose of feeding, herding, pasturing, and training, caring for or ranching, shall have a lien upon said horses, mules, cattle or sheep for such amount that may be due for said feeding, herding, pasturing, training, caring for, and ranching, and shall be authorized to retain possession of said horses, mules or cattle or sheep, until said amount is paid.

May retain
animal.

SEC. 2. Any person having a lien under the provisions of section 1 of this act for feeding, herding, pasturing, training, caring for, or ranching any horses, mules, cattle or sheep, shall retain such animal for a period of ten (10) days, at the expiration of which time, if the owner of such animal does not satisfy such lien, the sheriff or any constable may sell such animal at public auction after

giving the owner ten days' notice of the time and place of such sale by delivering a copy of such notice to the owner, or in case personal service cannot be had, by publishing same in a newspaper of general circulation in said county Notice of sale. where said feeding, herding, pasturing, training, caring for, and ranching was furnished; if there be no paper of general circulation in said county, then by posting notices of the time and place of such sale in three conspicuous places in said county, and after satisfying the lien and costs that may accrue, any residue remaining shall be paid to the owner of said animal or person who may be lawfully entitled to the same.

SEC. 3. Whenever any horses, mules, cattle or sheep shall be entrusted for the purpose of feeding, herding, pasturing, training, caring for, and ranching to any farmer, ranchman, herder of cattle, tavern keeper, livery or boarding stable keeper, continuously for some time, either definite or indefinite, the voluntary delivery of the same to the owner or his agent shall not waive or defeat the lien provided for in section 1 of this act, and the person having such lien may enforce his lien against said property in any court of competent jurisdiction at any time within ten (10) days after parting with the possession thereof: *Provided*, That such lien shall not attach to the interest nor affect the rights of a third person who may have acquired an interest in or title to an animal against which a lien is claimed, for value and without knowledge of the claimed lien, while such animal is not in possession of the claimant.

Delivery not
a waiver of
lien.

Passed by the House February 25, 1909.

Passed by the Senate March 8, 1909.

Approved March 17, 1909.

CHAPTER 177.

[H. B. 188.]

PERMITTING CERTAIN OFFICES TO CLOSE SATURDAY
AFTERNOONS.

AN ACT permitting certain county and city officers to close their respective offices at one o'clock on Saturday afternoons.

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

SECTION 1. All elective and appointive officers of counties of the first class and all elective and appointive officers in cities of the first class are permitted to close any branch or branches of their respective offices at one o'clock p. m. on Saturday of each week, during the months of June, July, August and September.

Passed the House February 26, 1909.

Passed the Senate March 8, 1909.

Approved March 17, 1909.

Months
named.

CHAPTER 178.

[H. B. 421.]

CHANGING THE BOUNDARIES OF CERTAIN LEGISLATIVE
DISTRICTS.

[See former law, ch. 59, pp. 82-83, 89-90. L. '01; §6008, pp. 1040-1 and §6009, p. 1044 Pierce.]

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 district in Pierce county, State of Washington.

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

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

Twenty-fifth
senatorial.

Thirty-fifth
representative.

fifth senatorial district and the thirty-fifth representative district.

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 Ranch, McNeils Island, McKenna, Minter, Muck, Nisqually, Ohop, Purdy, Rosedale, Roy, Silver Lake, Smelter, Spanaway, Steilacoom, Tanwax, Vaughn, 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.

SEC. 4. The following precincts of the city of Tacoma, in the county of Pierce, to-wit: The second, third, fourth, fifth, sixth and seventh precincts of the third ward; the first, 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.

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.

Passed by the House March 6, 1909.

Passed by the Senate March 11, 1909.

Approved March 17, 1909.

CHAPTER 179.

[H. B. 173.]

DEFICIENCY APPROPRIATIONS FOR CERTAIN STATE INSTITUTIONS.

AN ACT making appropriations for deficiencies in maintenance appropriations of certain state institutions.

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

SECTION 1. The following sums or so much thereof as may be necessary are hereby appropriated out of the general fund for the purpose of paying deficiencies occurring in maintenance appropriations of state institutions as follows:

Appropriation
\$36,000.00.

Western Washington Hospital for Insane, \$15,000.

Eastern Washington Hospital for Insane, \$15,000.

State School for the Deaf and Blind, \$6,000.

Passed by the House February 25, 1909.

Passed by the Senate March 11, 1909.

Approved March 17, 1909.

CHAPTER 180.

[H. B. 370.]

RELATING TO DRAINAGE.

AN ACT amending sections 20 and 21 of chapter LXVI of the Laws of 1901, entitled "An act providing for the establishment and construction of ditches for drainage purposes," approved March 8, 1901, and declaring an emergency.

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

SECTION 1. That section 20 of an act entitled "An act providing for the establishment and construction of ditches

[Am'd. §20,
ch. 66, p.
110, L. '01;
§4589 Pierce.]

for drainage purposes," chapter LXVI, of the Laws of 1901, approved March 8, 1901, be and the same is hereby amended to read as follows:

Sec. 20. The compensation of the ditch supervisor and the men employed on the same, shall be fixed by the board of county commissioners and shall be paid for by interest bearing warrants upon the county treasurer drawn upon reports sworn to by the supervisor in charge of such work, which said warrants shall draw interest until called by the county treasurer at such rate as may be fixed by the board of county commissioners, not exceeding eight (8) per cent. per annum, said interest to be computed and included as a part of the cost of construction of said ditch: *Provided*, That the board of county commissioners may call in and cancel all warrants issued subsequent to January 1, 1907, in payment of work on drainage ditches constructed in irrigated districts of the state, and issue in lieu thereof, interest bearing warrants as herein provided: *And provided further*, That all warrants shall be called and paid in order of their issuance by number and date.

Compensation
of super-
visors.

Interest on
warrants.

SEC. 2. That section 21 of said act be and the same is hereby amended to read as follows:

[Am'd. §21,
ch. 66, p. 111,
L. '01; §4590
Pierce.]

Sec. 21. When the improvement is fully completed and accepted by the county surveyor and the board of county commissioners, the clerk shall make a statement of the total cost of the construction of the ditch, including the cost of the location and survey, cost of proceedings in court, the supervision of the county surveyor, damages paid and the cost of the work under construction, and further including as a part of said cost, all accrued interest and any interest that may thereafter accrue, on outstanding warrants issued for constructing such ditch, said interest to be computed up to the time when the assessments hereinafter provided for shall become delinquent, and shall present the said statement to the board of county commissioners for examination.

County en-
gineer to file
statement
of cost.

Emergency. SEC. 3. An emergency exists and this act shall take effect immediately.

Passed by the House March 5, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 181.

[H. B. 14.]

PROPOSED AMENDMENTS TO THE CONSTITUTION.

AN ACT providing for the amendment of section 10, article 3, of the constitution of the State of Washington, relating to the executive department of the State of Washington, and providing for the succession to the office of Governor.

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

Election. SECTION 1. That at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1910, there shall be submitted to the qualified electors of the State of Washington, a proposed amendment to section 10, article 3, of the Constitution of the State of Washington, so that the same shall read, when so amended, as follows:

Succession of officers. Sec. 10. In case of the removal, resignation, death or disability of the Governor, the duties of the office shall devolve upon the Lieutenant Governor; and in case of a vacancy in both the offices of Governor and Lieutenant Governor, the duties of the Governor shall devolve upon the Secretary of State. In addition to the line of succession to the office and duties of Governor as hereinabove indicated, if the necessity shall arise, in order to fill the vacancy in the office of Governor, the following state officers shall succeed to the duties of Governor and in the order named, viz.: Treasurer, Auditor, Attorney General, Superintendent of Public Instruction and Commissioner of Public Lands. In case of the death, disability, failure or refusal of the person regularly elected to the office of Governor to qualify at the time provided by law, the duties of the office shall devolve upon the person reg-

ularly elected to and qualified for the office of Lieutenant Governor, who shall act as Governor until the disability be removed, or a Governor be elected; and in case of the death, disability, failure or refusal of both the Governor and the Lieutenant Governor elect to qualify, the duties of the Governor shall devolve upon the Secretary of State; and in addition to the line of succession to the office and duties of Governor as hereinabove indicated, if there shall be the failure or refusal of any officer named above to qualify, and if the necessity shall arise by reason thereof, then in that event in order to fill the vacancy in the office of Governor, the following state officers shall succeed to the duties of Governor in the order named, viz.: Treasurer, Auditor, Attorney General, Superintendent of Public Instruction and Commissioner of Public Lands. Any person succeeding to the office of Governor as in this section provided, shall perform the duties of such office only until the disability be removed, or a Governor be elected and qualified; and if a vacancy occur more than thirty days before the next general election occurring within two years after the commencement of the term, a person shall be elected at such election to fill the office of Governor for the remainder of the unexpired term.

SEC. 2. The Secretary of State shall cause the amendment proposed in section one (1) of this act to be published for three months next preceding the said election therein described in some weekly newspaper in every county wherein a newspaper is published throughout the state. Notice of.

SEC. 3. There shall be printed on all ballots provided for the said election the words "For the proposed amendment to section ten (10) of article three (3) of the constitution, relating to the succession to the office of Governor;" "Against the proposed amendment to section ten (10) of article three of the constitution, relating to the succession to the office of Governor." Ballots.

SEC. 4. If it shall appear from the ballots cast at the said election that a majority of the qualified electors voting upon the question of the adoption of the said amendment have voted in favor of the same, the Governor Result.

shall make proclamation of the same in the manner provided by law and the said amendment shall be held to have been adopted and to have been a part of the constitution from the time of such proclamation.

Passed by the House February 25, 1909.

Passed by the Senate March 8, 1909.

Approved March 17, 1909.

CHAPTER 182.

[H. B. 193.]

PROHIBITING THE TAKING OF GAME BIRDS FROM CERTAIN COUNTIES.

AN ACT to prohibit the taking away, shipment, or transportation of certain game birds from the islands of the State of Washington comprising the present counties of San Juan and Island, and fixing a penalty for the violation thereof.

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

San Juan and Island counties.

SECTION 1. Any person, persons or corporation who shall take away, ship or transport from the islands comprised within the limits of the boundaries of either San Juan or Island counties in the State of Washington, any quail or bob white, or any Chinese, English, golden, Reeves, Mongolian, silver, black neck, or Japanese pheasants shall be guilty of a misdemeanor, and upon conviction of any violation of the provisions of this act, shall be punished by a fine of not less than ten dollars (\$10.00) or more than one hundred dollars (\$100.00) for each offense, or imprisonment in the county jail for a period of not less than thirty days, nor more than six months, or by both fine and imprisonment in the discretion of the court.

Penalty.

Offenses.

SEC. 2. Each bird so shipped, taken away, or transported from said islands as aforesaid shall constitute a separate offense under this act.

Application of act.

SEC. 3. The provisions of this act shall not apply to any person, or persons or corporation who may be engaged, or shall hereafter be engaged in the business of

propagation, raising or breeding of any aforesaid described birds; or to any of said birds which may have been propagated, bred and raised in captivity for commercial or domestic purposes.

SEC. 4. This act only applies and is intended to apply to wild game birds, such as have been described herein. Same.

Passed by the House March 3, 1909.

Passed by the Senate March 10, 1909.

Approved March 17, 1909.

CHAPTER 183.

[H. B. 440.]

RESERVING CERTAIN TIDE LANDS.

AN ACT providing for the survey and reservation of so much of the state's tide land lot lying in front of lot 5, section 25, township 24 north, range 1 east of the Willamette meridian, as abuts upon or lies in front of the tract of ground purchased by the State of Washington for the Washington Veterans' Home and providing for the sale of the remainder of said tide land lot and for the reservation for the use of said Washington Veterans' Home of so much of the tide lands of the first class and of the harbor area reserve as lies in front of the portion of the tide land lot so reserved.

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

SECTION 1. It shall be the duty of the Board of State Land Commissioners to cause so much of the platted state tide land lot as abuts upon or lies in front of the tract of ground purchased and held by the state for the use of the Washington Veterans' Home, in lot 5 of section 25, township 24 north, range 1 east of the Willamette Meridian, to be surveyed, monumented in the field and entered upon the maps of the first class tide lands in front of the town of Port Orchard (formerly Sidney) in Kitsap county, State of Washington, now on file in the office of the Commissioner of Public Lands; and the tide lands of the first class, together with so much of the harbor area reserve as lies in front of the site of said Washington Veterans' Home, shall be reserved from sale or other dis-

Tide lands in front of Soldiers' Home reserved.

position for the use of said Washington Veterans' Home. Thereafter, the remainder of the tide land lot or tract lying in front of and abutting upon lot 5 of section 25, township 24 north, range 1 east of the Willamette Meridian, may be sold or otherwise disposed of as provided by law.

Passed by the House March 5, 1909.

Passed by the Senate March 10, 1909.

Approved March 17, 1909.

CHAPTER 184.

[H. B. 318.]

RELATING TO THE TAKING OF GAME AND FOOD FISHES.
AN ACT relating to the taking of game and food fishes, defining offenses and prescribing penalties.

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

Columbia
river.

SECTION 1. It shall be unlawful for any person at any time to take in any manner except with hook and line any salmon or salmon trout within the limits of townships 18 and 19, N. R. 2 and 3 west, W. M., in the State of Washington.

Penalty.

SEC. 2. Any person violating any of the provisions of this act shall upon conviction thereof be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or both such fine and imprisonment, in the discretion of the court.

State not
prohibited.

SEC. 3. It shall be lawful at all times for the State Fish Commissioner, the general superintendent of state fish hatcheries, and assistants, to take trout and other game fish by means of hook and line or nets at any place within one mile of any state fish hatchery operated for the propagation of salmon: *And provided*, That the provisions of this section shall also apply to superintendents of

salmon hatcheries operated by the United States bureau of fisheries in this state.

Passed by the House February 25, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 185.

[H. B. 236.]

RELATING TO THE RE-INCORPORATION OF CITIES AND TOWNS.

AN ACT relating to the re-incorporation of cities and towns and amending section 703 of Ballinger's Annotated Codes and Statutes of Washington, and declaring an emergency.

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

SECTION 1. That section 703 of Ballinger's Annotated Codes and Statutes of Washington, be amended to read as follows: Section 703. The city council or other legislative body of any city or town, organized or incorporated prior to the passage of this act, shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors of such city or town, as shown by the vote cast at the last municipal election held therein, submit to the electors of such city or town, at the next general or special election called for to be held therein, the question whether such city or town shall become organized under the general laws of the state relating to municipal corporations of the class to which such city or town may belong. Notice that such question shall be so submitted shall be given by publication in a newspaper printed and published in such city or town; or if there be no newspaper printed and published therein, by printing and posting the same in at least four public places therein, including the place or places where such election is to be held. Such notice shall be so published or posted for at least two weeks prior to such election, and shall also be made a part of the general election notice. Such notice shall distinctly state the proposition to be so submitted, and

[Am'd. §4. p.
133. L. '89-
'90; §703.
Bal.; §3376,
interce.]

Re-Incor-
poration.

Notice.

shall designate the class to which such corporation belongs, and shall invite the electors thereof to vote upon such proposition by placing "X" upon their ballots, opposite the words "For reorganization" or "Against reorganization."

Ballots.

Which words, or the equivalent thereto, shall be printed upon the ballots in such manner that the voters' choice may be clearly indicated by marking as above specified. The votes so cast shall be canvassed at the time and in the manner in which the other votes cast at such election are canvassed. If upon such canvass a majority of all the electors voting at such election shall be found to have voted for such reorganization, the said council or other legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the Secretary of

Secretary of
state notified.

State a certified abstract of such vote, which abstract shall show the whole number of electors voting at such election, the number of votes cast for reorganization, and the number of votes against reorganization. Said council or other legislative body shall immediately thereafter call a special election for the election of officers required by law to be elected in corporations of the class to which such city or town shall belong, which election shall be held within three months thereafter. Such election shall be held in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the council or other legislative body calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporation shall be deemed to be organized under such general laws, under the name and style of the city (or town, as the case may be) of (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall

hold such offices, respectively, only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified.

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

Passed by the House February 25, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 186.

[S. B. 218.]

RELATING TO THE OFFICE OF STATE HIGHWAY COMMISSIONER.

AN ACT to amend chapter 149, Laws of Washington, approved March 12, 1907, entitled "An act creating a State Highway Board and the office of the State Highway Commissioner, fixing his compensation, prescribing their duties and providing for the survey, establishment, construction, maintenance and repair of state highways, and providing for the expenditure of moneys appropriated by the state or counties for the survey, establishment, construction, building, maintenance and repair of state highways, and making an appropriation therefor, and repealing sections 1, 2, 3, 4, 5, 6, 7, and 8 of chapter 174, Session Laws of 1905, approved March 13, 1905, and declaring an emergency," and declaring an emergency.

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

SECTION 1. There is hereby created the office of State Highway Commissioner and a state highway board. The Governor to appoint. said State Highway Commissioner shall be appointed by the Governor and shall hold his office for four years unless sooner removed for cause; said commissioner shall be a capable and experienced civil engineer and surveyor and shall receive an annual compensation of \$2,500 a year, Salary. and shall be allowed his actual traveling expenses while officially employed, not to exceed \$1,000 in any one year, and shall be allowed his office expenses not to exceed \$1,200 in any one year. He shall take oath of office and shall give a bond in the sum of \$5,000, conditioned for the Bond. faithful performance of his duties; the said highway

board shall be composed of the State Auditor, the State Treasurer and the State Highway Commissioner. The State Auditor and State Treasurer shall each be allowed his actual traveling expenses while engaged in official duties as members of such state highway board.

Office. SEC. 2. The commissioner shall be furnished with a suitable office in the capitol building, where his records shall be preserved, and said office shall be kept open at such times as the business of the commissioner shall require. He shall keep a record of all proceedings and orders pertaining to the matters under his direction and copies of all plans, specifications and estimates submitted to him. The commissioner shall prepare and submit, Report. ninety days before the session of each legislature of the State of Washington, a report of the work constructed or under construction and shall make recommendation as to the needed state highways, together with the estimated cost of such needed highways.

Highway board to apportion. SEC. 3. It shall be the duty of the state highway board to decide what portion of the amount appropriated for any state road shall be expended within the boundaries of the several counties through which it is proposed to pass.

To survey roads. SEC. 4. Whenever any money is appropriated for the construction of a state road, the State Highway Commissioner shall, unless such road has been theretofore surveyed, cause survey to be made of the entire length of such highway, and cause the same to be mapped both in outline and profile, and shall also cause plans and specifications for the construction of such highway to be prepared. Such maps, plans and specifications shall be thereupon submitted to the state highway board, and no portion of any appropriation shall be expended upon such road until the state highway board shall have declared such road feasible and shall have approved said outline and profile maps and said plans and specifications.

Assistants. SEC. 5. The State Highway Commissioner shall have authority to employ such civil engineers and assistants as may be necessary to carry out the provisions of section

four, and to provide for superintendence of construction and maintenance work on state roads, and the expense so incurred shall be considered a part of the cost of the road in connection with which such expense is incurred and shall be a charge against the fund appropriated for the construction of such road. He shall also have authority to employ such assistants as may be necessary to carry on the office work of the highway department.

SEC. 6. The State Highway Commissioner is hereby authorized to acquire right-of-way on behalf of the state Right-of-way. for state roads by gift, purchase or condemnation in the manner prescribed by law for the acquirement or condemnation of lands for county roads. The cost of such right-of-way shall be paid for from the fund apportioned to the state road for which such right-of-way is acquired. Whenever it is necessary to locate and construct a state road over and across any of the public lands of the State of Washington, the State Highway Commissioner shall file in the office of the State Land Commissioner a map showing the location of such road over and across each legal subdivision of such public lands, and upon the filing of such map, the easement for such right-of-way shall be reserved to the state and such subdivision of public land when sold, leased or otherwise disposed of, shall be sold, leased or disposed of subject to such right-of-way.

SEC. 7. Upon the approval of the maps, plans and specifications as provided for in section four, it shall be Bids. the duty of the State Highway Commissioner to advertise for bids for the construction of such highway, or such sections thereof as the state highway board shall designate, according to such maps, plans and specifications. Advertisements for such bids shall be made by publication in the official county paper, and also in some daily paper of general circulation in the state to be designated by the State Highway Commissioner, for not less than three consecutive weeks prior to the time set for the opening of said bids. All bids received shall be opened by the state highway board at its office at the capitol. Said state highway board shall have the right to reject any and all bids if in

its opinion good cause exists therefor, but otherwise shall award the contract to the lowest and best bidder. The state highway board shall require a surety bond from the successful bidder in the full amount of the contract, conditioned for the faithful performance thereof according to law. Each bidder shall deposit with his bid a certified check in an amount equal to five per centum of the amount of his bid. Should the bidder to whom the contract is awarded fail to enter into a contract and furnish the bond hereinbefore provided within ten days after the notice of such award, the amount of such check shall be forfeited to the public highway fund. The checks of all unsuccessful bidders shall be returned after the contract is awarded and a bond given. Nothing in this section shall be construed to prevent the employment of convict labor when otherwise authorized by law.

Bond of bidder.

SEC. 8. The State Highway Commissioner shall examine and allow or disallow all bills for work done or materials furnished, and certify all claims allowed to the State Auditor. In the event that counties appropriate money to aid in the construction of any state road, such sum so appropriated shall be expended upon vouchers approved by the state highway board, and the county auditor is authorized to draw his warrant upon such vouchers.

Commission to pass on claims.

SEC. 9. After the completion of any road constructed or repaired by the state under this act it shall become the duty of the State Highway Commissioner to keep the same in repair at the cost of the state, such cost to be paid from the public highway fund. The word road in this act shall be deemed to include all tunnels, culverts and bridges built by the state.

State to keep in repair.

SEC. 10. All expenses of the State Highway Commissioner's office, including salary, office expenses, traveling expenses, and all expenses of the highway board shall be paid out of the public highway fund.

Expenses out of highway fund.

SEC. 11. In addition to his other powers and duties, the State Highway Commissioner shall compile statistics relative to the public highways throughout the state, and

Statistics.

shall collect all information in regard thereto deemed expedient. He shall investigate and determine upon various methods of road construction adapted to different sections of the state, and as to the best methods of construction and maintenance of roads and bridges, and such other information relating thereto as he shall deem appropriate. He may be consulted at all reasonable times by county officers having care and authority over highways and bridges, and shall advise such officers relative to the construction, repair, altering or maintenance of the same; and shall furnish such other information and advice as may be requested by persons interested in the construction and maintenance of public highways, and shall at all times lend his aid in promoting highway improvement throughout the state. He shall co-operate with all highway officers and shall assist county authorities, and, when requested by them, furnish them with plans and directions for the improvement of the public highways and bridges.

Commissioner
to give
advice.

SEC. 12. The road supervisors and the county commissioners of any county, and all other officers who now have or may hereafter have by law the care and supervision of the public highways and bridges shall, from time to time, upon the written request of the State Highway Commissioner, furnish him with all available information in connection with the building and maintenance of the public highways and bridges in their respective localities.

Other officers
to report.

SEC. 13. Sections 1, 2, 3, 4, 5, 6, 7 and 8 of chapter 174, Session Laws of 1905, are hereby repealed.

§§1-8, ch.
174, L.
'05.]

SEC. 14. An emergency exists and this act shall take effect immediately.

Emergency.

Passed by the Senate March 2, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 187.

[S. B. 382.]

CHANGING THE BOUNDARIES OF CERTAIN LEGISLATIVE DISTRICTS.

AN ACT changing and defining the boundary line between the thirty-second and thirty-sixth senatorial districts, and between the forty-second and forty-sixth representative districts, in King county.

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

[Former law, ch. 59, pp. 83-84 and 90-91, L. '01; §6008, p. 1041-2 and §6009, p. 1045, Pierce.]

Thirty-second and thirty-sixth senatorial, and forty-second and forty-sixth representative districts.

SECTION 1. That the boundary line between the thirty-second and thirty-sixth senatorial districts, and between the forty-second and forty-sixth representative districts, in King county, be and the same is hereby changed and defined so that all of the eighth ward of the city of Seattle, as the same is now constituted, shall be included within the thirty-sixth senatorial district and within the forty-sixth representative district; and that all of the ninth ward of the city of Seattle, as the same is now constituted, shall be included within the thirty-second senatorial district and within the forty-second representative district.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 188.

[S. B. 284.]

GRANTING RIGHTS-OF-WAY TO MUNICIPALITIES OVER STATE LANDS.

AN ACT granting rights-of-way to municipal corporations, electric light, power and street railway companies, associations and individuals over the lands of the State of Washington and providing for the appraisement and disposition of the lands included within and used for such rights-of-way.

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

SECTION 1. A right-of-way through, over and across the public lands of the State of Washington is hereby granted to any municipal corporation, or to electric light,

power, or street railway company, association or individual, to constructing or proposing to construct any ditch, flume or pipe line or transmission line for the purpose of generating or transmitting electricity for light, heat or power.

Right-of-way granted to municipality.

SEC. 2. In order to obtain the benefits of this grant the municipal corporation, company, association or individuals constructing or proposing to construct such ditch, flume, pipe line or transmission line for the purpose of generating or transmitting electricity shall file with the Board of State Land Commissioners a map, accompanied by the field notes of the survey and location of the proposed ditch, flume, pipe line or transmission line, and shall pay to the state as hereinafter provided the amount of the appraised value of said lands and improvements, if any, used for or included within said right-of-way. The land within said right-of-way shall be limited to an amount necessary for the construction of said ditch, flume, pipe line or transmission line sufficient for the purpose required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same and shall include the right to cut all standing timber within a radius of 200 feet on either side of said ditch, flume, pipe line or transmission line, which shall be dangerous to the operation and maintenance of the same.

Land commissioners to be notified.

Width of right-of-way.

SEC. 3. Upon the filing of the plat and field notes as herein provided, said Board of State Land Commissioners are hereby authorized and directed to ascertain the value of the land and improvements, if any, to be used for or included in said right-of-way and the value of all merchantable timber so cut, or to be cut, all of which shall be the full value thereof.

Board to determine value.

SEC. 4. Upon full payment of the value of such easement ascertained as aforesaid, any future grant or lease by the state of the lands affected by such right-of-way shall be subject to the easement obtained under the provisions of this act: *Provided, however,* That should the company, association or individual securing said easement

Reversion.

ever abandon same for the purposes contemplated in this act the said right-of-way shall revert to the state.

Act cumulative.

SEC. 5. Nothing contained in this act shall be deemed to in any way conflict with any existing law of this state relating to the method of acquiring rights-of-way for ditches, flumes, pipe lines or transmission lines for the purposes herein specified.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 189.

[S. B. 208.]

RELATING TO SHEEP.

AN ACT relating to the prevention of disease in sheep, and prescribing penalties for the violation of its provisions, and declaring an emergency.

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

Deputy inspectors.

SECTION 1. The State Veterinarian shall have the power to appoint in each county of the state, where the sheep industry obtains, one or more deputy inspectors, at least one of whom must be a resident of the county from which appointed. Such deputies shall be subject to removal at any time by the State Veterinarian. They shall be practical sheep men, or veterinarians, who, before entering upon the performance of their duties, shall take the oath of office required of county officials and shall give bond to the State of Washington in the sum of two hundred dollars, for the faithful performance of the duties of such deputies, such bond to be approved by the State Veterinarian and placed on file in his office, and it shall be the duty of that official to have general supervision over all his deputies, and to counsel and advise with them in adjusting any difference that may arise in the enforcement of the provisions of this act.

Qualifications.

SEC. 2. It shall be the duty of the State Veterinarian and of the deputies under his direction, to investigate all cases of contagious and infectious diseases among sheep within the state which may come to his or their knowledge, and to make official visits of inspection to any locality where such diseases exist or where they have reason to believe such disease may exist, and to inspect or cause to be inspected any sheep within the state, and all sheep brought into the state from any other state, territory or foreign country, and he or they shall have authority to order a quarantine of any infected premises, and in case such disease shall become prevalent in any locality within the state, the State Veterinarian may issue a proclamation forbidding any sheep being transferred from said locality without certificate issued by himself or one of his deputies showing such animals to be in good health, and the expense of herding, feeding and caring for all sheep quarantined under these provisions shall be paid by the owner thereof. The State Veterinarian and his deputies shall have the power to administer oaths and to examine witnesses in so far as the same may be necessary in the performance of their duty.

Duties of inspectors.

Transferring to new locality may be prohibited.

SEC. 3. Whenever the Governor of the state has reason to believe that scab or other contagious or infectious diseases of sheep have become prevalent in any locality or localities of any other state or territory, or that conditions exist that render sheep from such localities likely to convey disease or whenever the State Veterinarian shall certify in writing to the Governor that conditions exist in localities in any other state or territory which may render any of the sheep coming therefrom likely to convey disease, the Governor shall by proclamation declare such locality as presumably infected, and prohibit importation therefrom of any sheep into this state, except under such restriction as the State Veterinarian may deem proper. Any person, persons, firm or corporation who, after publication of such proclamation, has or received in charge any sheep from any of the prohibited districts and transports, conveys or

Governor may prohibit importations.

drives the same to and within the limits of this state, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars nor less than five hundred dollars. And such offending person, persons, firm or corporation shall likewise be liable for all damage sustained by any person, persons, firm or corporation by reason of the importation into this state of such sheep from prohibited districts: *Provided, however,* That nothing herein contained shall prohibit the transportation of animals from such prohibited districts through the state by railroad trains or steamboat lines under such restrictions as may be prescribed by the law of this state or by the government of the United States.

Transportation through state.

SEC. 4. The Governor shall, through the Secretary of Agriculture of the United States government, request the co-operation of the United States Bureau of Animal Industry in controlling and eradicating contagious and infectious diseases in sheep, and when said bureau, through its duly authorized representatives, agents, or employes, shall be thus engaged, they shall possess the same power and authority in this state as the State Veterinarian and his deputies under and by virtue of this act; and all dipping and other treatment required for the control and eradication of such diseases within this state shall be performed in the manner prescribed by the United States Bureau of Animal Industry, and the dips, remedies and appliances used shall be those approved by the said Bureau of Animal Industry.

U. S. Bureau to co-operate.

SEC. 5. Whenever it becomes necessary by reason of the prevalence of scabies, or exposure of scabies, of the sheep of any county or counties in this state, the State Veterinarian shall have full authority to issue an order compelling the dipping of all the sheep in such district or localities, whether all the sheep at the time be affected with or exposed to scabies or not; and such dipping shall be done under the supervision of the deputy sheep inspector or federal inspectors, and shall be done in some dip or dips approved by the United States Bureau of Animal Industry; and the dipping shall be performed in a manner

Sheep to be dipped.

in accordance with the rules and regulations of said Bureau of Animal Industry. After dipping, when the official in charge shall be satisfied that the sheep are in a sound and healthy condition, the owner shall be entitled to receive a certificate to that effect signed by the said official; and the said certificate shall be in such form as the State Veterinarian shall adopt; such certificate shall permit the sheep to move in and through all counties in this state so long as they remain free from disease and exposure thereto.

SEC. 6. The State Veterinarian and his deputies and the officials of the United States Bureau of Animal Industry shall have authority to inspect and quarantine and treat sheep affected with a contagious, infectious or communicable disease or diseases, or suspected of being so affected, or that have been exposed to any such disease; and it shall be the duty of the deputy inspector to inspect once each year all the sheep that may be within his county; and his fees and expenses for the inspection of such sheep shall be as hereinafter provided for in this act: *Provided, however,* That where it is necessary to inspect the same band of sheep more than once during any one year the owner or agent in charge of such sheep shall not be charged by the deputy inspector any fees or expenses for the second inspection, unless such inspection should reveal the said sheep to be actually affected with or exposed to scab or scabies, and in such event the owner or agent in charge of such sheep shall pay the fees and expenses of the deputy inspector as hereinafter provided for.

Quarantine
of sheep.

SEC. 7. Whenever upon examination by such State Veterinarian, his deputy, or deputies or federal inspector, as the case may be, any sheep, band or flock of sheep, or any portion of them kept or herded in any county of the State of Washington, shall be found infected with scab or any other contagious or infectious disease, the entire band or flock in which said infected sheep are running or ranging shall be considered as infected and treated as such, and said State Veterinarian, his deputy or deputies, or the federal inspector, as the case may be, shall immediately quarantine the entire band or flock and forthwith notify the owner or

Band in-
fected.

person in charge of said sheep in writing, to dip said sheep twice for said disease within the period of thirty days from said notice; the first dipping not to exceed fifteen days from the receipt of said notice, and the second dipping to be within the period of from ten to fourteen days thereafter; and also during such period, to keep such sheep free from contact with other sheep by such means as said inspector shall specify until after the second dipping: *Provided*, That in case the owner shall regard it unsafe to dip the same on account of their condition, especially ewes heavy with lamb, or by reason of the inclemency of the weather, the official in charge may authorize such owner or person in control to place such sheep in a corral, field, feedyard or appropriate range, where such sheep shall be kept under quarantine regulations and free from contact with other sheep until such time as they are in condition to dip. Any person or persons so allowed to keep sheep in such corral, field, feedyard, or range, or who shall wilfully or knowingly take or permit to be taken any such sheep therefrom, except as permitted or directed by the inspector in charge, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500.

Non-dipped
sheep to be
quarantined.

Penalty.

SEC. 8. Any person, persons, firm or corporation within this state who shall desire to move his or their sheep which are infected with scab or other infectious or contagious disease from place to place within this state, shall first obtain from the State Veterinarian or one of his deputies a traveling permit. Upon receipt of the application for such a permit the State Veterinarian or one of his deputies shall examine the sheep, and such permit shall only be granted for the purpose of removing said sheep to the nearest suitable point where there are available dipping works or where such works can be constructed, at which place said sheep shall be dipped under the direction of such official. In such removal only that route shall be used which such official shall designate in his permit, and before moving said sheep the owner or person in charge shall first notify all parties herding said sheep along or over said route that

Traveling
permit.

Notice to
parties along
route.

the infected sheep must travel, of the fact that they are to pass and the time at which they will pass over said route, and such route shall be considered as quarantined, and any person, persons, firm or corporation injured or damaged by reason of the moving of said sheep shall be entitled to recover from the owners thereof in civil action the amount of such damages: *Provided, however,* That no party shall be entitled to recover damages who shall voluntarily herd or cause to be herded any sheep on such quarantined ground, and any sheep so voluntarily herded on such ground shall be considered as affected as in this act provided for infected sheep within this state. Any person, persons, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500.

Quarantined ground.

SEC. 9. Any person, persons, firm or corporation, their agent or employes, who shall drive or herd, or cause to be driven or herded, or bring or cause to be brought, by road or trail, into the State of Washington from any other state, any sheep shall immediately upon crossing the said line and before proceeding into the state a distance greater than two miles, make written application to the State Veterinarian or his nearest deputy, for the inspection of said sheep, and said application shall be delivered in person or by telegraph or telephone or registered letter. The notice must state the time and place when and where the said sheep crossed the line, the locality from which they came, the name and residence of the owner or owners thereof, and of the person in control of the same, the number, the brands and character of the animals. The State Veterinarian on receiving such notice shall at once proceed, either by himself or his deputies to inspect the sheep, and if upon inspection he shall deem it necessary to prevent or avoid infection, he shall cause said sheep to be quarantined not more than three miles from where they entered the state for such period as may be necessary, not to exceed thirty days. And if he shall regard it necessary, shall cause said sheep to be dipped not to exceed three

Notice of sheep brought into state.

Inspection of imported sheep.

times if infected, or once if exposed, before they are released from such quarantine. Any person, persons, firm or corporation, their agent or employes, who shall ship into the state by railroad or steamboat lines from any other state any sheep, shall immediately upon unloading the same at any point within this state notify personally or by telephone or by telegraph or registered letter the State Veterinarian; and thereupon the said official or one of his deputies shall proceed to inspect said animals, and if upon inspection he shall deem it necessary to prevent or avoid infection he shall cause said sheep to be quarantined not more than three miles from the point where they are unloaded for such period not to exceed thirty days as may be necessary, and if he shall deem it necessary shall cause said sheep to be dipped not to exceed three times if infected, or once if exposed, before they are released from such quarantine: *Provided further, however,* That such sheep are not for immediate slaughter or en route through the state on railroad trains or boat lines to other states, and that any sheep held in quarantine under this section may be released therefrom at any time for the purpose of immediate slaughter: *And provided further,* That if in the opinion of the State Veterinarian it is unnecessary to inspect sheep coming into this state from certain districts or localities from other states he may issue an order dispensing with such inspection and restriction. Any person, persons, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 nor more than \$500. Such fine shall be a lien upon the sheep and may be foreclosed as personal property liens are foreclosed under the existing laws of this state or may be enforced as a judgment against the offending party.

Sheep for
immediate
slaughter.

SEC. 10. If any other owner or person in charge of any sheep shall neglect or refuse to dip the same as required by the terms of this act upon request of the State Veterinarian or any of his deputies or any federal official clothed with power under this act, or to permit the same to

Owner re-
fusing.
officers
to dip.

be dipped by them, it shall be the duty of such official to seize such animals and dip the same, and he is hereby given authority so to do, and when in his opinion they are restored to health and free from possible infection he shall notify in writing the owner or person in charge of the sheep of the amount of the costs, charges and expenses incurred by him, and the same shall be paid within ten days of the receipt of such notice and the same shall be collected as in this act provided for the collection of like charges.

Expenses
charged to
owner.

SEC. 11. Any person, persons, firm or corporation who shall drive or cause to be driven, bring or cause to be brought, ship or cause to be shipped into this state from any other state any sheep infected with scab or any other infectious or contagious disease and knowing of the condition of the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$250 nor more than \$1,000, and in case the offending party is a corporation, its officers shall be liable in the same manner as individuals would be liable. Any transportation company which shall convey from point to point within this state any sheep infected with scab or any other contagious or infectious disease, knowing the condition of the same, shall be deemed guilty of a misdemeanor and shall be punished as in this section above provided. All corrals, yards, pens, sheds, chutes, cars or boats of such company which shall have been occupied by infected sheep shall immediately thereafter, and within forty-eight hours be disinfected by said company, and failure on its part so to do shall likewise be deemed a misdemeanor and punished as in this section above provided. Such disinfection shall be done in accordance with the rules of the United States Bureau of Animal Industry relating to the disinfection of such places, boats and cars, and the State Veterinarian, his deputy, and the officials of said Bureau of Animal Industry shall each have authority to enforce the provisions of this section, and when such company shall neglect for a period of forty-eight hours to so disinfect, such officials may take possession of such corrals, yards, pens, sheds, chutes or boats, and proceed to disinfect them

Importing
diseased
sheep,
penalty.

Cars and
corrals to be
disinfected.

at the expense of such company, such expense to be recovered by an action in the name of the State Veterinarian in any court of competent jurisdiction.

Trade in diseased sheep prohibited.

SEC. 12. It shall be unlawful to sell, exchange, give away or in any manner part with to another, any sheep infected with a contagious or infectious disease, or any animal which has, or which the owner of or his agent or employe or the party in possession thereof has reason to believe has, within thirty days next preceding such transfer, been exposed to any infectious or contagious disease, without first notifying the proper purchaser or purchasers of said sheep that it is so infected, or that it has been so exposed; and any violation of the provisions of this section shall constitute a misdemeanor, and the penalty upon conviction shall be a fine of not less than \$100 nor more than \$500.

Quarantined area to be defined.

SEC. 13. In all cases where quarantine of sheep is authorized by the provisions of this act, the State Veterinarian and his deputies and the officials of the United States Bureau of Animal Industry are each and all empowered to designate and specify the place, limits and boundaries of any quarantine area or territory, and they are hereby given authority over the same until the purpose of such quarantine shall have been effected, and any person, persons, firm or corporation owning or having in his or their possession sheep within such quarantined area, who shall permit or allow any of such sheep to go beyond the limits of the same, without permit from the official in charge, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500, and all of the officials above named are hereby clothed with full authority to control sheep and territory in quarantine, and to take and hold possession thereof as provided by the terms of this act, and for all purposes thereof.

Notice of infected sheep.

SEC. 14. It shall be the duty of any person, persons, firm or corporation owning or having in his or their control any sheep which have become infected with scab or any other infectious, communicable or contagious disease.

or which have been exposed in any manner to such disease, to immediately report the same to the State Veterinarian by registered letter, telegraph, telephone or in person within ten days after the said condition has come to his or their knowledge, and failure to do so, or any attempt on the part of any person, persons, firm or corporation to conceal the existence of such disease, or to willfully or maliciously obstruct or hinder the inspector or his deputies in the discharge of his or their duties shall be deemed guilty of a misdemeanor and shall subject the offender to a fine, upon conviction, of not less than \$100, nor more than \$500.

SEC. 15. The expense of inspection, feeding, holding, dipping, treating and taking of all sheep inspected, quarantined, dipped or otherwise treated under the provisions of this act, including the fees and expenses of any deputy sheep inspector arising in connection with the same, must be paid by the owner of such sheep and such charge shall be a lien upon such sheep for such charges and expenses, which lien shall be prior and paramount to any and all other liens, demands or other claims against such sheep, and the State Veterinarian or his deputies may retain possession of such sheep until such charges and expenses have been paid. Such lien shall be enforced at any time after ten days from the date when said charge shall be incurred and shall not be dependent upon possession of said sheep and may be foreclosed in the name of the State Veterinarian in the manner provided for the foreclosure of other liens upon personal property; or in lieu of foreclosing such lien said State Veterinarian may bring an action in his own name in any court of competent jurisdiction to recover the amount of such charges and expenses: *Provided, however,* That when work is done by the State Veterinarian in person he shall charge no fees.

Owner to pay expenses.

SEC. 16. The deputy inspectors provided for under this act shall be entitled to no salary, but shall receive fees and expense as follows, to-wit: For all services performed in the examination or inspection of sheep or in quarantining or dipping sheep or any duties made incumbent upon

Compensation of inspectors.

them under this act, the sum of \$4 per diem for any day or part of a day so utilized by them, and in addition thereto their actual, necessary expenses attending the performance of such duties, the same to be paid by the owner of the sheep as in this act provided: *Provided, however,* That no inspector of the United States Bureau of Animal Industry shall make any charge for fees or expenses against the owner or owners of any sheep in the state for any service performed. And every deputy inspector appointed under the provisions of this act must keep a book to be known as the "Inspection Record," in which he must enter and record all his official acts and accounts as such deputy inspector, and such record shall show the names of owners of all animals so inspected, the number thereof, the reason why such inspection was made, the names of the persons to whom certificates of health were granted and the date thereof, the brands upon said sheep, all orders and directions made by him in each case, the amount of his per diem and expenses in each case, and such other matters as the State Veterinarian may require. And each deputy must, on or before the first day of October in each year, and as often as may be required by the State Veterinarian, report to him in writing, in such detail as may be required, his work and the conditions of the sheep industry in his section of the state.

"Inspection
Record."

Deputy to
report.

Veterinar-
ian's report.

SEC. 17. The State Veterinarian shall make this a part of his annual report each year to the Governor, upon all matters connected with his work for the year ending.

SEC. 18. All officers appointed under the provisions of this act shall use every precaution to protect the sheep under their care from injury and shall select proper places for quarantine and dipping, and shall so enforce quarantine regulations as to make the expenses as light as possible upon the owner, consistent with public interest; and any officer who by virtue or power conferred upon him under this act, wilfully oppresses, wrongs or injures any person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500.

Wrongful
handling of
sheep,
penalty.

SEC. 19. Whenever any sheep suffering from scab or any infectious or contagious disease shall mingle with healthy animals belonging to another, through the fault or negligence of the owner of said diseased sheep, his agent or employes, such owner shall be liable in an action at law for all damages sustained by the owner of such healthy sheep.

Owner of infected sheep liable for damages.

SEC. 20. All fines and penalties imposed under the provisions of this act shall be collected in behalf of and in the name of the state and shall become a part of the general fund thereof, and the offenses herein declared to be misdemeanors shall be prosecuted by the several prosecuting attorneys of the state in the superior courts thereof in the same manner that misdemeanors are prosecuted under the general laws of the state. And it is hereby made incumbent upon such prosecuting attorneys to foreclose liens herein provided, when necessary, and to act in either civil or criminal matters under this act when requested to do so by the Veterinarian or his deputies.

Penalties. Liens.

SEC. 21. It shall be the duty of the boards of county commissioners of the several counties in this state to furnish free to the deputy sheep inspectors all the books, blanks and other stationery necessary for them in the performance of their duties. Such books and stationery as may be needed by the State Veterinarian shall be furnished by the state.

County to furnish supplies.

SEC. 22. The official bonds provided in this act shall be given to the state as herein provided, but may be sued upon by any person injured because of the negligent or unfaithful performance of duty upon the part of the official giving such bond: *Provided*, That no action shall be instituted after six months have elapsed from the date the cause of such action accrued.

Bond may be sued on.

SEC. 23. An emergency exists and this act shall take effect immediately.

Emergency.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 17, 1909.

CHAPTER 190.

[S. B. 40.]

RELATING TO DELINQUENT CHILDREN.

AN ACT in aid of children, providing for the custody, control, treatment, maintenance and adoption of neglected and delinquent children, under the direction and by order, of the superior court, repealing Chapter 18, Laws of 1905, also Chapter 110, Laws of 1907, relating to delinquent children, and all acts and parts of acts inconsistent herewith.

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

SECTION 1. The words "delinquent child" shall for the purpose of this act mean any child under the age of eighteen years who violates any law of this state, or any city or town ordinance, or who is incorrigible, or who knowingly associates or lives with thieves, vicious, immoral or disreputable persons, or who is growing up in idleness or crime, or who knowingly visits or enters a house of ill repute, or who knowingly patronizes or visits any policy shop or place where any gambling device is or shall be operated, or who patronizes or visits any saloon or dram shop where intoxicating liquors are sold, or who patronizes or visits any public pool room or bucket shop or who wanders about the streets in the night time without being on any lawful business or occupation, or who habitually uses vile, obscene, vulgar, profane or indecent language, or is guilty of immoral conduct in any public place, or about any schoolhouse. For the purpose of this act the words "neglected child" shall mean any child under the age of eighteen years who, for any reason, is destitute or homeless, or abandoned, and is unable to earn his own living or is growing up under such circumstances as would tend to cause such child to lead a vicious or immoral life; or who habitually begs or receives alms; or who is found in any house of ill repute, or with any vicious or disreputable person, or whose home or stopping place, by reason of neglect, ignorance, cruelty, or depravity on the part of its parents, or others, is an unfit place for such child, and any child under ten (10) years of age found begging, peddling or sell-

"Delinquent
child."

"Neglected
child."

ing any articles or singing or playing any musical instrument for gain upon the street, or giving any public entertainment, or accompanies, or is used in the aid of, any person so doing. The word "child" or "children" may mean one or more children, or the word "parent" or "parents" may mean one or both parents when consistent with the intent of this act. The word "association" shall mean any incorporation which includes in its purpose the care and disposition of children consistent with the intent of this act.

Other definitions.

For the purpose of this act only, all delinquent and neglected children within the state shall be considered wards of this state and their persons shall be subject to the custody, care, guardianship and control of the court as hereinafter provided.

Wards of state.

SEC. 2. The superior courts in the several counties of this state shall have original jurisdiction in all cases coming within the terms of this act. In all trials under this act any person interested therein may demand a jury trial, or the judge, of his own motion, may order a jury to try the case.

Superior court.

SEC. 3. In counties of the first and second class the judges of the superior court shall, at such times as they may determine, designate one or more of their number whose duty it shall be to hear all cases arising under this act. A special session, to be designated as the "Juvenile Court Session," shall be provided for the hearing of such cases and the finding of the court shall be entered in a book or books to be kept for that purpose, and known as the "Juvenile Record;" and the court may, for convenience, be called the "Juvenile Court."

"Juvenile court."

SEC. 4. Any reputable person, being a resident in the county, having knowledge of a child in his county who appears to be either delinquent or neglected within the meaning of this act, may file with the clerk of the court a complaint, in writing, setting forth the facts, including a statement of the name and place of residence of the parent, parents or other guardian, also of the person having the custody of such child, if known, and if unknown

Complaint against child.

that fact shall be stated. The complaint shall be verified by affidavit, which shall be sufficient if made upon information and belief.

Summons.

SEC. 5. Upon the filing of an information or the complaint the clerk of the court shall issue a summons requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the summons, which time shall not be less than twenty-four hours after service. The parents of the child, if living, and their residence is known, or its legal guardian, if there be one, or if there is neither parent nor guardian, or if his or her residence is not known, then some relative, if there be one, and his residence is known, shall be notified of the proceedings; and in any case the judge shall appoint some suitable person or association to act in behalf of the child. If the person summoned, as herein provided, shall fail without reasonable cause to appear and abide the order of the court, or to bring the child, he shall be proceeded against as for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, and in any case when it shall be made to appear to the court that said summons will be ineffectual a warrant may issue on the order of the court, either against the parent or guardian or the person having custody of the child, or with whom the child may be, or against the child itself. On return of the summons or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner. Pending the final disposition of the case, the child may be retained in the possession of the person having charge of the same, or may be kept in some suitable place provided by the city or county authorities, or by any association having for one of its objects the care of delinquent and neglected children.

Guardian
ad litem.

Warrant.

SEC. 6. In any case where it shall appear, by the complaint or other verified statement, that the person standing in the position of natural or legal guardian of the person of any child, is a non-resident of this state or that the

name or place of residence or whereabouts of such person is unknown, as well as in all cases where, after due diligence, the officer has been unable to make service of the summons or notice provided for in section 4, the court may, by order, direct the clerk of the court to publish a notice four consecutive weeks in some newspaper printed in the county and having a general circulation therein. Such notice shall be directed to the parent, parents or other person claiming the right to the custody of the child, if their names are known, and if unknown the phrase "To All Whom It May Concern," shall be used and apply to, and be binding upon, any such persons whose names are unknown. The name of the court, the name of the child (or children if of one family), the date of the filing of the complaint and the date of hearing, which shall not be less than twenty days from the date of the last publication, and the object of the proceeding in general terms, shall be set forth and the whole shall be subscribed by the clerk. There shall be filed with the clerk an affidavit showing due publication of the notice and the cost of publication shall be paid by the county at not to exceed the rate paid by the county for other legal notices.

Notice by
publication.

The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated as provided in this section.

SEC. 7. The court or judge designated, as provided in section 3 of this act, shall appoint or designate one or more discreet persons of good character, to serve as probation officers during the pleasure of the court, said probation officers to receive no compensation from the public treasury. In case a probation officer shall be appointed by any court, it shall be the duty of the clerk of the court, if practicable, to notify the said probation officer in advance when the child is to be brought before the said court; it shall be the duty of said probation officers to make such investigation as may be required by the court, to be present in order to represent the interests of the child when the case is heard, to furnish the court such information and assistance as the judge may require, and

Probation
officers.

to take such charge of the child before and after trial as may be directed by the court.

Salaries.

Authority of probation officer.

In counties containing cities of the first class, when it shall appear to the court that there is a necessity for such officers, the court shall appoint a chief probation officer, in addition to the officers above provided for, who shall be paid a sum not to exceed \$125.00 per month, and also may appoint an assistant probation officer, who shall be paid a sum not to exceed \$83.33 per month as compensation for their services in the same manner as other county officers are paid, and such officers shall possess all the powers conferred upon sheriffs and police officers to serve process and make arrests for the violation of any state law or city ordinance. One of said salaried probation officers shall be a woman.

Commitment of child.

SEC. 8. When any child under the age of eighteen years shall be found to be delinquent or neglected, within the meaning of this act, the court may, at any time, make an order committing the child to some suitable institution, or to the care of some reputable citizen of good moral character, or to the care of some training school or industrial school as provided by law, or to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent, neglected or delinquent children: *Provided*, Such order may be temporary or permanent in the discretion of the court and may be revoked or modified as the circumstances of the case may thereafter require. In any case in which the court shall find a child neglected, dependent or delinquent, it may in the same or in a subsequent proceeding, upon the parent or parents, guardian or other person having custody of said child being duly summoned or voluntarily appearing, proceed to inquire into the ability of such person or persons to support the child or contribute to its support, and if the court shall find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and

may enforce the same by execution, or in any way in which a court of equity may enforce its decrees.

SEC. 9. In any case where the court shall award a child to the care of any association or individual, the child shall, unless otherwise ordered, become a ward and be subject to the guardianship of the association or individual to whose care it is committed; such association shall have authority, with the assent of the court, to place such child in a family home, either temporarily or for adoption. With the written consent of the parents or one of them, or other person having the right, under the laws of this state, to dispose of a neglected or delinquent child, the court may make an order or decree of adoption transferring to any suitable person or persons, willing to receive such child, all the rights of the parent or other guardian. The order of the court made upon such consent shall be binding upon the child and its parents or guardian, or other person, the same as if such persons were personally in court and consented thereto, whether made party to the proceeding or not. The estate or property rights of any child shall not be affected, nor subjected to guardianship by the provisions of this act. The jurisdiction of the court shall continue over every child brought before the court, or committed pursuant to this act, and the court shall have power to order a change in the custody or care of such child, if at any time it is made to appear to the court that it would be for the best interests of the child to make such change.

SEC. 10. In any case of a delinquent or neglected child, the court may continue the hearing from time to time, and may commit the child to the care and guardianship of a probation officer, duly appointed by the court, and may allow said child to remain at its own home, subject to the visitation of the probation officer, such child to report to the probation officer as often as may be required and subject to be returned to the court for further proceedings whenever such action may appear to be necessary, or the court may com-

mit the child to the care and guardianship of the probation officer, to be placed in a suitable family home, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child, until a suitable provision may be made for the child in a home without such payment, or the court may commit the child to a suitable institution for the care of delinquent or neglected children. In no case shall a child be committed beyond the age of twenty-one years. A child committed to such institution shall be subject to the control thereof and the said institution shall have power to parole such child, on such condition as it may prescribe, and the court shall, on the recommendation of such institution, have power to discharge such child from custody, whenever, in the judgment of the court, his or her reformation shall be complete; or the court may commit the child to the care and custody of some association that will receive such child, embracing in its object the care of neglected and delinquent children.

Limit of
commitment.

SEC. 11. No court or magistrate shall commit a child under fourteen years of age to a jail, common lock-up or police station; but, if such a child is unable to give bail, it may be committed to the care of the sheriff, police officer, or probation officer, who shall keep said child in some suitable place or house or school of detention provided by the city or county, outside of the enclosure of any jail or police station, or in the care of any association willing to receive it, and having as one of its objects the care of neglected and dependent children. When any child shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same building with such adult convicts, or to confine such child in the same yard or enclosure with such adult convicts, or to bring such child into any yard or building in which such adult convicts may be present.

Child under
fourteen not
to be locked
up.

SEC. 12. When in any county where a court is held as provided in section 3 of this act, a child under the age of eighteen (18) years is arrested with or without war-

rant, such child may, instead of being taken before a justice of the peace or police magistrate, be taken directly before such court; or if the child is taken before a justice of the peace, or police magistrate, it shall be the duty of such justice of the peace or police magistrate to transfer the case to such court, and the officer having the child in charge to take the child before that court, and in any case the court may proceed to hear and dispose of the case in the same manner as if the child had been brought before the court upon complaint as hereinbefore provided. In any such case the court shall require notice to be given and investigation to be made as in other cases under this act, and may adjourn the hearing from time to time for such purpose. If upon investigation it shall appear that a child has been arrested upon the charge of having committed a crime the court, in its discretion, may order such child to be turned over to the proper officers for trial under the provisions of the criminal code.

Justice courts to transfer cases to juvenile court.

SEC. 13. In counties of the first and second class it shall be the duty of the proper authorities to provide and maintain at public expense a detention room, or house of detention, separated or removed from any jail, lock-up or police station, to be in charge of a matron, or other person of good character, wherein all children within the provisions of this act shall, when necessary, be sheltered.

Place of detention.

SEC. 14. This act shall be liberally construed to the end that its purpose may be carried out, to-wit: That the care, custody and discipline of a child shall approximate as nearly as may be that which should be provided by its parents, and that as far as practicable any neglected or delinquent child shall be treated, not as a criminal, but as misdirected and misguided, and needing aid, encouragement, help and assistance.

Method of handling children.

SEC. 15. That no fees shall be charged or collected by any officer for any proceedings under this act.

No fees.

SEC. 16. In each county the judge presiding over the juvenile court session, as defined in this act, may appoint a board of four reputable citizens, who shall serve with-

Board of visitation.

out compensation, to constitute a board of visitation, whose duty it shall be to visit as often as once a year all institutions, societies and associations within the county receiving children under this act. Also to visit other institutions, societies and associations within the state receiving or caring for children whenever requested so to do by the judge of the juvenile court: *Provided*, The actual expenses of such board may be paid by the county commissioners when members thereof are requested to visit institutions outside of the county seat, and no member of the board shall be required to visit any institution outside the county unless his actual traveling expenses shall be paid as aforesaid. Said visits shall be made by not less than two of the members of the board, who shall go together, or make a joint report; the board of visitors shall report to the court from time to time the condition of children received by or in charge of such associations or institutions. It shall be the duty of every institution, society and association receiving or caring for children to permit any member, or members, of the board of visitation to visit and inspect such institution in all its departments, so that a full report may be made to the court.

Duties.

SEC. 17. Chapter 18, Laws of 1905, also chapter 110, Laws of 1907, relating to delinquent children, also all acts and parts of acts inconsistent with this act, are hereby repealed.

Passed by the Senate March 2, 1909.

Passed by the House March 9, 1909.

Approved March 17, 1903.

ch. 18, pp.
34-39;
L. '05
§§ 3354,
3354m
Pierce, and
ch. 110, p.
208, L. '07,
repealed.

CHAPTER 191.

[S. B. 815.]

RELATING TO CITIES OF THE FIRST CLASS.

AN ACT authorizing cities of the first class to construct auxiliary water systems for fire protection purposes, and to assess property benefited thereby to pay for the same.

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

SECTION 1. That any city of the first class within the State of Washington shall have the authority to construct auxiliary water systems within the limits of such city for the purpose of protecting property within such city against fire.

Auxiliary
water
systems.

SEC. 2. That any such city may provide for the levying and collecting of assessments on property benefited by such auxiliary water system, for the purpose of paying for the same, or any portion thereof, in the manner provided by law for the levy and collection of assessments for other local improvements.

Special
assessments.

Passed by the Senate March 9, 1909.

Passed by the House March 11, 1909.

Approved March 17, 1909.

CHAPTER 192.

[H. B. 144.]

REGULATING THE PRACTICE OF MEDICINE.

AN ACT for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the State of Washington, and for the appointment of a board of medical examiners, in the matter of said regulation, and declaring an emergency.

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

SECTION 1. The Governor shall appoint a board of medical examiners to be known as the Board of Medical Examiners of the State of Washington, consisting of nine members, who shall be appointed as follows: Five mem-

Schools recognized. Term.

bers from the regular profession, two from the homeopathic profession, and two from the osteopathic profession. The osteopathic members shall be graduates only of a regular osteopathic college. The appointment of each member shall be for a term of three years, and until his successor is appointed and qualified: *Provided*, That no member shall serve more than two consecutive terms. It shall require the affirmative vote of a majority of the members of said board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate as in this act provided.

Oath.

SEC. 2. Each member of said board shall, before entering upon the duties of his office, take the constitutional oath of office, and shall, in addition, make oath that he is a graduate in medicine and surgery or osteopathy, and a licensed practitioner of medicine and surgery, or of osteopathy, of this state: *Providing*, That the osteopathic members of the board first appointed under this act shall not have been licensed by any previous examining board of this state. The president and secretary shall be empowered to administer the oath of office.

Officers of board.

SEC. 3. Said board shall be organized on or before the second Tuesday of June, 1909, by electing from its members a president, vice-president, secretary and treasurer, who shall hold their respective positions during the pleasure of said board. Said [board] shall hold its regular meetings on the first Tuesday of January and July of each year, alternating between the eastern and western part of the State of Washington. Special meetings of the board may be held at such time and place as the board may designate.

Who may be licensed without examination.

SEC. 4. Any person who treats the sick or afflicted may register his or her diploma with the board of medical examiners, and receive a license to practice his or her respective mode of treatment, by paying a fee of ten dollars, which fee shall go towards defraying the expenses of said board: *Provided*, That he or she show evidence satisfactory to said board that he or she has been legally engaged in such practice prior to the passage of this act, in the

State of Washington, and is a graduate of a legally incorporated school or college teaching the system or mode of treatment which the applicant intends or claims to follow, wherein the course comprises actual attendance and completion of two years of ten months each, or four terms of five months each, and the curriculum of study includes instruction in the following branches, to-wit: Anatomy, physiology, chemistry and toxicology, bacteriology, gynecology and obstetrics, histology, hygiene, pathology and general diagnosis; or by having been in continuous practice in one locality in this state for the past two years; and all such persons shall be granted thirty days after the organization of said board to make such application and furnish such evidence, after which time all persons desiring to treat the sick shall first take the examination as provided by this law.

It shall be the duty of every holder of a license from the State Board of Medical Examiners to exhibit his or her license to any resident of this state who may request to see the same, and any person refusing or failing so to do, or who shall exhibit any such license as his or her own, in response to such request, when such license has not been issued to him or her, shall be guilty of a misdemeanor.

License to be exhibited.

SEC. 5. Said board may from time to time adopt such rules as may be necessary to enable it to carry into effect the provisions of this act.

Rules of board.

SEC. 6. Three forms of certificates shall be issued by said board under the seal thereof, and signed by the president and secretary: First, a certificate authorizing the holder thereof to practice medicine and surgery; second, a certificate authorizing the holder thereof to practice osteopathy; third, a certificate authorizing the holder thereof to practice any other system or mode of treating the sick or afflicted not referred to in this section.

Three kinds of certificates.

In order to procure a certificate to practice medicine and surgery, the applicant for such certificate must file with said board at least two weeks prior to a regular meeting thereof, satisfactory testimonials of good moral character, and a diploma issued by some legally chartered med-

Requisites of application for certificate.

ical school, the requirements of which shall have been at the time of granting such diploma in no particular less than those prescribed by the Association of American Medical Colleges for that year, or satisfactory evidence of having possessed such diploma, and he must file with such diploma an application sworn to before some person authorized to administer oaths, and attested by the hand and seal of such officer, if he have a seal, stating that he is the person named in said diploma, that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made upon a blank furnished by said board, and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as said board may by rule provide. Applicants who have failed to meet the requirements must be rejected. Applicants for a certificate to practice osteopathy shall be subject to the above regulation, except that in place of a diploma hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of osteopathy, having a course of instruction of at least twenty months, requiring actual attendance, and after 1909, of three years of nine months each, and including the studies examined upon under this act. Applicants for a certificate to practice any other system or mode of treatment not in this act referred to shall be subject to the above regulations, except that in the place of the diplomas hereinbefore referred to, they shall be required to file a diploma from a legally chartered college of the system or mode of treatment which the applicant claims or intends to follow.

Osteopaths.

Other schools.

Subjects of examination.

In addition to the requirements above set forth, such applicants for a certificate must be personally examined by said board as to their qualifications. The examination shall be conducted in the English language, shall be practical in character and designed to discover the applicant's fitness to practice his profession, and shall be, in whole or in part, in writing on the following fundamental subjects, to-wit: Anatomy, histology, gynecology, pathology, bacteriology, chemistry and toxicology, phys-

iology, obstetrics, general diagnosis and hygiene. Examinations in each subject shall consist of not less than ten questions, none of which shall relate to treatment, answers to which shall be marked upon a scale of zero to ten. But all applicants must obtain not less than sixty per cent. in any one subject: *Provided*, That applicants who can show at least ten years of reputable practice shall be granted a credit of five per cent. upon the general average, and five per cent. additional for each subsequent ten years of such practice.

The examination papers shall form a part of the records of the board and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application.

Examination papers.

SEC. 7. Each applicant on making application shall pay the secretary of the board a fee of twenty-five dollars (\$25.00), which shall be paid to the treasurer of the board by said secretary and used to defray the expenses and compensation of said board. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of fifteen dollars (\$15.00) will be returned on application.

Fee.

SEC. 8. Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for certificates under this act, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set forth therein.

Records of board.

SEC. 9. Every person holding a certificate authorizing him to practice medicine and surgery or osteopathy or any other system or mode of treating the sick or afflicted, in this state, must have it recorded in the office of the county clerk of the county in which the holder of said certificate is practicing his profession, and the fact of such recording shall be endorsed on the certificate by the

Certificate recorded in county.

county clerk recording the same. Every such person, on each change of his residence, must have the certificate recorded in the county to which he shall have changed his residence. The absence of such record shall be *prima facie* evidence of the want of possession of such certificate. And any person holding a certificate to practice medicine and surgery or osteopathy, or any other system or mode of treating the sick or afflicted in this state, or to attempt to practice medicine or surgery or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without first having filed his certificate with the county clerk as herein provided shall be deemed guilty of a misdemeanor.

Failure to file a misdemeanor.

SEC. 10. The county clerk shall keep in a book provided for the purpose, a complete list of the certificates recorded by him, with the date of the record; and said book shall be open to public inspection during his office hours.

Clerk's record.

SEC. 11. Said board must refuse a certificate to any applicant guilty of unprofessional conduct; but before such refusal the applicant must be cited by citation, signed by the secretary of the board, and sealed with its seal. No such citation shall be issued except upon a sworn complaint filed with the secretary of the board, charging the applicant with having been guilty of unprofessional conduct, and setting forth the particular act constituting such unprofessional conduct. On filing of such complaint the secretary must forthwith issue a citation and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant of the time and place when and where the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that the applicant shall file his written answer, under oath, within twenty days next after service upon him of said citation, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas

License refused for unprofessional conduct.

Citation to applicant.

issued by the secretary of the board under its seal; and said secretary shall in no case refuse to issue any such subpœna, upon a fee of twenty cents being paid him for each subpœna. Said citation and said subpœnas shall be served in accordance with the statutes of this state then in force as to the service of citations and subpœnas generally and all provisions of the statutes of this state then in force relating to subpœnas are hereby made applicable to the subpœnas provided for therein. If any person refuses to obey a subpœna served upon him in accordance with the statutes of this state then in force providing for the manner of serving subpœnas, the fact of such refusal shall be certified by the secretary of said board, under the seal thereof, to the superior court of the county in which the service was had and the said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempt of process of the court, and should said court find that the subpœna had been legally served and that the party so served has wilfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct arising under this act, testimonies of witnesses may be taken, the same as in civil cases, and all the provisions of the statutes of this state then in force as to the taking of testimony are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, to the charges made against him, within twenty days after service on him of said citation or within such further time as the board may give him, and the charges on their face be deemed sufficient by the board, default shall be entered against him and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, to that end, shall hear such evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. No certifi-

Subpoenas.

Contempt.

Manner of taking evidence.

Defaults.

Limitation
of actions.

cate shall be refused on the grounds of unprofessional conduct unless the applicant has been guilty of such conduct within two years next preceding his application. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and said unprofessional conduct has been brought to the attention of the board granting said certificates, in the manner hereinafter pointed out, or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, it shall be their duty to, and they must, revoke the same at once, and the holder of said certificate shall not be permitted to practice medicine and surgery, or osteopathy, or any other system or mode of treating the sick or afflicted in this state. But no such revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of revocation shall enter on his register the fact of such revocation and shall certify the fact of such revocation under the seal of the board, to the county clerk of the counties in which the certificate of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of certificate of such person, the following: "This certificate was revoked on the day of," giving the day, month and year of revocation in accordance with certification to him by secretary. The record of such revocation so made by said county clerk shall be *prima facie* evidence of the fact thereof, and of said regularity of all the proceedings of said board in the matter of said revocation. From the time of the revocation of a certificate the holder thereof shall be disqualified from practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state.

Revocation
of license.

"Unprofessional conduct."

The words "unprofessional conduct," as used in this act, are hereby declared to mean:

First. The procuring, or aiding or abetting in procuring a criminal abortion.

Second. The wilfully betraying of a professional secret.

Third. All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth. All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth. Conviction of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence.

Sixth. Habitual intemperance.

Seventh. The personation of another licensed practitioner of a like or different name.

SEC. 12. 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 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.

Reasons for
revocation
to be filed.

SEC. 13. 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 state-

Appeals
from board.

ment of the grounds of such appeal, and shall file in the office of 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 the 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 reinstate 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 reinstatement 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

Records
certified.

Appeals to
supreme
court.

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

SEC. 14. Any person who shall practice or attempt to practice, or hold himself out as practicing medicine and surgery, osteopathy, or any other system or mode of treating the sick or afflicted in this state, without having, at the time of so doing, a valid, unrevoked certificate as provided in this act, shall be guilty of a misdemeanor. In each such conviction the fine shall be paid, when collected, to the State Treasurer, and shall constitute a special fund for the prosecution of illegal practitioners as defined in this act, the said fund to be paid to the said board upon warrants drawn therefor by its secretary, and the said board is authorized to prosecute all persons guilty of a violation of the provisions of this act.

Practicing without license a misdemeanor.

Fines paid into special fund.

SEC. 15. Every person filing for record, or attempting to file for record, the certificate issued to another, falsely claiming himself to be the person named in such certificate, or falsely claiming himself to be the person entitled to the same, shall be guilty of a felony, and, upon conviction thereof, shall be subject to such penalties as are provided by the laws of this state for the crime of forgery.

False representation a felony.

SEC. 16. Any person assuming to act as a member of the State Board of Medical Examiners without so being, or who shall sign, or subscribe, or issue, or cause to be issued, or seal, or cause to be sealed, a certificate authorizing any person to practice medicine or surgery, or osteopathy, or any other system or mode of treating the sick or afflicted, in this state, shall be guilty of a misdemeanor.

Acting as member of board without right a misdemeanor.

SEC. 17. Any person who holds a license from the board of medical examiners heretofore existing, under the provisions of any laws of this state, past or present, shall be entitled to practice medicine and surgery in this state the same as if issued under this act: *Provided, however*, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this act.

Licenses heretofore issued valid.

Laws to be
observed.

SEC. 18. All persons granted licenses or certificates under this act, shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying to births and deaths, and all matters pertaining to public health; and all such reports shall be accepted as legal.

Persons and
systems not
included.

SEC. 19. Nothing in this act shall be construed as to inhibit service in the case of emergency, or to the domestic administration of family remedies; nor shall this act apply to any commissioned medical officer in the United States army, navy, or marine hospital service, in the discharge of his official duties; nor to any licensed dentist when engaged exclusively in the practice of dentistry; nor shall this act apply to any practitioner from any other state or territory in which he resides: *Provided*, That such practitioner shall not open an office or appoint a place of meeting patients or receive calls within the limits of this state. Nor shall this act be construed to discriminate against any particular school of medicine or surgery or osteopathy, or any system or mode of treating the sick or afflicted, or to interfere in any way with the practice of religion: *Provided*, That nothing herein shall be held to apply or to regulate any kind of treatment by prayer.

Systems
authorized
only to be
practiced.

SEC. 20. All persons receiving a certificate or license under this act shall use no deception in the use of titles of his or her mode of treating the sick, but shall use only such titles as are designated by his or her diploma; or those not having a diploma shall use only such title as he or she holds license to practice. Any person violating this section of this act shall be guilty of a misdemeanor.

Certificate
and license
same.

SEC. 21. The words "certificates" and "licenses" shall be known as interchangeable terms in this act.

Repeals.

SEC. 22. All acts, or parts of acts, in any wise conflicting with the provisions of this act, are hereby repealed.

Emergency.

SEC. 23. An emergency exists and this act shall take effect immediately.

Passed by the House February 19, 1909.

Passed by the Senate March 8, 1909.

Approved March 18, 1909.

CHAPTER 193.

[H. B. 238.]

RELATING TO BOUNTIES ON WILD ANIMALS.

AN ACT to provide for the extermination of cougar, wild-cat, lynx, coyote and timber wolf, for the payment of bounties for such extermination, providing penalties, and making an appropriation therefor.

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

SECTION 1. Any person who shall kill any cougar, lynx, wild-cat, coyote or timber wolf in the State of Washington shall be entitled to a bounty therefor as follows: For each cougar, twenty dollars (\$20.00); for each lynx or wild-cat, five dollars (\$5.00); for each coyote, one dollar (\$1.00); and for each timber wolf, fifteen dollars (\$15.00). Bounties.

SEC. 2. Upon the production to the county auditor of any county of the entire hide or pelt and right fore leg to the knee joint intact of any cougar, lynx, wild-cat, coyote or timber wolf, killed in such county, each of which hides or pelts shall show two ears, eye holes, skin to tip of nose, and right fore leg to the knee joint intact, the county auditor shall require satisfactory proof that such animal was killed in such county. When the county auditor is satisfied that such animal was killed in his county, he shall cut from such hide or pelt the bone of the right fore leg to the knee as aforesaid which shall be burned in the presence of such auditor and one other county official, who shall certify to the date and place of such burning. Proof of killing.

SEC. 3. Any person or persons obtaining or attempting to obtain said bounty on the hide or pelts of any cougar, wild-cat, lynx, coyote or timber wolf, killed more than thirty days prior to the date of obtaining or attempting to obtain said bounty or that was killed outside of the boundaries of the county in which the same was offered, or make any other false or fraudulent representation for the purpose of obtaining such bounty, shall be guilty of a felony and upon conviction thereof shall be imprisoned False representation.

in the state penitentiary for a period of time not to exceed five years, or shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment at the discretion of the court.

Appropriation, \$25,000.

SEC. 4. The amount paid by any county for scalps under this act shall be credited to it by the State Auditor upon receipt by the State Auditor of a sworn statement from the county auditor as to the amount of warrants issued under the provisions of this act in said county, which statement shall be rendered to the State Auditor by each county quarterly, and the State Auditor shall make a charge against the general fund of the state for any such credits: *Provided*, That the credits herein provided for shall not exceed twenty-five thousand dollars (\$25,000.00) for each biennial period.

Passed by the House March 9, 1909.

Passed by the Senate March 11, 1909.

Approved March 18, 1909.

CHAPTER 194.

[S. B. 257.]

RELATING TO ASSESSMENT OF BENEFITS TO ROADS IN DRAINAGE DISTRICTS.

AN ACT relating to the assessments of benefits resulting to public or county roads by reason of the construction and maintenance of dikes or drains under the diking and drainage laws of this state, and providing a method of payment of such benefits, and declaring an emergency.

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

Benefit to road assessed to road district.

SEC. 1. Whenever, upon the trial to fix and assess the benefits and damages resulting from the construction of any diking or drainage system under the laws of this state, the jury shall find by its verdict that any public or county road will be benefited from the construction of such improvement, the clerk of the court in which such trial is

had shall, upon the entry of the judgment upon such verdict, certify to the board of county commissioners of the county in which such road is situated the amount of benefits to such road so found and adjudged. The said county commissioners shall, upon the receipt of such certified statement, allow the same as for other road work and shall order the amount thereof to be paid out of the road and bridge fund of the road district in which the road so benefited is situated, and shall direct the auditor of said county to issue a warrant for the amount of such benefits against the road and bridge fund of such road district in favor of the county treasurer of said county. The said county treasurer shall, upon the payment of said warrant, place the proceeds therefrom to the credit of the drainage or diking district from which such benefits resulted.

SEC. 2. Any additional assessments for the construction of any diking or drainage system, and also all assessments for the maintenance of same shall be based upon the benefits so found and adjudged, and the proportion of benefits resulting to such public or county road therefrom, on such basis, shall be allowed and paid for by such county in the same manner as in the case of the original construction.

Additional
assessments.

SEC. 3. An emergency exists and this act shall take effect immediately. Emergency.

Passed by the Senate February 27, 1909.

Passed by the House March 10, 1909.

Approved March 18, 1909.

CHAPTER 195.

[S. B. S.]

RELATING TO BANKING.

AN ACT to amend an act entitled, "An act to provide for the formation of banking corporations, and to regulate the business of banking and securing state supervision thereof; for the appointment of a state examiner, defining his duties, fixing his compensation and making an appropriation therefor; and prohibiting the use of the words "bank", "trust", and "savings" in advertising business by persons, firms and associations not hereby brought under state supervision, and fixing a penalty for the violation," approved March 16, 1907, providing penalties for the violation of said act as so amended and declaring an emergency.

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

SECTION 1. That section 1 of an act entitled "An act to provide for the formation of banking corporations, and to regulate the business of banking and securing state supervision thereof; for the appointment of a State Examiner, defining his duties, fixing his compensation and making an appropriation therefor; and prohibiting the use of the words "bank," "trust," and "savings" in advertising business by persons, firms and associations not hereby brought under state supervision, and fixing a penalty for its violation," approved March 16, 1907, be and the same is hereby amended to read as follows: Section 1. The Governor shall appoint, by and with the advice of the Senate, a State Examiner for the State of Washington, whose term of office shall be four years, unless sooner removed, and until his successor is appointed and qualified. No person shall be appointed to such office who shall not be at the time of his appointment, and for at least two years previous thereto, a citizen of the State of Washington, and who has not had at least four years experience in the banking business. Nor shall any person be eligible for such office who shall be at the time interested in any bank as owner, officer, or stockholder.

[Am'd. § 1.
ch. 225, p.
518, L. '07.]

Bank
examiner.

[Am'd. § 3.
ch. 225, p.
519, L. '07.]

SEC. 2. That section 3 of said act be, and the same is amended to read as follows: Sec. 3. The State Exami-

ner may appoint two deputies and revoke such appointment at pleasure, who shall have the qualifications and possess the powers, and perform the duties attached by law to the office of the examiner. He may also employ from time to time such clerical assistance as shall be necessary to the proper conduct of his office. But in no case shall the expenses incident to the conduct of the office exceed the appropriation provided by legislative action.

Two
deputies.

Clerks.

SEC. 3. That section 5 of said act be and the same hereby is amended so as to read as follows: Sec. 5. The State Examiner may maintain an office at the state capitol, and there shall be, at his request, assigned to him suitable rooms in the state capitol building for conducting the business of his office; but such office may, with the consent of the Governor, be maintained at some other convenient banking center in the state.

[Am'd. § 5,
ch. 225,
p. 519,
L. '07.]Location of
office.

SEC. 4. That section 6 of said act be, and the same hereby is amended so as to read as follows: Sec. 6. The term "banking" within the meaning of this act shall be deemed and taken to mean the negotiations for, the discounting of, promissory notes, drafts, bills of exchange and other evidence of indebtedness, receiving deposits, selling and buying exchange, coin and bullion, and loaning money on personal, real and other securities, and other kindred financial operations. The term "bank" used in this act, shall be taken to mean and include every corporation, domestic or foreign (except national banks and foreign banks and not authorized to receive deposits), transacting banking business in this state. The term "branch bank," used in this act, shall be taken to mean an office of deposit or discount other than the bank's principal place of business.

[Am'd. § 6,
ch. 225,
p. 519,
L. '07.]

"Banking."

"Bank."

"Branch
bank."

SEC. 5. That section 8 of said act be, and the same is hereby amended so as to read as follows: Sec. 8. Any number of persons, not less than three, may become incorporated, for the purpose of conducting and carrying on a general banking business, and also to establish banks to be known as savings banks, or to establish banks having

[Am'd. § 8,
ch. 225,
p. 520,
L. '07.]

departments for both classes of business, upon the terms and conditions of, and subject to the liabilities, prescribed in this act. It shall be unlawful for any corporation to transact a banking business unless at the time of organization and commencement of such banking business, such corporation has property of cash value as follows: In cities, villages and communities having a population of less than one thousand (1,000), ten thousand dollars (\$10,000); in cities, villages and communities having a population of one thousand (1,000) and less than two thousand (2,000) inhabitants, fifteen thousand dollars (\$15,000); in cities having a population of two thousand (2,000) and less than three thousand (3,000) inhabitants, twenty thousand dollars (\$20,000); in cities having a population of three thousand (3,000) and less than five thousand (5,000) inhabitants, twenty-five thousand dollars (\$25,000); in cities having a population of five thousand (5,000) and less than ten thousand (10,000) inhabitants, thirty thousand dollars (\$30,000); in cities having a population of ten thousand (10,000) and less than twenty-five thousand (25,000) inhabitants, fifty thousand (\$50,000); in cities having a population of twenty-five thousand (25,000) and less than fifty thousand (50,000) inhabitants, seventy-five thousand dollars (\$75,000); and in cities having a population of more than fifty thousand (50,000) inhabitants, one hundred thousand dollars (\$100,000). Such property shall be in lawful money as provided in section 12 of this act: *Provided*, That the provisions of this section as to the amount of capital shall not apply to any bank or trust company organized and doing business at the time of the passage of this act: *But provided further*, That the capital stock of any bank or trust company transacting business in this state, organized prior to the 12th day of June, 1907, shall be paid in full in cash within five months from the date upon which this act shall take effect. And a failure to comply with the provisions of this section shall subject any such bank or trust company to a penalty of one hundred dollars per day for each day of such failure, and such penalty may be collected by suit

Capital
required.

Not applica-
ble to banks
heretofore
organized.

Capital stock
to be in
cash.

Penalty.

against such bank or trust company on the relation of the State Examiner, or Attorney General.

SEC. 6. That section 14 of said act be, and the same hereby is amended so as to read as follows: Sec. 14. When articles of incorporation are filed with the State Examiner as provided by this act, and the bank transmitting the same notifies the State Examiner that at least fifty per cent. of its capital stock has been paid in, and that such bank has complied with the conditions of this act, as required before the bank shall be authorized to commence business, the examiner shall examine into the condition of such bank, and if upon examination it appears that such bank is lawfully entitled to commence business, give to such bank a certificate under his hand and official seal, that it has complied with all the provisions of the law, and is duly authorized to transact business: *Provided, however,* That no foreign bank, or branch thereof, except foreign banks now doing business in the State of Washington, shall do a banking business in the state until he or they shall have furnished to the State Examiner evidence satisfactory to him that such foreign bank, or branch thereof, has invested in such foreign bank, or branch thereof, an amount of capital equal to that required of corporations engaged in similar business, and shall have received from such examiner a certificate authorizing him or them to do business as required in sections 8 and 12 of this act for corporations: *Provided further,* No bank in this state, or any officer or director thereof, shall hereafter open any branch bank, or any office of deposit or discount, other than its principal place of business, and no branch bank heretofore opened shall be hereafter maintained unless the capital of the bank maintaining the branch bank shall be equal to the sum required by section 8 of the act of which this act is an amendment, and unless the capital of said bank be increased by the amount required by said section 8 for each and every such branch, the payment of such increased capital shall be governed by the provisions in sections 12 and 13 of the act of which this act is an amendment, and for the maintenance of any

[Am'd. § 14,
ch. 225, p.
523, L. '07.]

Certificate
to do
business.

Foreign
banks.

Branch
banks.

branch bank in violation of the provisions of this section every such bank and every such officer or director shall be subject to a penalty in the sum of one thousand dollars for every week during which any such branch bank shall be so maintained. And such penalty may be collected by suit against such bank, or officer or director, on relation of the State Examiner, or Attorney General.

[Am'd. § 15.
ch. 225, p.
524, L. '07.] SEC. 7. That section 15 of said act be and the same is hereby amended so as to read as follows: Sec. 15. The shares of stock of such incorporated bank shall be deemed personal property and shall be transferred on the books of the bank in such a manner as the by-laws thereof shall direct. No bank shall be the purchaser of its own capital stock, or accept its capital stock, or any part of it, as security for loans. No bank shall subscribe for or purchase the stock of any other banking corporation.

[Am'd. § 20.
ch. 225, p.
525, L. '07.] SEC. 8. That section 20 of said act be, and the same is hereby amended so as to read as follows: Sec. 20. The directors of any bank transacting business in this state may declare a dividend of so much of the net profits of the bank, after providing for all expenses, interest and taxes accrued, or due from such bank, as they shall judge expedient, but before any such dividend is declared, not less than one-tenth of the net profits of the bank for the preceding half-year, or for such period as is covered by the dividend, shall be carried to a surplus, until such surplus shall amount to twenty per cent. of its capital stock: *Provided*, That accrued and uncollected interest on the assets of the bank shall not be distributed as a part of its earnings.

[Am'd. § 34.
ch. 225, p.
529, L. '07.] SEC. 8 [9]. That section 34 of said act be, and the same hereby is amended so as to read as follows: Sec. 34. The State Examiner shall receive a salary of thirty-six hundred dollars a year, and each deputy state examiner shall receive a salary of two thousand four hundred dollars a year; and the State Examiner shall be allowed an additional sum as may be necessary, for clerical assistance in his office, office rent, traveling and other expenses, detailed vouchers for all of which shall be filed with his report.

Penalty.

Stock
personal
property.

Surplus.

Salaries.

SEC. 10. That section 36 of said act be, and the same hereby is amended so as to read as follows: Sec. 36. Every bank shall make at least three reports each year to the State Examiner, on days designated by the comptroller of the currency on which national banks shall make reports, according to forms to be prescribed by him, verified by the president, manager or cashier, and by two directors, which shall exhibit in detail, and under appropriate heads, the resources and liabilities of the bank, and shall be transmitted to the State Examiner within ten days of the receipt of a request therefor from him. And such report in condensed form, according to forms to be prescribed by the State Examiner, shall be published once in a newspaper of general circulation published in the place where the bank is located, or if there be no newspaper published in such place, then in some newspaper published in the same county. Proof of publication shall be transmitted to the State Examiner, within twenty days from the day fixed for such report. The State Examiner shall also have power to call for special reports from any bank whenever in his judgment the same is necessary, in order to obtain a full knowledge of its condition.

Reports.

Publication
of reports.

SEC. 11. That section 40 of said act be, and the same is hereby amended so as to read as follows: Sec. 40. The State Examiner shall collect from each bank for each complete examination of its condition, twenty-five dollars (\$25.00) for each examination, and in addition thereto, one two hundredths per cent. (1-200%) on all deposits, including those of banks, and certificates of deposit at the time of the examination of the bank, but in no case shall the charge be more than two hundred dollars. All money collected under the provision of this section shall be paid into the general fund of the state: *Provided, however,* That no bank shall be required to pay for more than one examination in any one year.

[Am'd. § 40,
ch. 225, p.
531, L. '07.]Fee for
examination.

SEC. 12. An emergency exists, and this act shall take effect immediately. Emergency.

Passed by the Senate March 2, 1909.

Passed by the House March 6, 1909.

Approved March 19, 1909.

CHAPTER 196.

[H. B. 119.]

RELATING TO RAILROADS.

AN ACT relating to railroad companies; authorizing them to construct railroads and branches, and to sell, purchase, lease and consolidate with certain other railroads, and validating such sales, purchases, leases and consolidations heretofore made, and declaring an emergency.

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

SECTION 1. That any railroad company now or hereafter incorporated, pursuant to the laws of this state or of the United States, or of any state or territory of the United States, may at any time by means of subscription to the capital stock of any other railroad company, or by the purchase of its stock or bonds, or by guaranteeing its bonds, or otherwise, aid such company in the construction of its railroad within or without this state; and any such company owning or operating a railroad within or without this state, may extend the same into this or any other state or territory, and may build, buy, or lease the whole or any part of any other railroad, together with the franchises, powers and immunities and all other property and appurtenances appertaining thereto, whether located within or without this state; or may consolidate with any railroad or railroads in such other state or territory, or with any other railroad in this state, and may operate the same, and may own such real estate and other property in such other state or territory as may be necessary or convenient in the operation of such road; and any such railroad company may sell or lease the whole or any part of its railroad and branches, within or without this state, constructed or to be constructed, together with all property, rights, privileges and franchises appertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States or of this state, or of any other state or territory of the United States; and any railroad company incorporated or existing under the laws of the United States, or of any state or territory

May buy
stock of or
aid other
railroads.

Roads may
consolidate.

of the United States, may extend, construct, maintain and operate its railroad, or any portion or branch thereof, into and through this state, and may build branches from any point on such extension to any place or places within this state, and the railroad company of any other state or territory of the United States which shall so purchase or lease a railroad, or any part thereof in this state, or consolidate with any such railroad in this state, or shall extend or construct its road, or any portion or branch thereof in this state, shall possess and may exercise and enjoy as to the location, control, management and operation of the said road, and as to the location, construction and operation of any extension or branch thereof, all the rights, powers, privileges and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain. Such purchase, sale, consolidation or lease may be made, or such aid furnished, upon such terms or conditions as may be agreed upon by the directors and trustees of the respective companies; but the same shall be approved or ratified by persons holding or representing seventy-five per cent of the capital stock of each of such companies, respectively, at any annual stockholders' meeting, or at a special meeting of the stockholders called for that purpose, or by the approval in writing of seventy-five per cent of the stockholders of each company, respectively. Articles stating the name selected for such consolidated corporation and the terms of such consolidation shall be approved by each corporation by the vote of the stockholders holding seventy-five per cent of the stock, in person or by proxy, at a regular meeting thereof, or a special meeting called for that purpose in the manner provided by the by-laws of the respective consolidating corporations, or by the consent in writing of such seventy-five per cent of such stockholders annexed to such articles; and a copy thereof, with a copy of the records of such approval or consent, duly certified by the respective presidents and secretaries, with the corporate seals of such corporations affixed thereto, shall be filed for record in

May build
branches.

Eminent
domain.

Approval of
stockholders

Articles of
consolidation
to be filed.

the office of the Secretary of State, and a copy thereof be furnished to the State Railroad Commission; and thereupon such consolidating corporations shall be and become one corporation, by the name so selected, which, within this state, shall possess all the powers, franchises, and immunities, including the right of further consolidation with other corporations, and be subject to all the liabilities and restrictions now or hereafter imposed by law: *Provided*, That no railroad or transportation corporation shall consolidate its stock, property, or franchises with any other railroad or transportation corporation owning a competing line, or purchase either directly or indirectly, any stock or interest in a railroad or transportation corporation owning or operating a competing line: *And provided further*, That nothing in the foregoing provisions shall be held or construed as curtailing the right of this state, or of the counties through which any such road or roads may be located, to levy and collect taxes upon the same, and upon the rolling stock thereof, in conformity with the provisions of the laws of this state upon that subject, and all roads or branches thereof in this state so consolidated with, purchased or leased, or aided, or extended into this state, shall be subject to taxation and to regulation and control of its operation by the laws of this state in all respects the same as if constructed by corporations organized under the laws of this state; and any corporation of another state or territory or of the United States, being the purchaser or lessee of a railroad within this state, or extending its railroad or any portion thereof into or through this state, shall establish and maintain an office or offices in this state, at some point or points on its line, at which legal process and notice may be served as upon railroad corporations of this state: *Provided further*, That before any railroad corporation organized under the laws of any other state or territory, or of the United States, shall be permitted to avail itself of the benefits of this act with respect to any railroad constructed, or to be constructed within this state, such corporation shall file with the Secretary of State a true copy of its charter or

Consolidations of competing lines prohibited.

Taxation and control in state.

Articles of foreign corporations.

articles of incorporation, and otherwise comply with the laws of this state respecting foreign corporations doing business within the state: *Provided*, That any such consolidation shall be approved by the State Railroad Commission: *Provided further*, That, in no case, shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof.

Conditions
of consoli-
dation.

SEC. 2. Any sale or purchase of, and any consolidation by sale, or otherwise, or any lease, or agreement to sell, consolidate with or lease, the whole or any part of any railroad, or the branch lines of any company, whether organized or located within or without this state, with the franchises appertaining thereto, to, from or with any railroad company organized under the laws of the United States or of this state or any other state or territory, or any consolidation between such companies, heretofore executed by the proper officers of the respective companies, parties to such sale, lease or consolidation or contract, is hereby legalized and made in all respects valid and binding from the date of its execution: *Provided*, That the provisions of this section shall not apply when the railroads or transportation corporations involved are competing lines.

Former acts
legalized.

SEC. 3. An emergency exists, and this act shall take effect immediately.

Emergency.

Passed by the House February 26, 1909.

Passed by the Senate March 8, 1909.

Approved March 18, 1908[9].

CHAPTER 197.

[H. B. 180.]

PERMITTING THE DISPOSAL OF PROPAGATED GAME BIRDS.

AN ACT relating to the sale of propagated game birds, game fish or game animals, and declaring an emergency.

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

For propa-
gation pur-
poses.

SECTION 1. It shall be lawful for the owner of any game bird, game fish or game animal who has propagated the same or purchased the same from persons who have propagated them to sell or dispose of by gift for propagation purposes only, and to ship the same at any season of the year.

Emergency.

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

Passed by the House March 1, 1909.

Passed by the Senate March 11, 1909.

Approved March 18, 1909.

CHAPTER 198.

[H. B. 413.]

CHANGING LOCATION OF A FISH HATCHERY.

AN ACT to authorize the State Board of Fish Commissioners to move the state fish hatchery, located on the Chehalis river, in Chehalis county; to purchase a new site therefor, and make improvements thereon, and to sell the present site or any part thereof.

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

New site.

SECTION 1. The State Board of Fish Commissioners are hereby authorized to move the state fish hatchery, on the Chehalis river, in Chehalis county, from its present site, to some suitable point on or near the Chehalis river, in Chehalis county, or one of its tributaries, and to purchase a new site therefor, and to make such improvements thereon as in their judgment may be necessary.

SEC. 2. The State Board of Fish Commissioners are hereby authorized to sell and convey the present site or any part thereof, and any and all improvements thereon at public sale to the highest bidder in the usual method of selling other state lands.

Present site to be sold.

SEC. 3. That the money derived from said sale be used and expended for the purchase of a new site and for the erection of improvements thereon.

Proceeds of sale.

Passed by the House March 10, 1909.

Passed by the Senate March 11, 1909.

Approved March 18, 1909.

CHAPTER 199.

[S. B. 146.]

ASSISTING THE INVESTIGATION OF THE BUREAU OF PLANT INDUSTRY.

AN ACT authorizing and directing the State Auditor to audit, and the State Treasurer to pay bills or expenses which hereafter may be incurred by the bureau of plant industry of the department of agriculture of the United States, in the investigation of and experimentation with the various methods of clearing logged off and timbered lands in this state, to an amount in the aggregate equal to the sum hereafter to be expended by said bureau, from its congressional appropriation for such purpose within this state, not exceeding five thousand (\$5,000.00) dollars, and making an appropriation therefor.

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

SECTION 1. That there be, and is hereby appropriated out of any moneys in the treasury of the State of Washington not otherwise appropriated, the sum of five thousand (\$5,000.00) dollars, or so much thereof as may equal the aggregate amount hereafter expended from its congressional appropriation by the bureau of plant industry of the department of agriculture of the United States within this state, to be expended by and under the direction and control of the said bureau of plant industry in the further investigation of and experimentation with the various methods for clearing logged off or timbered lands

Appropriation, \$5,000.

Investigate methods for clearing logged-off lands.

within this state, and rendering the same suitable for cultivation.

Auditor to draw warrant, when.

SEC. 2. That upon presentation, by the chief of said bureau, to the State Auditor of this state, of a certificate or certificates showing the expenditure by the said bureau within the state of any amount in the investigation of or experimentation with the methods of clearing logged off or timbered lands within this state, the said State Auditor is hereby authorized and directed, thereafter, as the same are presented, to audit and allow bills of said bureau for a like character of work aggregating a like amount as stated in said certificates aforementioned, not exceeding five thousand (\$5,000.00) dollars for such further investigation and experimentation as may be by said bureau made within this state; and said amounts so audited and allowed shall be paid by the State Treasurer out of the appropriation herein provided.

Passed by the Senate March 2, 1909.

Passed by the House March 9, 1909.

Approved March 18, 1909.

CHAPTER 200.

[H. B. 97.]

RELATING TO PLATS.

AN ACT to amend section 1, chapter 44, of an act of the legislature of the State of Washington, approved February 26, 1907, entitled, "An act to amend section 1263 Ballinger's Annotated Codes and Statutes of Washington, relating to filing of plats and payment, assessment and collection of taxes upon the same," and declaring an emergency.

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

SECTION 1. That section 1 of an act entitled "An act to amend section 1263 Ballinger's Annotated Codes and Statutes of Washington, relating to filing of plats and payment, assessment and collection of taxes upon the same, approved February 26, 1907, be amended to read as follows: Sec. 1. That section 1263 of Ballinger's Annot-

[Am'd. § 2, ch. 129, p. 420. L. '95; §1263, Bal.; §3559. Pierce: ch. 44, p. 59, L. '07.]

ated Codes and Statutes of Washington shall be amended to read as follows: Sec. 1263: Any person filing a plat subsequent to March 1st, in any year and prior to the date of the collection of taxes, shall deposit with the county treasurer a sum equal to an increase of twenty-five per cent. of the amount of the tax for the previous year on the property platted. The treasurer's receipt for said amount shall be taken by the auditor as evidence of the payment of the tax. The treasurer shall appropriate so much of said deposit as will pay the taxes on the said property when the tax rolls are placed in his hands for collection, and in case the sum deposited is in excess of the amount necessary for the payment of the said taxes, the treasurer shall return, to the party depositing, the amount of said excess, taking his receipt therefor, which receipt shall be accepted for its face value on the treasurer's quarterly settlement with the county auditor.

Increase of
tax on plat.

Return of
excess.

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

Passed by the House February 23, 1909.

Passed by the Senate March 10, 1909.

Approved March 18, 1909.

CHAPTER 201.

[H. B. 299.]

RELATING TO FEED STUFFS.

AN ACT to provide for registration and guarantee of composition of concentrated commercial feeding stuffs and for fees for such registration, providing against the adulteration of such feeding stuffs, declaring violation of its provisions to be a misdemeanor and providing a penalty therefor and requiring the Attorney General and prosecuting attorneys to prosecute violations thereof.

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

SECTION 1. The term "concentrated commercial feeding stuffs" as used in this act shall include linseed meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, "Concentrated commercial feed stuffs."

dairy feeds, starch feeds, sugar feeds, dried brewers or distillers grains, malt sprouts, feeds made from ground cereals or by-products therefrom, including wheat bran, wheat middlings, and wheat shorts, slaughter-house waste products when sold as feeds, mixed feeds and mixed meals made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, stock feeds, and all patented proprietary or trade stock and poultry feeds for which nutritive value is claimed; but it shall not include hay or straw, whole seeds, or unmixed meals made from the entire grains of wheat, rye, barley, oats, corn or other cereals, nor wheat flour or other flours.

SEC. 2. Before any concentrated commercial feeding stuff is sold, offered or exposed for sale in Washington, the manufacturer, importer, dealer, agent, or person who causes it to be sold or offered for sale, by sample, or otherwise, within this state, shall file with the director of the State Agricultural Experiment Station, at Pullman, Washington, a statement that he desires to offer such concentrated commercial feeding stuff for sale in this state, and also a certificate, the execution of which shall be sworn to before a notary public, or other proper official, for registration, stating the name of the manufacturer; the location of the principal office of the manufacturer; the name, brand, or trade-mark under which the concentrated commercial feeding stuff will be sold; the ingredients from which the concentrated commercial feeding stuff is compounded; and the minimum percentage of crude fat and crude protein (allowing 1% of nitrogen to equal 6.25% of protein) which the manufacturer, or person offering the concentrated commercial feeding stuff for sale guarantees it to contain, these constituents to be determined by the methods recommended by the Association of Official Agricultural Chemists of the United States.

SEC. 3. Any person, company, corporation, or agent, that shall sell, offer, or expose for sale, any concentrated commercial feeding stuff in this state, shall affix or cause to be affixed to every package or sample of such con-

Statement
to be filed.

Requirements
of feed
stuffs.

Packages to
be labeled.

centrated commercial feeding stuff in a conspicuous place on the outside thereof, a tag or label which shall be accepted as a guarantee of the manufacturer, importer, dealer, or agent, and which shall have plainly printed thereon in the English language, the number of net pounds of concentrated commercial feeding stuff in the package; the name, brand or trade-mark, under which the concentrated commercial feeding stuff is sold; the name of the manufacturer; the location of the principal office of the manufacturer; the guaranteed analysis stating the minimum percentage of crude fat and crude protein, determined as described in section 2; and the ingredients from which the concentrated commercial feeding stuff is compounded. For each hundred pounds or fraction thereof, the person, company, corporation, or agent, shall also affix a stamp purchased from the director of the State Experiment Station, showing that the concentrated commercial feeding stuff has been registered as required by section 2 of this act, and that the inspection tax has been paid. When concentrated commercial feeding stuff is sold in bulk a tag or label and a stamp from the director of the Experiment Station as hereinbefore described shall be delivered to the purchaser with each hundred pounds or fraction thereof.

Contents of
label.

Stamps of
approval on
package.

SEC. 4. The director of the State Experiment Station shall register the facts set forth in the certificate required by section 2 of this act in a permanent record and shall furnish stamps or labels showing the registration of such certificate to manufacturers, or agents desiring to sell the concentrated commercial feeding stuff so registered at such times and in such numbers as the manufacturers or agents may desire: *Provided*, That the director of the State Experiment Station shall not be required to sell stamps or labels in less amount than to the value of five dollars (\$5.00) or multiples of five dollars, for any one concentrated commercial feeding stuff: *Provided further*, That the director of the State Experiment Station shall not be required to register any certificate unless accompanied by an order and fee for stamps or

Stamps sold,
how.

labels to the value of five dollars (\$5.00) or some multiple of five dollars: *Provided further*, That such stamps or labels shall be printed in such form as the director of the State Experiment Station may prescribe: *Provided further*, That such stamps or labels shall be good until used.

Amount sold
to be re-
ported an-
nually.

SEC. 5. On or before January 31st of each year each and every manufacturer, importer, dealer, agent, or person who causes any concentrated commercial feeding stuff to be sold, offered or exposed for sale in the State of Washington shall file with the director of the State Experiment Station of Washington a sworn statement, giving the number of net pounds of each brand of concentrated commercial feeding stuff he has sold or caused to be offered for sale in the state for the previous year ending with December 31st: *Provided*, That when the manufacturer, jobber, or importer of any concentrated commercial feeding stuff shall have filed the statement aforesaid, any person acting as agent for said manufacturer, importer, or jobber shall not be required to file such statement.

Fees paid to
treasurer of
state college.

SEC. 6. For the expense incurred in registering, inspecting and analyzing concentrated commercial feeding stuffs the director of the State Experiment Station shall receive for stamps or labels purchased one dollar per hundred. The money for said stamps or labels shall be forwarded to the director of the State Experiment Station, by whom all such fees shall be paid into the treasury of the said Washington Agricultural Experiment Station, the board of control of which shall expend the same in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors or chemists, expenses in procuring samples, printing bulletins giving the results of the work of feeding stuff inspection, and for any other expenses of the said Washington Agricultural Experiment Station as authorized by law. The director of the State Experiment Station shall make to the Governor on or before February 15th of each year a classified report showing the total receipts and ex-

Annual re-
port of
director.

penditures of all fees received under the provisions of this act.

SEC. 7. Any person, company, corporation or agent that shall offer or expose for sale, or sell, any package or sample or any quantity of any concentrated commercial feeding stuff which has not been registered with the director of the State Experiment Station as required by section 2 of this act, or which does not have affixed to it the tag and stamp required by section 3 of this act, or which is found by an analysis made by or under the direction of the chemist of the State Experiment Station to contain a smaller percentage of crude fat or crude protein than the minimum guarantee, or which shall be labeled with a false or inaccurate guarantee; or who shall adulterate any concentrated commercial feeding stuff with foreign mineral matter or other foreign material of less or little or no feeding value without plainly stating on the label hereinbefore described the kind, and amount of such mixture; or who shall adulterate with any substance injurious to the health of domestic animals; or who shall alter the stamp, tag, or label of the director of the State Experiment Station, or shall use the name and title of the director of the State Experiment Station on a stamp, tag, or label not furnished by him or shall use the stamp, tag, or label of the director of the State Experiment Station a second time; or who shall refuse or fail to make the sworn statement required by section 5 of this act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in the sum of fifty dollars for the first offense and in the sum of one hundred dollars for each subsequent offense. In all litigation arising from the purchase or sale of any concentrated commercial feeding stuff in which the composition of the same may be involved a certified copy of the official analysis signed by the chemist of the State Experiment Station shall be accepted as *prima facie* evidence of the composition of such concentrated commercial feeding stuff: *Provided*, That nothing in this act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk

Sale of non-labeled or inferior grade prohibited.

Fraud.

Penalty.

Act not to apply to wholesaling.

to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuffs for sale, or as preventing the unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuffs for sale, or to prevent the director of the Washington Agricultural Experiment Station, or any person or persons authorized by him, from making experiments with concentrated commercial feeding stuffs for the advancement of the science of agriculture.

SEC. 8. The director of the State Experiment Station, or any person by him deputized, is hereby empowered to procure, from any lot, parcel, or package of any concentrated commercial feeding stuff offered for sale or found in Washington, a sample quantity thereof not to exceed two pounds: *Provided*, That such sample shall be drawn during reasonable business hours, or in the presence of the owner of the concentrated commercial feeding stuff or of some person claiming to represent the owner.

SEC. 9. Any person who shall prevent or strive to prevent the director of the State Experiment Station, or any person deputized by him, from inspecting and obtaining samples of concentrated commercial feeding stuff as provided for in section 8 of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of fifty dollars for the first offense, and in the sum of one hundred dollars for each subsequent offense.

SEC. 10. The director of the State Experiment Station is hereby empowered to prescribe and enforce such rules and regulations relating to concentrated commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this act, and to refuse the registration of any feeding stuff under a name which would be misleading as to the materials of which it is made, or when the percentage of crude fat or crude protein is below the standards adopted for concentrated commercial feeding stuffs. The director of the State Experiment Station is further empowered to refuse to issue stamps or labels to any manufacturer, importer, dealer,

Samples may
be taken.

Interfering
with opera-
tion of act;
penalty.

Rules and
regulations.

agent, or person who shall sell or offer or expose for sale any concentrated commercial feeding stuff in this state and refuse to submit the sworn statement required by section 5 of this act.

SEC. 11. It shall be the duty of the State Attorney General or the prosecuting attorney of the several counties of this state to cause proceedings to be commenced against any person or persons whom the director of the State Experiment Station shall report to have violated any section of this act and to prosecute the same in the manner required by law.

Legal
advisor.

SEC. 12. All laws and parts of laws of this state in conflict with this act are hereby repealed.

Repeals.

SEC. 13. The provisions of this act shall not apply to cereal or flouring mills selling mill bran, shorts, or midlings made in the regular process of manufacturing cereal or flour.

Ordinary
milling
products.

SEC. 14. The provisions of this act, after passage by the legislature, and signature by the Governor, shall be in full force and effect after January 1st, 1910.

Time of tak-
ing effect.

Passed by the House March 6, 1909.

Passed by the Senate March 10, 1909.

Approved March 17, 1909.

CHAPTER 202.

[S. B. 351.]

RELATING TO THE NEGOTIABILITY OF CERTIFICATES OF BONDED LIQUORS.

AN ACT prohibiting the making, uttering, circulating, selling or offering for sale any certificate of any warehouse, distillery or depository for intoxicating liquors unless the identical liquors referred to therein have been fully paid for and the owner and holder of such certificate may obtain the same without the payment of any further sum except government tax and the taxes of the state, county and city where such warehouse, distillery or depository may be located, and storage charges, and providing penalty for violation thereof.

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

SECTION 1. That it shall be unlawful for any person, firm, association or corporation to make, utter, circulate,

Sales of
certificates
of bonded
goods.

sell or offer for sale any certificate of any warehouse, distillery or depository for intoxicating liquors unless the identical liquor mentioned in such certificate is in the possession of the warehouse, distillery or depository mentioned in such certificate fully paid for, so that the owners and holder of such certificate will be entitled to obtain such intoxicating liquors without the payment of any additional sum except the tax of the government and the tax of the state, county and city in which such warehouse, distillery or depository may be located, and any storage charges.

Penalty.

SEC. 2. Any person violating any of the provisions of this act, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not more than five years nor less than one year, or imprisonment in the county jail for any length of time not exceeding one year.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 18, 1909.

CHAPTER 203.

[S. B. 72.]

RELIEF OF B. D. MINKLER.

AN ACT for the relief of B. D. Minkler and making an appropriation therefor.

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

Appropriation,
\$2,797.

SECTION 1. That the sum of two thousand seven hundred and ninety-seven dollars be and the same is hereby appropriated out of the state treasury from any funds not otherwise appropriated to pay B. D. Minkler for losses sustained by reason of being dispossessed of lot No. 2, section 16, township 35, N. R. 6 E., purchased from the State of Washington.

Payment.

SEC. 2. That the State Auditor is hereby authorized and directed to draw a warrant on the State Treasurer for the said sum of two thousand seven hundred and ninety-seven dollars in favor of the said B. D. Minkler and the

said State Treasurer is hereby directed to pay said warrant out of any funds in the state treasury not otherwise appropriated.

Passed by the Senate February 9, 1909.

Passed by the House March 10, 1909.

Approved March 18, 1909.

CHAPTER 204.

[S. B. 211.]

RELATING TO THE ISSUE OF BONDS BY CITIES AND TOWNS.

AN ACT to amend section 3 of an act entitled "An act to authorize counties, cities and towns to issue bonds to fund their outstanding indebtedness, and to provide for the levy and collection of a specific tax to pay the principal and interest on such bonds and declaring an emergency," approved March 22, 1895, being section 1892 of Ballinger's Code, as amended by an act entitled, "An act to amend section 3 of an act entitled, 'An act to authorize counties, cities and towns to issue bonds to fund their outstanding indebtedness, and to provide for the levy and collection of a specific tax to pay the principal and interest on such bonds and declaring an emergency,' approved March 22, 1895," approved March 6, 1901, and declaring an emergency.

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

SECTION 1. That section 3 of an act entitled "An act to authorize counties, cities and towns to issue bonds to fund their outstanding indebtedness, and to provide for the levy and collection of a specific tax to pay the principal and interest on such bonds and declaring an emergency," approved March 22, 1895, being section 1892 of Ballinger's Code, as amended by an act entitled "An act to amend section 3 of an act entitled, 'An act to authorize counties, cities and towns to issue bonds to fund their outstanding indebtedness, and to provide for the levy and collection of a specific tax to pay the principal and interest on such bonds and declaring an emergency,' approved March 22, 1895," approved March 6, 1901, be amended to read as follows: Sec. 3. Bonds may be issued without

[Am'd. § 3,
ch. 170, p.
467, L. '95;
§ 1892 Bal.;
§ 1, ch. 54, p.
66, L. '01,
§ 7682
Pierce.]

Refunding bonds.

Notice of sale of bonds.

Sale of.

notice under the provisions of this act for the purpose of funding or refunding outstanding warrants in cases where the issuance of such bonds shall have been previously authorized by the voters of such county, city or town, when exchanged at not less than par value, or for the purpose of funding or refunding outstanding bonds, when exchanged at not less than par value, but before any other bonds shall be issued under the provisions of this act, such corporate authorities shall cause a notice of the proposed issuance of such bonds to be given by publication in a daily or weekly newspaper of general circulation published in the county proposing to issue such bonds, or in which county such city or town is situated, at least once a week for four consecutive weeks. Such notice shall state for what purpose and the total amount for which it is so proposed to issue bonds, and if to be divided into series, then into how many series the same are to be divided, and the amount of and period for which each series is to run, also the hour and day for considering bids for such bonds, and asking bidders to name the price and rate of interest at which they will purchase such bonds, and if such bonds are to be divided into series then to name such price and rate for each series of such bonds, separately; and at the time named in such notice it shall be the duty of the corporate authorities to meet with the treasurer of the county, city or town proposing to issue such bonds, at his office, and with him open said bids, and shall sell said bonds to the person or persons making the most advantageous offer therefor: *Provided, however,* That said bonds shall never be sold or disposed of below par, and such corporate authorities shall have the right to reject any and all bids, and if all said bids shall be rejected, such corporate authorities shall proceed to readvertise the sale of said bonds in the manner herein provided.

Emergency. SEC. 2. An emergency is hereby declared to exist, and this act shall take effect immediately.

Passed by the Senate March 2, 1909.

Passed by the House March 5, 1909.

Approved March 18, 1909.

CHAPTER 205.

[S. B. 161.]

RELATING TO JURY TRIALS.

AN Act amending section 1 of an act entitled, "An act relating to jury trials in the superior court, providing for the payment by litigants of certain jury fees and repealing section 5028 of Ballinger's Codes and Statutes of the State of Washington," being chapter 43 of the Session Laws of 1903.

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

SECTION 1. That section 1 of an act entitled, "An act relating to jury trials in the superior court, providing for the payment by litigants of certain jury fees and repealing section 5028 of Ballinger's Annotated Codes and Statutes of the State of Washington," being chapter 43 of the Session Laws of 1903, be amended to read as follows: Section 1. In all civil actions triable by a jury in the superior court any party to the action may, at or prior to the time the case is called to be set for trial, serve upon the opposite party or his attorney, and file with the clerk of the court a statement of himself, or attorney, that he elects to have such case tried by jury. At the time of filing such statement such party shall also deposit with the clerk of the court \$12.00, which deposit, in the event that the case is settled out of court prior to the time that such case is called to be heard upon trial, shall be returned to such party by such clerk. Unless such statement is filed and such deposit made, the parties shall be deemed to have waived trial by jury, and consented to a trial by the court: *Provided*, That, in the superior courts of counties of the first class such parties shall serve and file such statement, in manner herein provided, at any time not later than two days before the time the case is called to be set for trial.

[Am'd. § 1,
ch. 43, p. 50,
L. '03;
§ 1519h,
Pierce.]

Demand for
jury.

Jury fee.

Passed by the Senate February 2, 1909.

Passed by the House March 5, 1909.

Approved March 18, 1909.

CHAPTER 206.

[S. B. 243.]

REQUIRING JUDGES TO WEAR GOWNS.

AN ACT requiring judges of the supreme court and superior courts to wear gowns while sitting in the hearing of causes.

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

Gowns to be worn in open court.

SECTION 1. That each of the judges of the supreme court and the judges of the superior courts shall in open court during the presentation of causes, before them, appear in and wear gowns, made of black silk, of the usual style of judicial gowns.

Passed by the Senate February 24, 1909.

Passed by the House March 9, 1909.

Approved March 18, 1909.

CHAPTER 207.

[S. B. 233.]

REQUIRING SECURITY FOR LABORERS AND MATERIAL MEN ON PUBLIC WORKS.

AN ACT requiring bonds from contractors contracting to do public work, conditioned to pay laborers, mechanics, material men and others.

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

SECTION 1. Whenever any board, council, commission, trustees or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county or municipality, or other public body, city, town or district, such board, council, commission, trustees or body shall require the person or persons with whom such contract is made to make, execute and deliver to such board, council, commission, trustees or body a good and sufficient bond with two or more sureties, or with a surety company

Bond to cover lienable claims.

as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics and sub-contractors and material men, and all persons who shall supply such person or persons, or sub-contractors, with provisions and supplies for the carrying on of such work, all just debts, dues and demands incurred in the performance of such work, which bond shall be filed with the county auditor of the county where such work is performed or improvement made, except in cases of cities and towns, in which cases such bond shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any sub-contractor shall have the same right under the provision of such bond as if such work, services or material was furnished to the original contractor.

Bond to be filed.

SEC. 2. If any board of county commissioners of any county, or mayor and common council of any incorporated city or town, or tribunal transacting the business of any municipal corporation shall fail to take such bond as herein required, such county, incorporated city or town, or other municipal corporation, shall be liable to the persons mentioned in the first section of this act, to the full extent and for the full amount of all such debts so contracted by such contractor.

Municipality liable, when.

SEC. 3. The bond mentioned in section 1 of this act shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, and shall be to the State of Washington, except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: *Provided*, The same shall not be for a less amount than twenty-five per cent. (25%) of the contract price of any such improvement, and may designate that the same shall be payable to such city, and not to the State of Washington, and all such persons mentioned in said section 1 of this act shall have a right of action in his, her, or their own name or names on such bond, for the full amount of all debts

Bond payable to whom.

Actions on.

against such contractor, or for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: *Provided*, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty (30) days from and after the completion of the contract with and acceptance of the work by the board, council, commission, trustees, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or sub-contractor, or material man, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

Notice of claim.

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Form of notice.

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or sub-contractor, or material man, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of.....dollars (here insert the amount) against the bond taken from(here insert the name of the principal and surety or sureties upon such bond) for the work of(here insert a brief mention or description of the work concerning which said bond was taken).

(Here to be signed).....

Such notice shall be signed by the person or corporation making the claim or giving the notice; and said notice after being presented and filed shall be a public record open to inspection by any person: *Provided further*, That any city may avail itself of the provisions of this act, notwithstanding any charter provisions in conflict herewith: *And provided further*, That any city or

Record of notice.

town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby.

Passed by the Senate February 19, 1909.

Passed by the House March 5, 1909.

Approved March 18, 1909.

CHAPTER 208.

[S. B. 38.]

RELATING TO THE PUBLIC HEALTH.

AN ACT creating the office of State Commissioner of Health, fixing his qualification, term of office and compensation and defining his duties, and declaring an emergency.

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

SECTION 1. That within thirty days after this act takes effect the State Board of Health shall elect a State Commissioner of Health, who may or may not be a member of the State Board of Health; who shall be a physician and who shall be learned in sanitary science and experienced in public health administration. He shall hold his office for five years and until his successor is elected and qualified, but may be removed by the State Board of Health for incompetency, malfeasance or corruption proven by evidence given under oath before the board and for this purpose the board shall have power to administer oaths and take testimony. He shall receive a salary of three thousand six hundred dollars per year and his expenses actually incurred in the performance of his duties, to be paid monthly in the same manner as the salary and expenses of other state officers, upon vouchers signed by the President of the State Board of Health.

Commissioner of health.

Term of office.

Salary.

SEC. 2. That the State Commissioner of Health shall be State Registrar of Vital Statistics and Secretary of the State Board of Health and executive officer of said

Shall keep vital statistics.

board. He shall be the custodian of all property and records of the State Board of Health and shall have charge of the office and all laboratories of said board. He is authorized to appoint deputy commissioners of health and such scientific, clerical and other assistants as may be necessary to properly carry on the work of the board. He shall devote his time to the investigation of sanitary conditions and the prevalence of disease in the state and to such other duties as the State Board of Health may direct or this act or any other act may require. It shall be his duty to strictly enforce all laws passed for the protection of the public health and improvement of sanitary conditions of the state and to enforce all rules, regulations and orders of the State Board of Health. He shall investigate all epidemics of disease that may occur in the state and advise the local health officers as to the best measures to be taken to prevent and control such disease and he shall supervise all measures taken by local health officers for the suppression and control of disease. He shall have the same authority to quarantine and disinfect any person, article of household goods or merchandise, building or vessel that is conferred by law upon any local, county or city health officers or commissioner: *Provided*, He shall not exercise such authority to quarantine and disinfect unless the local health officer or commissioner refuses or neglects to do so or when in an emergency the safety of the public health demands it. He is authorized to release any quarantine whether ordered by himself or any local health officer when in his opinion it is no longer necessary.

Secretary of board of health may appoint deputies, etc.

To enforce health laws.

Power to quarantine used, when.

Advice on sanitation.

SEC. 3. That the commissioners of any county or the mayor of any city may call upon the State Commissioner of Health for advice relative to improving sanitary conditions or disposing of garbage and sewage or obtaining a pure water supply, and when so called upon the State Commissioner of Health shall either personally or by an assistant make a careful examination into the conditions existing and shall make a full report containing his advice thereon to the county or city making such request.

SEC. 4. That an emergency exists and this act shall take effect April 1, 1909. Emergency.

Passed by the Senate February 16, 1909.

Passed by the House March 5, 1909.

Approved March 18, 1909.

CHAPTER 209.

[S. B. 265.]

RELATING TO IRRIGATION.

AN ACT repealing sections 4128 and 4157 of Ballinger's Annotated Codes and Statutes of Washington, and sections 5843 and 5872 of Pierce's Washington Code, and providing for the protection of structures and appliances used for irrigation, reclamation, or power purposes, preventing unlawful taking of water, providing a rule of evidence in such cases, and providing a penalty for the violation of this act.

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

SECTION 1. That any person or persons who shall wilfully interfere with, injure or destroy any dam, dike, headgate, weir, canal or reservoir, flume or other structure or appliance for the diversion, carriage, storage, apportionment, or measurement of water for irrigation, reclamation, power or other beneficial uses, or shall wilfully injure or destroy any telegraph, telephone or electric transmission line, or any other property owned, occupied, or controlled by any person, association, or corporation or by the United States and used in connection with said beneficial use of water, shall be guilty of a misdemeanor.

Damage to
irrigation
works mis-
demeanor.

SEC. 2. Any person or persons who shall wilfully or unlawfully take or use water, or conduct the same into his ditch or to his land, or land occupied by him, and for such purposes shall cut, dig, break down, or open any headgates, bank, embankment, canal or reservoir, flume or conduit, or interfere, injure or destroy any weir, measuring box or other appliance for the apportionment and

Stealing
water mis-
demeanor.

measurement of water with intent maliciously to injure any person, association, or corporation, or by the United States, or for his or her gain, or with intention of stealing or unlawfully taking or causing to run or pour out of such structure or appliance any water for his or her own private benefit or advantage to the injury of any other person, association or corporation, or by the United States lawfully in use of such water or of such structure or appliance, shall be guilty of a misdemeanor.

Use of water
evidence of
guilt.

SEC. 3. The use of water through such structure or structures, appliance or appliances hereinbefore named after its or their having been interfered with, injured or destroyed, shall be *prima facie* evidence of the guilt of the person so using it.

Penalty.

SEC. 4. Any person or persons convicted of committing any of the misdemeanors herein specified, or of any of said offenses, shall be fined not less than twenty-five dollars, nor more than one hundred dollars, or be imprisoned in the county jail not exceeding six months, or both, in the discretion of the court.

[§§ 4128 and
4257 Bal.;
§§ 5843 and
5872 Pierce,
repealed.]

SEC. 5. That sections 4128 and 4157 of Ballinger's Annotated Codes and Statutes of Washington, and sections 5843 and 5872 of Pierce's Washington Code be and the same hereby are repealed.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 18, 1909.

CHAPTER 210.

[S. B. 230.]

RELATING TO CITIES.

AN ACT to amend section 15 of an act entitled "An act to enable cities of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13, 1907.

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

SECTION 1. That section 15 of an act entitled "An act to enable cities of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13, 1907, is hereby amended to read as follows:

[Am'd. § 15,
ch. 153, p.
321, L. '07.]

Sec. 15. When the ordinance providing for any such improvement provides that compensation therefor shall be paid in whole or in part by special assessment upon property benefited, the jury or court, as the case may be, shall find separately:

1. The value of land taken at date of trial;
2. The damages which will accrue to the part remaining because of its severance from the part taken, over and above any local or special benefits arising from the proposed improvement. No lot, block, tract or parcel of land found by the court or jury to be so damaged shall be assessed for any benefits arising from such taking only;
3. The gross damages to any land or property not taken (other than damages to a remainder, by reason of its severance from the part taken), and in computing such gross damages shall not deduct any benefits from the proposed improvement. Such finding by the court or jury

Findings of
jury or
court.

Benefits not
to offset
damages.

shall leave any lot, block, parcel or tract of land, or other property subject to assessment for its proportion of any and all local and special benefits accruing thereto by reason of said improvement.

Benefits are offset when payments are out of general fund.

When such ordinance does not provide for any assessment in whole or in part on property specially benefited, the compensation found for land or property taken or damaged shall be ascertained over and above any local or special benefits from the proposed improvement.

Taxes as set off against damages.

Such city or town may off-set against any award of the jury or court for the taking or damaging of any lot, block, tract or parcel of land or other property, any general taxes or local assessments unpaid at the time such award is made. Such off-set shall be made by deducting the amount of such unpaid taxes and assessments at the time of payment of the judgment or issuance of a warrant in payment of such judgment.

Passed by the Senate February 18, 1909.

Passed by the House March 6, 1909.

Approved March 18, 1909.

CHAPTER 211.

[S. B. 232.]

RELATING TO CITIES.

AN ACT to amend section 23 of an act entitled "An act to enable cities of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13, 1907.

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

[Am'd. § 23,
ch. 153, p.
325, L. '07.]

SECTION 1. That section 23 of an act entitled "An act to enable cities of the first, second and third class and having a population of over fifteen hundred inhabitants to exercise the right of eminent domain for the taking and

damaging of land and property for public purposes, providing a method for making compensation therefor, and providing for special assessments in certain cases upon property benefited," approved March 13, 1907, be amended to read as follows:

Sec. 23. It shall be the duty of such commissioners to examine the locality where the improvement is proposed to be made and the property which will be especially benefited thereby, and to estimate what proportion, if any, of the total cost of such improvement will be of benefit to the public, and what proportion thereof will be a benefit to the property to be benefited, and apportion the same between the city and such property, so that each shall bear its relative equitable proportion, and having found said amounts, to apportion and assess the amount so found to be a benefit to the property upon the several lots, blocks, tracts and parcels of land, or other property in the proportion in which they will be severally benefited by such improvement: *Provided*, That the legislative body of the city may in the ordinance initiating any such improvement establish an assessment district and said district when so established shall be deemed to include all the lands or other property especially benefited by the proposed improvement, and the limits of said district when so fixed shall be binding and conclusive on the said commissioners: *And provided further*, That no property shall be assessed a greater amount than it will be actually benefited.

Commissioners to determine special benefits.

Improvement districts.

Limit of assessments.

Passed by the Senate February 18, 1909.

Passed by the House March 6, 1909.

Approved March 18, 1909.

CHAPTER 212.

[S. B. 5.]

MAKING AN APPROPRIATION TO PAY FOR CERTAIN LEGAL SERVICES.

AN ACT appropriating three thousand dollars (\$3,000.00) as compensation for services and reimbursement for expenses of George Turner and E. C. MacDonald as special attorneys for the state in certain litigation involving the interests of the State of Washington.

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

Appropriation, \$3,000.

SECTION 1. That there be, and is hereby, appropriated out of any moneys in the treasury of the State of Washington, not otherwise appropriated, the sum of three thousand dollars (\$3,000.00) to be paid to George Turner and E. C. MacDonald, upon proper voucher or vouchers presented to the State Auditor as full compensation for their services and reimbursement for their expenses in presenting before the supreme court of the United States as special attorneys for the State of Washington, the Christ Nielson case, involving the claim of the State of Oregon to impose its police regulations on that portion of the Columbia river within the State of Washington, and also in the petition for a rehearing of the Columbia river boundary case between the states of Oregon and Washington.

Passed by the Senate March 6, 1909.

Passed by the House March 10, 1909.

Approved March 18, 1909.

CHAPTER 213.

[H. B. 348.]

RELATING TO PHARMACY.

AN ACT to amend sections 4, 5, 6, 8, 10, 12, 13, 15 and 17, of "An act relating to drugs and medicines, the licensing of persons to compound, dispense, buy and sell the same in the State of Washington, placing restrictions on the sale of wines, malt and spirituous liquors, defining crimes and misdemeanors and prescribing penalties in cases of violation of the provisions of this act, repealing chapter 153 of the Session Laws of 1891 of Washington, being an act entitled 'An act to regulate the practice of pharmacy, the licensing of persons to carry on such practice and the sale of poisons in the State of Washington,' approved March 9, 1891, and also repealing chapter 113 of the Session Laws of 1893 of Washington, being an act entitled 'An act to amend section 8, chapter 153, of the Session Laws of 1891, of Washington, regulating the practice of pharmacy, approved March 9, 1891, and declaring an emergency,' approved March 10, 1893, and declaring an emergency," approved March 14, 1899, and by adding section 17-A, 17-B, and 17-C and 17-D to said act.

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

SECTION 1. That section 4 of said act be and the same is hereby amended to read as follows:

[Am'd. § 4,
ch. 121, p.
217, L. '99.]

Sec. 4. Licentiates in pharmacy shall be such persons, not less than twenty-one years of age, as shall have had three years' practical experience in drug stores where prescriptions of medical practitioners are compounded, together with such preliminary education as may be designated by the said board, and have passed a satisfactory examination. The State Board of Pharmacy may grant certificates of registration to licentiates of such other state boards as it may deem proper without examination.

Licentiates
in pharmacy.

SEC. 2. That section 5 of said act be and the same hereby is amended to read as follows:

[Am'd. § 5,
ch. 121, p.
217, L. '99,
§ 6957,
Pierce.]

Sec. 5. Assistant pharmacists shall be such persons not less than eighteen years of age as have had two years practical experience under a registered pharmacist, together with such preliminary education as may be designated by the State Board of Pharmacy, the time of attendance at

Assistant
pharmacists.

any reputable school of pharmacy to be accredited to such time, and who shall have passed a satisfactory examination before the State Board of Pharmacy. Persons who have passed a similar examination before any other state board of pharmacy, upon furnishing satisfactory proof thereof, may receive a certificate of registration as assistant pharmacist without further examination, at the discretion of the state board. The holder of a certificate of registration as assistant pharmacist shall be deemed competent to act as clerk or salesman in a drug store or pharmacy under the supervision of a registered pharmacist in charge thereof, and during the temporary absence of said registered pharmacist.

[Am'd. § 6,
ch. 121, p.
217, L. '99,
§ 6959
Pierce.]

SEC. 3. That section 6 of said act be and the same is hereby amended to read as follows:

Sec. 6. It shall be the duty of registered pharmacists who take into their employ an apprentice for the purpose of becoming a registered pharmacist to report to the board within three months thereafter such facts regarding his or her schooling and preliminary qualifications as the board may require for the purpose of registration, and to satisfy himself that such apprentice does possess those qualifications demanded by the board. The board shall furnish proper blanks for this purpose, and may issue to such apprentice a certificate of registration as a registered apprentice, and the date of the certificate shall be proof of the time when practical experience began with the apprentice named therein; and the fee for such registration shall be one dollar. Every registered pharmacist shall report to the State Board of Pharmacy the names of all clerks and apprentices employed in their respective pharmacy at least once during each year, and at such time as the State Board of Pharmacy shall determine.

Registry of
apprentices.

[Am'd. § 8,
ch. 121, p.
218, L. '99,
§ 6961,
Pierce.]

SEC. 4. That section 8 of said act be and the same is hereby amended to read as follows:

Sec. 8. The State Board of Pharmacy shall annually elect a president and a secretary from the number of its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board.

Officers of
board.

It shall be the duty of the board to examine all applicants for registration, submitting application in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to cause prosecutions of all persons violating the provisions of this act; to report annually to the Governor and to the Washington State Pharmaceutical Association upon the condition of pharmacy in the state, which said report shall furnish a record of the proceedings of said board for the year, as well as the names of all persons registered under this act; and also an itemized account of all moneys received and disbursed by them as said board, which account shall be audited by the Washington State Pharmaceutical Association annually.

Duties of board.

The board shall hold meetings for the examination of applicants for registration and the transaction of such other business as shall pertain to its duties at least once in six months: *Provided*, That the president of the board of pharmacy may call special meetings of said board not more than twice in any one year for the purpose of transacting such business as may properly come before it, and said board shall give thirty days' public notice of the time and place of all of its meetings.

Meetings of board.

The said board shall have power to make such by-laws, rules and regulations, not inconsistent with the laws of the state, as may be necessary to carry into effect the provisions of this act.

By-laws.

The board shall have power to investigate all alleged violations of the provisions of this act, or any other law of this state regulating the dispensing or sale of drugs, medicines or poisons, or the practice of pharmacy, which may come to its notice, and whenever there appears reasonable cause therefor to take and hear testimony with reference to the same.

Investigate infractions of pharmacy laws.

The board shall keep a book of registration in which shall be entered the names and place of business of all persons registered under this act, together with a record of the conditions justifying such registration. Three members of said board shall constitute a quorum for the trans-

Book of registration.

action of all business that may properly come before the board.

[Am'd. § 10,
ch. 121, p.
219, L. '99,
§ 6963
Pierce.]

SEC. 5. That section 10 of said act be and the same is hereby amended to read as follows:

Fees for reg-
istration.

Sec. 10. Every person claiming registration as a graduate in pharmacy or as a licentiate of some other state board, shall, before a certificate be granted, pay the secretary of the State Board of Pharmacy the sum of eight dollars, and every applicant for registration by examination under this act shall pay the secretary the sum of ten dollars before the examination be attempted: *Provided*, That in case the applicant fails to pass a satisfactory examination he shall have the privilege of a second examination without any charge any time within one year.

Shopkeeper's
license.

Every shopkeeper not a pharmacist, desiring to secure the benefits and privileges of this act, is hereby required to secure a shopkeeper's license, and he or she shall pay the sum of six dollars for the same, and annually thereafter the sum of six dollars for renewal of same.

[Am'd. § 12,
ch. 121, p.
220, L. '99,
§ 6965
Pierce.]

SEC. 6. That section 12 of said act be and the same is hereby amended to read as follows:

Compensa-
tion of
members.

Sec. 12. The secretary of the State Board of Pharmacy shall receive a salary which shall be determined by said board, and shall also receive his traveling and other expenses necessarily and actually incurred in the performance of his official duties. The other members of the board shall each receive the sum of five dollars for every day actually engaged in their official duties and all legitimate expenses incurred therein. Said expenses shall be paid from the fees received by the board under the provisions of this act and no part of said salaries and expenses shall be paid out of the public treasury. The secretary of the board shall give such bonds as the board shall from time to time direct.

[Am'd. § 13,
ch. 121, p.
221, L. '99,
§ 6966
Pierce.]

SEC. 7. That section 13 of said act be and the same is hereby amended to read as follows:

Sec. 13. Any person not a registered pharmacist and not having in his employ a registered pharmacist within the full meaning of this act, who shall retail, compound or

dispense medicines, or who shall take, use or exhibit the title of registered pharmacist, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed fifty dollars. Acting without license, penalty.

Every place in which physicians' prescriptions are compounded shall be deemed to be a pharmacy, or a drug store, and the same shall be under the personal supervision of a licensed pharmacist. Pharmacy.

Any person who shall permit the compounding and dispensing of prescriptions, or vending of drugs, medicines or poisons in his store or place of business, except under the supervision of a registered pharmacist, or any registered pharmacist or shopkeeper registered under this act while continuing in business, who shall fail or neglect to procure annually his renewal of registration, or any person who shall wilfully make any false representations to procure registration for himself or any other person, or who shall violate any of the provisions of this act wilfully and knowingly, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed fifty dollars: *Provided*, That nothing in this act shall operate in any manner to interfere with the business of any physician in regular practice, or prevent him from supplying to his patients such medicines as he may deem proper, nor with the making or selling proprietary medicine or medicines placed in sealed packages, nor with the exclusive wholesale business of any dealer except as hereinafter provided, nor prevent shopkeepers from dealing in and selling the commonly used medicines, or patent and proprietary medicines, if such medicines are sold in the original packages of the manufacturer, or in packages put up by a registered pharmacist in the manner provided by the State Board of Pharmacy; such shopkeeper shall have obtained a license as hereinafter provided. General violations, penalty. Physician. Shopkeepers may sell.

SEC. 8. That section 15 of said act be and the same is hereby amended to read as follows: [Am'd. § 15, ch. 121, p. 222, L. '99, § 696S Pierce.]

Sec. 15. The proprietor of every drug store shall keep in his place of business a record in which shall be entered all sales of the compounds and salts of arsenic, baring,

Record of
sales of
poisons.

chromium, gold, mercury (calomel excepted), silver, the caustic hydrates of sodium, and potassium, the concentrated mineral acids, hydrocyanic acids and their salts, yellow phosphorus, paris green, the essential oils of almonds, pennyroyal, tansy and savin, croton oil, creosote, chloroform, chloral hydrate, cantharides, or any aconite, belladonna, bitter almonds, colchicum, cotton root, coccolus indicus, conium, cannabis, indica, digitalis, hyoscyamus, ignatia, lobella, nux vomica, opium, physostigma, phytolacca, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or alkalodial salts or other poisonous principles derived from the foregoing, or veratrine or any other poisonous alkaloids or their salts, or any poisonous compound, combination or preparation thereof, also all wines and spirituous or malt liquors. Said record shall state quantity purchased, the date, for what purpose used, buyer's name and address, and said record at all times during business hours shall be subject to the inspection of the prosecuting attorney or any duly authorized agent of the board of pharmacy: *Provided*, That no such wines, spirituous or malt liquors shall be sold for any other than medicinal, scientific, mechanical or sacramental purposes, and no other license shall be necessary under any ordinance of any municipality for pharmacists to make said sale in compliance with the provisions of this act.

Inspection of
record.

Wines for
sacramental
and other
uses may be
sold.

He shall not deliver any of said poisons without satisfying himself that the purchaser is aware of its poisonous nature and that the said poison is to be used for a legitimate purpose.

[Am'd. § 17,
ch. 121, p.
224. L. '99,
§ 6970.
Pierce.]

SEC. 9. That section 17 of said act be and the same is hereby amended to read as follows:

Sec. 17. All suits for the recovery of the several penalties prescribed in this act shall be prosecuted in the name of the State of Washington in any court having jurisdiction, and it shall be the duty of the prosecuting attorney of the county wherein such offense is committed to prosecute all persons violating the provisions of this act upon the filing of proper complaint. All penalties collected under the provisions of this act shall inure to the school fund

Style of
actions.

of the county in which suit was prosecuted and judgment obtained.

SEC. 10. That section 17-A be and the same is hereby added to said act as follows: [§ 17-A
added to ch.
121, L. '99.]

Sec. 17-A. When, upon investigation, the State Board of Pharmacy becomes convinced that any one registered under the laws of this state or applying for examination and registration, either as a licentiate, as an assistant pharmacist or as a registered apprentice, is guilty of a felony, misdemeanor, gross immorality or sells or gives away morphine, cocaine or any other narcotic to any person addicted to the use of such drugs or is addicted to the liquor or drug habit to such a degree as to render him or her unfit for the practice of pharmacy, or is guilty of selling, disposing of or giving away spirituous, fermented, malt or other intoxicating liquors contrary to law and not in good faith, the Board of Pharmacy may examine and refuse to register, or revoke, cancel and suspend the registration of such licentiate, assistant pharmacist or registered apprentice. In any case of the refusal or revocation of a license by said Board of Pharmacy under the provisions of this act, said board shall file a brief and concise statement of the grounds 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 of Pharmacy 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 of Pharmacy, charging the acts of misconduct and facts complained of against the applicant, licentiate, assistant pharmacist or registered apprentice accused, in ordinary and concise language, and thereupon said board shall cause to be served upon such accused applicant, licentiate, assistant pharmacist or registered apprentice 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

Cancellation
of license.

Hearing.

days prior to the time of such hearing. Such accused applicant, licentiate, assistant pharmacist or registered apprentice 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.

[§ 17-B
added to ch.
121. L. '99.]

SEC. 11. That section 17-B be and the same is hereby added to said act as follows:

Appeals from
board.

Sec. 17-B. 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, assistant pharmacist and licensed apprentice 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 the 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 such secretary an appeal bond, with good and sufficient surety, to be approved by said State Board of Pharmacy of the State of Washington, conditioned for the speedy prosecution of such appeal, and the payment of such costs as may be adjudged against him upon such appeal. Said secretary of the State Board of Pharmacy shall, within ten (10) days after the service of such 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

Appeal bond.

Transcript
filed with
clerk.

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 sixty (60) days, then, and in that case, said board shall, at the end of sixty (60) days, and immediately upon the expiration thereof, issue to such successful party the usual license to practice pharmacy in this state, and in addition thereto shall reinstate 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 reinstatement 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 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 required of said board nor shall any costs be adjudged or taxed against the same.

Appeal to
supreme
court.

SEC. 12. That section 17-C be and the same is hereby added to said act to read as follows:

[§ 17-C
added to ch.
121, L. '99.]

Sec. 17-C. Within ninety days from and after the passage of this act, the owner of each and every drug store, pharmacy or dispensary, shall file with the secretary of the State Board of Pharmacy on a blank therefor provided, a declaration of ownership and location, and shall then receive from the board a duly signed registration of location,

Registration
of phar-
macies.

which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy, drug store or business mentioned therein. It shall be the duty of the owner to notify the board of any change of location and ownership, and shall keep the registration of location certificate properly exhibited in said drug store. Failure to conform with this provision shall be deemed a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars.

[§ 17-D
added to ch.
121, L. '99.]

SEC. 13. That section 17-D be and the same is hereby added to said act to read as follows:

General penal
provisions.

Sec. 17-D. Any person who shall violate any of the provisions of this act and for which a penalty is not hereinbefore provided for shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding fifty dollars, or may be imprisoned in the county jail not exceeding six months.

Passed by the House February 26, 1909.

Passed by the Senate March 3, 1909.

Approved March 18, 1909.

CHAPTER 214.

[H. B. 383.]

LICENSING OF PEDDLERS.

AN ACT to provide for the licensing of peddlers, prescribing penalties for failure to comply with the provisions of this act.

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

Peddler
defined.

SECTION 1. The term peddler for the purpose of this act shall be construed to include all persons, both principals and agents, who go from place to place and house to house, carrying for sale, or offering for sale or exposal for sale, goods, wares or merchandise: *Provided*, That nothing in this act shall apply to peddlers in agricultural or farm products: *And provided further*, That nothing in this act

shall apply to peddlers within the limits of any city or town which by city ordinance regulates the sale of goods, wares or merchandise by peddlers: *And provided further*, That nothing in this act shall apply to vendors of books, periodicals or newspapers.

SEC. 2. Every peddler who shall sell or offer for sale or expose for sale, at public or private sale any goods, wares or merchandise without a county license issued as hereinafter provided, shall be punished by imprisonment for not less than thirty days or more than ninety days or by fine of not less than fifty dollars or more than two hundred dollars or by both.

Peddling
without
license,
penalty.

SEC. 3. Every peddler, whether principal or agent, shall, before commencing business in any county of the state, make application in writing and under oath to the county treasurer for the county in which he proposes to make sales, for a county license. Such application must state the names and residences of the owners or parties in whose interest said business is conducted, and shall state the number of horses and vehicles to be used by him, and at the same time shall file a true statement under oath of the quantity and value of the stock of goods, wares and merchandise that is in the county for sale or to be kept or exposed for sale in said county, and shall at the same time make special deposit of five hundred dollars with the county treasurer aforesaid, and shall pay the said treasurer the county license fee as follows:

Application
for license.

- (1) Peddler on foot, \$100.00.
- (2) Peddler with one horse and a wagon, \$150.00.
- (3) Peddler with two horses and a wagon, \$250.00.
- (4) Peddler with any other conveyance, \$300.00.

License fees.

The county treasurer shall thereupon issue to said applicant a peddler's license, authorizing him to do business in the county aforesaid for the term of one year from the date thereof: *Provided*, That the license issued under and by virtue of this act shall expire by limitation on the second Monday of January succeeding the year of which said license was issued. Every county license shall contain a

Expiration of
license.

copy of the application therefor and shall not be transferable, and shall not authorize more than one person to sell goods as a peddler, either by agent or clerk, or in any other way than his own proper person.

Record of application.

SEC. 4. The county treasurer of each county shall keep on file all applications for licenses issued thereon. All files and records of said county treasurer shall be in convenient form and open to public inspection.

Special deposit.

SEC. 5. Upon the expiration and return of each county license, the county treasurer shall cancel the same, endorse thereon the cancellation thereof and place the same on file. He shall then hold the special deposit of the licensee thereunder for a period of ninety days from the date of said cancellation, and after satisfying any and all claims made upon the same in the section next following shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee.

Liability of deposit.

SEC. 6. Each deposit made with the county treasurer of any county in this state shall be subject to all taxes legally chargeable to same, to attachment and execution on behalf of the creditors of the licensee whose claims arise in connection with the business done under his county license, and the treasurer may be held to answer as trustee in any civil action in contract or tort brought against any licensee, and shall pay over, under order of the court or upon execution, such amount of money as the licensee may be chargeable with upon the final determination of the case. Such deposit shall also be subject to the payment of any and all fines and penalties incurred by the licensee through violations of the provisions of the preceding sections, and which shall be a lien upon same and shall be collected in the manner provided by law.

Passed by the House March 10, 1909.

Passed by the Senate March 10, 1909.

Approved March 18, 1909.

CHAPTER 215.

[H. B. 93.]

REGULATING THE PRACTICE OF EMBALMING.

AN ACT to regulate the practice of embalming and licensing of persons to carry on such practice; to regulate the transportation of bodies of deceased human beings, and providing punishment for violations.

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

SECTION 1. It shall be unlawful for any person to follow the occupation of embalming in this state unless he shall have first obtained a certificate of registration as provided in this act: *Provided, however,* That nothing in this act shall apply to or affect any person who now holds a license as an embalmer from the State Board of Health of the State of Washington, except as hereinafter provided.

Embalmer to
be registered.

SEC. 2. Preparation of the body of any deceased person for the purpose of preserving the same for more than 30 hours after death, or preparing the remains of any deceased person for shipment by railway or other public conveyance between points within the State of Washington or between any points in the State of Washington and any points without said state, shall be construed as practicing the occupation of embalming within the meaning of this act.

What is
embalming.

SEC. 3. A board of examiners to consist of three persons and to be known as the State Embalmers' Examining Board is hereby created to carry out the purposes and enforce the provisions of this act. Two members of said board shall be appointed by the Governor from embalmers holding licenses as such from the State Board of Health of the State of Washington and who have been residents of the state for at least two years. Each member of the board, so appointed, shall serve for two years and until his successor is appointed and qualified, except in the case of the first appointees, who shall serve one and two years,

State
examining
board.

respectively. The third member of the board shall be the secretary of the State Board of Health.

Officers of
board.

SEC. 4. Said board shall elect a president, secretary and treasurer; shall have a common seal; and shall have the power to administer oaths. The headquarters of said board shall be the place of residence of the secretary.

Bond of
treasurer.

SEC. 5. The treasurer shall give surety bond to be approved by and deposited with the Auditor of this state in the sum of one thousand dollars (\$1,000), and the members of said board shall take the oath provided by law for public officers. The cost of said bond shall be paid out of the funds in the hands of the treasurer of the board.

Compensa-
tion of
members.

SEC. 6. Each member of said board shall receive a compensation of five dollars (\$5.00) per day for actual services rendered, together with actual expenses incurred in attending the meetings of the board. All money shall be paid out of the funds in the hands of the treasurer, and in no event shall any money be paid out of the state treasury.

Annual
report.

SEC. 7. Said board shall report to the Governor of the state biennially, a full statement of the receipts and disbursements of the board during the preceding two years and a full statement of its doings and proceedings, and such recommendations as may seem proper.

Examination.

SEC. 8. Said board shall hold a public examination at least once in each year, at such time and place as it may determine. Notice of such meetings to be sent to the various applicants by mail at least ten days before the meetings.

Rules for
embalmer.

SEC. 9. Said board shall have authority to prescribe rules and regulations for the preparation of the bodies of deceased persons for burial or for transportation. Such rules and regulations shall be printed and a copy furnished to each licensed embalmer in the state.

Present
licenses
continued.

SEC. 10. Every person now holding a state license by the Washington State Board of Health and engaged in the occupation of embalming shall within 90 days after the approval of this act file with the secretary of the board an affidavit setting forth his name, residence and length

of time during which, and the place where he has practiced such occupation, and shall pay to the secretary of said board \$1.00, and a certificate entitling him to practice such occupation until December 31st of that year shall thereupon be issued to him.

SEC. 11. To obtain a certificate of registration under this act, any persons except those mentioned in section 10 shall make applications to the board and shall pay to the secretary an examination fee of \$5.00, and shall present himself at the next meeting of the board for examination of applicants. The board shall examine such persons in the following subjects: Anatomy, sanitary science, the care, disinfection, preservation, transportation and burial or other final disposition of the remains of deceased persons, and the rules and regulations of the State Board of Health relating to quarantine and communicable diseases. He shall also demonstrate his proficiency as an embalmer by operations on cadaver. The examination papers and oral answers shall, when concluded, be graded upon the scale of 100. The average rating required to pass shall be fixed by the board prior to the examination, and the board having been satisfied that he has the requisite qualifications to practice the occupation of embalmer, his name shall be entered by the board in a register provided for that purpose and a certificate of registration shall be issued to him authorizing him to practice said occupation until December 31st of that year. Upon the issuance of said certificate each applicant shall pay a further fee of five dollars (\$5.00). Applications for renewal of licenses must be filed with the secretary of the said board on or before December 31st of each year, and shall be accompanied by a renewal fee of one dollar (\$1.00). All certificates shall be renewed each year upon the filing of applications accompanied by renewal fee.

SEC. 12. Each applicant for a license to practice embalming shall have attained the age of 21 years and shall have had not less than two years' experience under a licensed embalmer in this state, or in lieu thereof shall have had a practical experience of not less than one year

under a licensed embalmer and shall have completed a regular course of instruction in a school of embalming recognized as being in good standing by the State Embalmers' Examining Board of Washington. Such applications shall be filed with the secretary of the board not less than ten days prior to the day of the next examination, together with a sworn statement of the age of the applicant and his other qualifications as required by this act, and a certificate of good moral character signed by three responsible citizens, one of whom must be a licensed embalmer personally acquainted with the applicant for at least one year.

SEC. 13. Said board shall furnish to each person mentioned in section 10 and to each person who successfully passes an examination a certificate of registration bearing the seal of the board and the signature of its president and secretary, certifying that the holder is entitled to practice the occupation of embalmer in this state, and it shall be the duty of the holder of such certificate to post the same conspicuously in his place of business.

Certificate to
be kept
posted.

SEC. 14. Said board shall have power to revoke any certificate of registration or license granted by it under this act, if the holder thereof has been guilty of drunkenness or has been convicted of crime or who has obtained said license by any false or fraudulent representation, or who has been guilty of immoral or unprofessional or dishonorable conduct, or of wilful or repeated violation of the rules or regulations of the State Embalmers' Examining Board or of doing work in an unsanitary or filthy manner: *Provided*, That before any certificate or license shall be revoked the holder thereof shall have notice in writing of the charge or charges against him and shall at a time specified in said notice, not less than ten days after the service thereof, be given a public hearing and full opportunity to produce testimony in his behalf and to confront the witnesses against him. Any person whose certificate has been so revoked may, after the expiration of 90 days, upon application have the same re-issued upon satisfactory showing that disqualification has ceased.

Board may
revoke
license.

SEC. 15. Any licensed embalmer who shall prefer charges against any other licensed embalmer shall at the time such charges are preferred deposit with the board a sum sufficient to cover the probable expense to the board in hearing such charges, and in case the charge be substantiated in whole or in part, such deposit shall be returned to the complainant; but if such charge be not substantiated in whole or in part, the board shall retain a sum sufficient to reimburse it for the expense incurred, and return the balance of such deposit, if any there be, to the person making such deposit.

Complainant
to pay costs,
when.

SEC. 16. The said board shall recognize licenses issued to embalmers under the authority of the laws of any other state board having similar requirements to those existing in this state: *Provided*, That if such state or states recognize licenses issued under the authority of the laws of the State of Washington, then such licenses issued by authority of such other states may be deemed sufficient evidence of qualifications of the holder thereof without further examination for license in this state, and the holder of such license shall be entitled to have a license issued to him upon the payment of the sum of ten dollars (\$10.00). The owner of any license or renewal provided for in this act shall cause the same to be registered in the office of the local board of health of each city, town or county wherein he intends to practice the occupation of embalmer.

Licenses
without
examination
fee.

SEC. 17. Any person practicing the occupation of embalmer in this state without having first obtained a certificate of registration or license, as provided in this act, or falsely pretending to be practicing such occupation under this act, or who violates any of the provisions of this act, or any of the rules or regulations prescribed by said board by authority of this act, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or be imprisoned in the county

Violations of
act, penalty.

jail not less than ten days nor more than ninety days, or both.

Repeal. SEC. 18. All acts or parts of acts in conflict herewith are hereby repealed.

Passed by the House February 27, 1909.

Passed by the Senate March 3, 1909.

Approved March 18, 1909.

CHAPTER 216.

[H. B. 128.]

REQUIRING THE SALE OF CERTAIN LANDS.

AN ACT authorizing and directing the board of state land commissioners to sell the south ten acres of the northeast quarter of the southeast quarter of section 31, township 28 north, range 8 east of the Willamette meridian, and declaring an emergency.

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

Land near Sultan.

SECTION 1. That the Board of State Land Commissioners be and they are hereby authorized and directed to appraise and offer for sale, at public auction, and sell, the south ten acres of the northeast quarter of the southeast quarter of section 31, township 28 north, range 8 east of the Willamette meridian.

Emergency.

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

Passed by the House February 16, 1909.

Passed by the Senate March 10, 1909.

Approved March 18, 1909.

CHAPTER 217.

[H. B. 401.]

RELATING TO THE OFFICE OF INSURANCE COMMISSIONER.

AN ACT relating to the examination of insurance companies, and declaring an emergency.

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

SECTION 1. The expense of every examination or other investigation of the affairs of any insurance company doing business in the State of Washington, which the State Insurance Commissioner is by law authorized or required to investigate or examine, shall be paid by the insurance company so examined and at the time of said examination or within ten days thereafter. The State Insurance Commissioner, or any deputy or employe under him, in making such investigation or examination, shall be allowed only his actual expenses required by such examination and shall not charge any fee nor receive any compensation for such examination other than the salary allowed by law. All charges for making any examination or investigation shall be paid by the company examined upon the presentation by the Insurance Commissioner or his deputy or employe making such examination of an itemized and verified statement of such expense, together with vouchers covering such expenses. Whenever it shall be practicable the Insurance Commissioner, his actuary or deputy, shall so arrange the dates of examination of companies in the same localities as near together as may be, in order that such examinations may be made without unnecessary expense and the traveling and other expenses incurred in the examination of companies in any one locality, or at any one time, shall be distributed *pro rata* among the companies examined in said locality, or at one time. The Insurance Commissioner or his deputy or employe, as the case may be, upon making such examination or investigation, shall prepare duplicate copies setting forth the expenses involved in such examination, one copy to be given to the

Actual expenses allowed.

Economy practiced in examinations.

Record of expenses filed.

company so examined and one copy to be presented to the Auditor of this state. The itemized and verified bill of expenses as provided for in this section shall direct the company investigated or examined to pay the amount specified in the itemized bill to the State Treasurer. All

Fees paid to special fund.

Appropriation.

Emergency.

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

Passed by the House March 3, 1909.

Passed by the Senate March 9, 1909.

Approved March 17, 1909.

CHAPTER 218.

[S. B. 81.]

CREATING A SHORE LAND IMPROVEMENT FUND.

AN ACT creating the state shore land improvement fund, providing for certain warrants to be drawn upon said fund, making such warrants preferential and appropriating and providing for the expenditure and disbursement thereof.

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

SECTION 1. There is hereby created a state shore land improvement fund, and all warrants drawn upon said fund pursuant to this act, including interest thereon, shall be

Shore land fund.

paid in the same manner as the state's general fund warrants are paid.

SEC. 2. There is hereby set apart and appropriated out of said fund the sum of two hundred and fifty thousand dollars (\$250,000), to be expended in the construction or improvement of what is known as the Lake Washington canal in King county, Washington, as provided or to be provided for by or under the act of the legislature of this state approved March 18, 1907, and entitled "An act authorizing any county or adjoining counties in this state, under certain conditions, to establish and create an assessment district and to levy an assessment for the purpose of paying the expenses of river, lake, canal or harbor improvements; providing for the appointment of a commission in connection therewith, and for special assessments upon the properties benefited, and for the issuance of bonds in payment of such improvements, and declaring an emergency."

Appropriation,
\$250,000.

ch. 236, p.
582, L. '07.

SEC. 3. Said appropriation out of said state shore land improvement fund shall be subject to the order of the United States government engineer having said improvement in said King county in charge, who may draw warrants on said fund, or in case said government engineer is unable or unauthorized to act in the premises, then said appropriation shall be subject to the order of the county treasurer of King county, who may draw warrants on said fund for the costs of said improvement upon the order of the board of county commissioners, as is provided for by said act approved March 18, 1907: *Provided, however,* That no warrant of government engineer or county treasurer shall be paid out of such fund unless accompanied by a certificate of said engineer, approved by the State Commissioner of Public Lands, to the effect, that (as far as all excavation is concerned the cost of which is covered by such order) the material excavated has been deposited on shore lands of the university of the state or other shore lands owned by the State of Washington in Union bay or Lake Union (if any such shore lands adjoin the place of such excavation) in such places, form and amount as

Who may
draw
amount.

Lands to be
filled.

said commissioner shall have designated: *And provided further*, That in expending the appropriation authorized by this act, so much thereof as arises from the sale of shore lands on Lake Washington shall be applied to such work as will tend to secure increased drainage from Lake Washington into Lake Union, and so much of said appropriation as arises from the sale of shore lands on Lake Union shall be applied to such work between Lake Union and Salmon bay as will provide adequate flowage facilities for the drainage from Lake Washington and will provide navigation facilities from tide water into Lake Union, all of said expenditure to be in accordance with plans to be approved by the United States government engineer and by the Commissioner of Public Lands of the State of Washington.

Application
of appropriation.

General fund
not liable.

SEC. 4. Indebtedness incurred or warrants issued hereunder shall be payable only from the state shore land improvement fund, and shall never be nor become general indebtedness against the state.

Passed by the Senate February 23, 1909.

Passed by the House March 9, 1909.

Approved March 17, 1909.

CHAPTER 219.

[S. B. 80.]

A.-Y.-P. FUND.

AN ACT to amend section 3 of an act entitled "An act relating to the special Alaska-Yukon-Pacific Exposition fund, making certain warrants to be drawn upon it preferential, and transferring any residue thereof into the general fund of the state treasury," approved February 4, 1907.

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

SECTION 1. That section 3 of an act of the legislature of the State of Washington entitled "An act relating to the special Alaska-Yukon-Pacific Exposition fund, making certain warrants to be drawn upon it preferential, and transferring any residue thereof into the general fund

[Amd. § 3,
ch. 4, p. 8,
L. '07.]

of the state treasury," approved February 4, 1907, be and the same is hereby amended to read as follows: Section 3. The residue of said special fund, if there be any remaining after payment of all warrants provided for by the two preceding sections, shall be transferred into the State Shore Land Improvement Fund provided for by an act of this legislature.

Residue
paid to
shore land
fund.

Passed by the Senate February 23, 1909.

Passed by the House March 9, 1909.

Approved March 17, 1909.

CHAPTER 220.

[H. B. 287.]

LIMITING THE HOURS OF LABOR IN UNDERGROUND MINES.

AN ACT to regulate the hours of labor of persons employed underground in coal mines, making a violation thereof a misdemeanor and providing penalties.

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

SECTION 1. It shall be unlawful for any person, firm, or corporation operating any coal mine, within the State of Washington, to cause any employe to remain at his place of work, where the same is situated underground, for more than eight (8) hours, exclusive of one-half (1/2) hour for lunch, in any one calendar day of twenty-four (24) hours. Any person, firm or corporation, or the agent of any person, firm or corporation, violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten dollars (\$10.00) or more than one hundred dollars (\$100.00) for each offense.

Eight-hour
day.

Penalty.

SEC. 2. It shall be unlawful for any person in the employ of any person, firm, or corporation operating any coal mine, within the State of Washington, to wilfully remain at, or in his working place, where the same shall be underground, to exceed eight (8) hours, exclusive of one-half (1/2) hour for lunch, in any one calendar day of

Person work-
ing longer,
penalty.

twenty-four (24) hours. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five dollars (\$5.00) or more than twenty dollars (\$20.00) for each offense.

SEC. 3. The provisions of this act shall not apply to, or prohibit engineers, rope-riders, motormen, cagers, or others necessarily employed in transporting men in and out of the mine: *Provided, however,* That all persons so employed shall not work more than ten (10) hours in any one calendar day: *And provided further,* That this act shall not be construed to prohibit extra hours of employment underground, necessitated by a weekly change of shift, or where rendered necessary by reason of any accident, or for the purpose of making unavoidable repairs, or for the protection of property or human life.

Ten hours
for certain
employees.

SEC. 4. It shall be the duty of the State Inspector of Coal Mines to enforce the provisions of this act.

Enforcement
of act.

Passed by the House February 25, 1909.

Passed by the Senate March 8, 1909.

Approved March 20, 1909.

CHAPTER 221.

[S. B. 203.]

GRANTING TO SEATTLE CERTAIN TIDE LANDS.

AN ACT authorizing and directing the Commissioner of Public Lands to certify certain tide lands to the Governor for deed, and authorizing and directing the Governor to execute, and the Secretary of State to attest, a deed conveying to the city of Seattle certain tide lands for street purposes.

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

SECTION 1. That the Commissioner of Public Lands of the State of Washington be and he hereby is authorized and directed to certify, in the manner provided by law in other cases, to the Governor for deed to the city of Seattle, in the State of Washington, all of the tide and

shore lands in the plat of Ballard tide lands, described as follows, to-wit:

All that part of lot one (1), block twenty (20), Ballard tide lands, described as follows, to-wit: Beginning at the southeast corner of said lot one (1), and extending thence west one hundred and thirty-five one-hundredths (100.35) feet; thence north $04^{\circ} 46' 26''$ west, one hundred twenty-two and sixty-six one-hundredths (122.66) feet, to the south line of "S" street, as platted in the Ballard tide lands; thence east one hundred fifteen and thirty-four one-hundredths (115.34) feet; thence south $18^{\circ} 08' 09''$ west, thirty-eight and three hundred eighty-seven one-thousandths (38.387) feet; thence south $04^{\circ} 46' 26''$ east, eighty-six and forty-eight one-thousandths (86.048) feet, to place of beginning.

Description
of lands.

Parts of lots two (2) to eight (8), inclusive, of block twenty (20), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof one hundred (100) feet, measured at right angles.

All that part of lot nine (9), block twenty (20), Ballard tide lands, described as follows, to-wit: Beginning at the southeast corner of said lot and extending thence west one hundred one and three one hundredths (101.03) feet; thence north $08^{\circ} 10' 40''$ east, thirty-one and twenty-four one-hundredths (31.24) feet; thence north $04^{\circ} 46' 26''$ west, sixty-nine and thirty-two one hundredths (60.32) feet; thence east one hundred and thirty-five one-hundredths (100.35) feet, thence south $04^{\circ} 46' 26''$ east, seventy-two and three hundred twenty-one one-thousandths (72.321) feet; thence south $08^{\circ} 10' 40''$ west, twenty-eight and two hundred seventeen one-thousandths (28.217) feet, to the place of beginning.

Description
continued.

Parts of lots numbered ten (10) to twelve (12), inclusive, of block twenty (20), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof one hundred (100) feet measured at right angles.

Parts of lots numbered one (1) to twelve (12), inclusive, of block nineteen (19), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof one hundred (100) feet, measured at right angles.

Parts of lots numbered one (1) to five (5), inclusive, of block sixteen (16), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof, one hundred (100) feet, measured at right angles.

All that part of lot six (6), block sixteen (16), Ballard tide lands, described as follows, to-wit: Beginning at the southeast corner of said lot and extending thence west one hundred one and seventy-four one-hundredths (101.74) feet; thence north $05^{\circ} 41' 17''$ east, twenty and thirty-five one-hundredths (20.35) feet; thence north $22^{\circ} 06' 58''$ east, eighty-six and eight one-hundredths (86.08) feet; thence east one hundred seven and ninety-four one-hundredths (107.94) feet; thence south $22^{\circ} 06' 58''$ west one hundred seven and nine hundred forty-two one-thousandths (107.942) feet, to the place of beginning.

Description
continued.

All that part of lot seven (7), block sixteen (16), Ballard tide lands, described as follows, to-wit: Beginning at the southeast corner of said lot and extending thence west one hundred and forty-nine one-hundredths (100.49) feet; thence north $05^{\circ} 41' 17''$ east, one hundred and forty-nine one-hundredths (100.49) feet; thence east one hundred one and seventy-four one-hundredths (101.74) feet; thence south $22^{\circ} 06' 58''$ west, four and thirty-five one-hundredths (4.35) feet; thence south $05^{\circ} 41' 17''$ west, ninety-six and four hundred forty-five one-thousandths (96.445) feet, to the place of beginning.

Parts of lots numbered eight (8) to ten (10), inclusive, block sixteen (16), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof one hundred (100) feet, measured at right angles.

All that part of lot number eleven (11), block sixteen (16), Ballard tide lands, described as follows, to-wit: Be-

ginning at the southeast corner of said lot and extending thence west one hundred (100) feet; thence north $00^{\circ} 01' 45''$ east, thirty-nine and forty-three one-hundredths (39.43) feet; thence north $05^{\circ} 41' 17''$ east, sixty and eighty-seven one-hundredths (60.87) feet; thence east one hundred and forty-nine one-hundredths (100.49) feet; thence south $05^{\circ} 41' 17''$ west, sixty-five and eighty-eight one-hundredths (65.88) feet; thence south $00^{\circ} 01' 45''$ west, thirty-four and forty-four one hundredths (34.44) feet, to the place of beginning.

All that part of lot twelve (12), block sixteen (16), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof one hundred (100) feet, measured at right angles.

Parts of lots numbered one (1) to twelve (12), inclusive, block fifteen (15), Ballard tide lands, lying between the government meander line and a line drawn parallel thereto and westerly thereof, one hundred (100) feet, measured at right angles.

Description
continued.

All of lots numbered thirteen (13) to twenty-seven (27), inclusive, block fifteen (15), Ballard tide lands.

Parts of lots numbered twenty-eight (28) to thirty-three (33), inclusive, of block fifteen (15), Ballard tide lands, lying between the westerly line of said lots and a line drawn parallel thereto and easterly thereof, one hundred (100) feet, measured at right angles.

All that part of lot forty (40), block fifteen (15), Ballard tide lands, described as follows, to-wit: Beginning at the northwest corner of said lot forty (40) and extending thence south $54^{\circ} 50' 01''$ east, forty-five and eight one-hundredths (45.08) feet; thence south $89^{\circ} 34' 45''$ west, thirty-six and eighty-five one-hundredths (36.85) feet; thence north thirty-six and twenty-three one-hundredths (36.23) feet, to the place of beginning.

All of lots numbered thirty-four (34) to thirty-nine, inclusive, block fifteen (15), Ballard tide lands.

And the Governor is hereby authorized and directed to execute, and the Secretary of State to attest with his

signature and seal, in the manner provided by the law now governing the execution of deeds, a deed, conveying and dedicating to the city of Seattle all of said tide and shore lands for street purposes.

City must
build street.

SEC. 2. That the city of Seattle shall proceed to extend over said lands, a public street and highway, and, within one (1) year from the date of the taking effect of this law, shall have proceeded to acquire by purchase, or by condemnation and purchase, all leasehold and contract rights, heretofore granted by the State of Washington to any persons for any of said lands.

Granted for
street
purposes.

SEC. 3. That all of the tide and shore lands, described in section one of this act, be and the same hereby are granted to the city of Seattle in the county of King and State of Washington, to be used by said city, for public street and dock purposes.

Passed by the Senate February 16, 1909.

Passed by the House March 8, 1909.

Approved March 20, 1909.

CHAPTER 222.

[H. B. 145.]

ESTABLISHING WESTERN WASHINGTON HOSPITAL FARM.

AN ACT establishing the Western Washington Hospital Farm for the Harmless Insane, providing for the erection of buildings thereon, and for the management thereof.

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

Commission
to select
site.

SECTION 1. Within thirty days after the taking effect of this act the Governor shall appoint three qualified electors of the state, who with the superintendent of the Western Washington Hospital for the Insane, and the State Board of Control, or its successor in the management of the above named hospital, shall constitute a commission to acquire for the use of the state a fertile, tillable tract of land of not less than three hundred twenty acres, suitable for diversified farming, to be located in Skagit county,

if suitable land can there be found, and if no suitable tract can be found within the said county, then in some other county.

SEC. 2. As soon as convenient after the appointment by the Governor of the members herein provided for, the superintendent of the Western Washington Hospital for the Insane shall call a meeting of the members of the commission at some suitable place. At such meeting the commission shall name one of their number as chairman and another as secretary. The members of the commission appointed by the Governor shall be allowed their actual expenses while engaged in the work of the commission. The other members of the commission may be allowed their actual expenses, to be paid out of appropriation for their respective offices, unless no such appropriations are made for such offices; in that event such expenses shall be paid out of the appropriation herein made.

Organization
of com-
mission.

Expenses.

SEC. 3. After organization, the commission shall proceed after examination to select a proper site for such farm and acquire the same by purchase or otherwise, and may institute proceedings and condemn in the name of the state any part of a tract desired or any interest therein, and may enter into any contract or institute any proceeding to secure to the state an absolute title to any such lands: *Provided, however,* If any part of the site so selected shall include lands belonging to the state, the minimum price only shall be charged and the deed from the state shall issue therefor upon the payment to the proper fund of the amount required at the minimum rate per acre at which such lands are sold, but such minimum price shall be not less than ten dollars per acre: *And provided further,* The commission may acquire by purchase or condemnation any leasehold rights or improvements on such land. The state shall not be required to advance any costs for any proceedings instituted as herein named nor shall the commission be required to accept any verdict in any condemnation proceedings nor be bound thereby, other than for costs to the defendant, or defendants, to be determined by the court, but the commission shall not be

Examine
and select
site.

May select
state land.

May
condemn
rights.

Attorney
General.

Expenses,
how paid.

Manage-
ment of
farm.

Improve-
ments.

Patients
removed.

Products
of farm.

permitted after verdict to institute condemnation proceedings a second time for the same property. The Attorney General shall be attorney for the commission, but the prosecuting attorney in any county in which proceedings are about to be commenced or pending in which the commission is interested may act for the commission under the direction of the Attorney General. All expenses incurred by the commission in the performance of its duties as defined herein shall be certified by the secretary and chairman to the board having control of the Western Washington Hospital for the Insane, and such amounts shall by such board be drawn on vouchers to the State Auditor as other accounts are paid by such board.

SEC. 4. After any such tract of land shall have been acquired and title perfected in the state, the duties of the commission herein provided for shall cease and the management of such farm shall devolve on the board having the management of the Western Washington Hospital for the Insane, and the superintendent of such hospital shall be the superintendent of such farm. The board shall construct the necessary buildings, fences, ditches, dikes, drains on such farm and acquire the necessary machinery, utensils and equipment therefor as may be necessary, the cost thereof not to exceed the amount appropriated therefor. The board shall appoint an assistant superintendent, and employ such other help as may be necessary to properly care for the patients and to take care of and manage such farm, and shall make all needful rules for the government of the same.

SEC. 5. Upon the completion of the proper buildings on such farm the superintendent shall remove thereto such patients in the Western Washington Hospital for the Insane as in his judgment are physically able to perform manual labor and are otherwise fitted to be kept on such farm, and shall from time to time remove others from such hospital to such farm, and may when in his judgment it is necessary or expedient, return patients from such farm to the hospital. It shall be the endeavor to make such farm self-sustaining. The products of such farm over and

above what is necessary for use thereon may be shipped to other state institutions, and may, when the board shall deem best, be sold as ordinary farm produce is sold and the proceeds thereof shall be turned into the state treasury.

SEC. 6. For the purpose of acquiring such farm and the construction of buildings thereon, the cost thereof shall be paid out of any amount or amounts appropriated for buildings and purchase of land for the Western Washington Hospital for the Insane.

Passed by the House March 10, 1909.

Passed by the Senate March 11, 1909.

Approved March 19, 1909.

CHAPTER 223.

[H. B. 277.]

RELATING TO STATE LANDS.

AN ACT relating to the acquisition, control, management and disposition of the granted, school, tide, oyster and other lands and harbor areas of the State of Washington, and amending sections one, eleven, twelve, fourteen, twenty-five, thirty, sixty-five and sixty-seven of chapter eighty-nine of the Session Laws of eighteen hundred and ninety-seven.

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

SECTION 1. That section one of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Section 1. The Commissioner of Public Lands, the State Fire Warden and Forester and the members of the State Board Tax Commissioners shall constitute the Board of State Land Commissioners and shall have all powers and perform all duties with reference to the selection, appraisal and sale or lease of school, granted or other lands, except capitol building lands, the establishment of harbor lines and lease of harbor area which are now or may hereafter be vested in or required of the Board of State Land Commissioners, the Board of Appraisers or the Harbor Line Commission. And said Board of State Land Commissioners shall be and serve as the commission and the

[Am'd. § 1,
ch. 89, p. 229
L. '97; § 2130
Bal., § 8159
Pierce: ch.
146, p. 290,
L. '07.]

State Land
Commission.

Powers.

board of appraisers mentioned in section one of article fifteen and section two of article sixteen of the state constitution.

[Am'd. § 11,
ch. 89, p. 235,
L. '97, § 2141
Bal., § 8171
Pierce; § 1,
ch. 74, p. 103,
L. '03; § 5,
ch. 256, p.
751. L. '07.]

SEC. 2. That section eleven of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

SEC. 11. That any person or company may make written application to the Commissioner of Public Lands for the appraisal and sale of any lands belonging to the state, except capitol building lands; and the Commissioner of Public Lands shall cause to be prepared blank applications containing such instructions as will inform and aid intending purchasers in making application for the appraisal and sale of any lands. Each application must be accompanied with either cash, certificate of deposit or certified check upon any bank of this state, or postal order made payable to the Commissioner of Public Lands and equal in amount to ten cents per acre for the land described in such application, but in no case for a sum less than ten dollars. In case the lands described in such application are sold at the time they are offered for sale, in accordance with such application, the amount of such deposit shall be returned to such applicant, but if such land be not sold, through the failure of the applicant to offer at least the appraised valuation, such deposit shall, upon order of the Board of State Land Commissioners, be forfeited to the state and credited to the general fund. When, in the opinion of the Commissioner of Public Lands, or the Board of State Land Commissioners, a sufficient number of applications have been received for the appraisal and sale of lands in any county or locality, the Commissioner of Public Lands shall cause such lands so applied for to be inspected and classified by one or more state land inspectors, or by one or more members of the Board of State Land Commissioners, as to its character, topography, agricultural and grazing qualities, timber, coal, mineral, stone or rock quarries of commercial value, its distance from any city or town, railroad, river, irrigation canal, ditch or other waterway, and full report thereof to be made to the Commissioner of Public Lands, together

Application
to purchase
lands.

Forfeit of
application
fee.

Lands to be
inspected.

with the inspector's judgment as to its present and prospective value, which said report, together with all other information affecting the same, shall thereupon be considered by the Board of State Land Commissioners and a price per acre fixed for each lot, block, subdivision or tract proposed to be sold in one parcel, which shall not be less than ten dollars per acre for lands granted for educational purposes: *Provided*, That no more than one hundred and sixty acres of any school or granted lands of the state shall be offered for sale in one parcel; and all lands within the limits of any incorporated city or town, or within two miles of the boundaries of such incorporated city or town, where the valuation of such lands shall be found by appraisal to exceed one hundred dollars per acre, or such other lands as the Board of State Land Commissioners may determine, shall, before the same be sold, be platted into lots and blocks or tracts, and not more than one block or tract shall be offered for sale in one parcel. And the Board of State Land Commissioners is hereby authorized to vacate and annul any street, alley or public place in any plat of any public lands of the state situated outside of the limits of any incorporated city or town when deemed for the best interests of the state and to correct any defect or omission in any plat, or any defect or omission in the procedure with reference to the making or filing thereof in any plat heretofore or which may hereafter be made or filed. The Board of State Land Commissioners may designate or describe any such plat by name or numeral or as an addition to any such city or town and, upon the filing of such plats, it shall be sufficient to describe the lands, or any portion thereof, embraced in such plat according to the designation prescribed by the Board of State Land Commissioners. Such plats shall be made in duplicate and, when properly authenticated in accordance with the directions of the Board of State Land Commissioners, one copy thereof shall be filed in the office of the Commissioner of Public Lands and one copy in the office of the county auditor of the county in which the lands are situated; and said auditor is hereby directed to receive and file such plats

Price
per acre.Limits
of sale.Board may
vacate
streets.

Plats.

without compensation or fees and to make record thereof in the same manner as required by law for the filing of other plats in his office: *Provided further*, That whenever application is made to purchase less than a section, the said Commissioner of Public Lands may order the inspection of the entire section or sections; and in no case shall any state or public lands, or timber or other materials thereon be sold unless within ninety days prior to the date fixed for the sale the same shall have been appraised by the Board of State Land Commissioners. The Board of State Land Commissioners or the Commissioner of Public Lands may cause any of the public lands of the state to be surveyed for the purpose of ascertaining and determining the area subject to sale or lease.

Appraisal within ninety days of sale.

SEC. 3. That section twelve of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Sec. 12. When application is made for the purchase of timber, fallen timber, stone, gravel or other valuable materials situated upon public lands of the state, except capitol building lands, the same inspection shall be had as upon an application for the appraisalment and sale of lands. No timber, fallen timber, stone, gravel or other valuable materials shall be sold for less than the appraised value thereof; and such timber, fallen timber, stone, gravel or other valuable materials may be sold separate from the land when, in the judgment of the board, it is for the best interests of the state to sell the same, except when the estimated amount of timber shall exceed one million feet to the quarter section, in which case the timber shall be sold separate from the land: *Provided*, That whenever any public lands except capitol building lands shall lie within the limits of any watershed from or through which is derived the water supply of any city or town in this state and said city or town shall desire to purchase or condemn the same it may do so, and in case of purchase it shall have the right to buy said land with the timber, fallen timber, stone, gravel or other valuable materials with the land and without a separate appraisalment thereof. When such timber, fallen timber, stone, gravel or other valuable ma-

[Am'd. § 12, ch. 89, p. 236, L. '97, § 2142 Bal.; § 1, ch. 129, p. 252, L. '99, § 1, ch. 148, p. 309, L. '01, § 8172 Pierce; § 6, ch. 256, p. 752, L. '07.]

Appraisalment of materials.

City may purchase to protect water supply.

materials are sold separate from the land, the full purchase price thereof shall be paid in cash: *Provided*, That in all cases where timber, fallen timber, stone, gravel or other valuable materials are sold separate from the land the same shall revert to the state if not removed from the land within five years from the date of purchase thereof, except that in all cases when the purchaser is acting in good faith and endeavoring to remove such timber, fallen timber, stone, gravel or other valuable materials, the Commissioner of Public Lands may extend the time for removal thereof for any further period not exceeding five years upon payment to the state of a sum to be fixed by the Commissioner of Public Lands not less than one dollar nor more than two dollars per acre per annum. And the Commissioner of Public Lands shall certify and pay to the State Treasurer all sums received for such extensions and the same shall be credited to the fund to which was credited the original purchase price of the materials so sold. In every appraisalment under this act, the Board of State Land Commissioners shall separately appraise all improvements placed upon any land of the state and found on such land at the time of appraisalment of the land, and shall also appraise all damages and waste committed or suffered upon said land by the cutting or removal of timber, stone, gravel or other valuable materials by the person or persons owning such improvements or their assignors and the damages so found shall be deducted from the appraised value of the improvements and the balance, after deducting such damages and waste, shall be the value of the improvements upon the land, and every such appraisalment shall be recorded in the proceedings of the Board of State Land Commissioners: *Provided*, That this section shall not be considered as affecting the right of the state to receive the full value of the land. If the purchaser of such land be not the owner of the improvements, he shall deposit with the officer making the sale, at the time of the sale, the appraised value of such improvements; and if it be found by the board that the owner of such improvements was not holding adversely to the state at the time of making

Timber to
be removed
within five
years.

Damages
deducted
from im-
provements.

Payment
for im-
provements.

Bad faith
in making im-
provements.

Evidence
of value.

Rules for
the removal
of timber.

the improvements, or that said improvements were placed upon the land in good faith by a lessee whose lease had not been canceled or subject to cancellation for any cause, or that such improvements were placed upon the land by mistake, then the Board of State Land Commissioners shall direct the Commissioner of Public Lands to pay and he shall pay to the owner of said improvements the sum so deposited. But if it be found by the board that such improvements were made by persons holding or claiming adversely to the state, or by persons without license or lease from the state, or by a lessee who had not complied with the terms of his lease, then said board shall direct the Commissioner of Public Lands to pay said sum so deposited to the State Treasurer, who shall credit the same to the fund into which the proceeds derived from the sale of the land should be paid. If it be found that such improvements were made by a lessee or other person with intent to defraud the state or the intending purchaser of the land from the state, the sum so deposited shall be forfeited to the state and credited as last above provided. For the purpose of determining the value and character of land, timber, fallen timber, stone, gravel or other valuable materials or improvements, the Commissioner of Public Lands or the Board of State Land Commissioners may compel the attendance of witnesses by subpoena, at such place as the commissioner or the board may designate, and examine such witnesses under oath as to the value and character of such lands, materials or improvements and waste or damage thereto. That when timber or other valuable materials have been sold separate from the land and have actually been removed therefrom, then such lands may be sold for a sum which, added to the price received for the timber or other valuable materials, will not be less than ten dollars per acre. All sales of timber upon state land shall be made subject to the right, power and authority of the Board of State Land Commissioners to prescribe rules and regulations governing the manner of removal of the timber with a view to the protection of the non-merchantable timber against destruction or injury by fire

or from other causes; and any such rules or regulations shall be binding upon the purchaser of the timber and his successors in interest and shall be enforced by the Commissioner of Public Lands. When the merchantable timber has been sold and actually removed from any land, the Board of State Land Commissioners may classify the land and such portions thereof as may be found most suitable for reforestation may, by order of the board, be reserved from any future sale and when once so reserved shall not thereafter be subject to sale or other disposition. The Commissioner of Public Lands shall certify to the State Fire Warden and Forester all such reserves so made and thereupon it shall be the duty of the State Fire Warden and Forester to protect such land and the remaining timber from fire and to reforest the same. Reforestation.

SEC. 4. That section fourteen of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows: [Am'd. § 14.
ch. 89, p. 238.
L. '97, § 2144
Bal., § 8174

Sec. 14. When the Board of State Land Commissioners shall have decided to sell any lot, block, tract or tracts of granted lands, or timber, fallen timber, stone, gravel or other valuable materials thereon, it shall be the duty of the Commissioner of Public Lands to forthwith fix the date of sale and give notice thereof by advertisement published once a week for five weeks next before the time he shall name in said notice, in at least one newspaper of general circulation published in the county in which the lands are situated, which notice shall specify the place, time and terms of sale, describing with particularity each parcel of land to be sold and stating the appraised value thereof, and by causing to be posted in a conspicuous place in the office of the auditor of the county wherein such lands are situated a copy of said notice. And the Commissioner of Public Lands shall cause all such lands or materials thereon to be sold and arrange such date of sale so that it will fall on the first Saturday of the month, except where such Saturday would fall on a legal holiday, in which case no sales shall be made until the following month. The Commissioner of Public Lands shall cause to be printed in pamphlet form a list of all school, granted or other Pierce; § 1.
ch. 152, p.
313, L. '07.]
Date of sale.
Notice.

Pamphlet
list of sales.

Distribution
of lists.

Proof of
publication
of notice.

public lands or materials thereon, or tide or shore lands of the first or second class, or detached tide lands, or harbor area leases or mineral lands required by law to be sold at public auction and the appraised value, where the law provides for appraisement, that are to be sold in the several counties of the state, said lists to be issued each month, at least four weeks prior to the date of sale of such lands or materials enumerated thereon, such lands and materials to be listed under the name of the county wherein located, in alphabetical order, giving the appraised values, character of same and such other information as may be of interest to prospective buyers. Said Commissioner of Public Lands shall cause to be distributed to the auditor of each county in the state a sufficient number of such lists to supply the demands made upon them respectively, as reported by such auditors, not exceeding one hundred copies in any one county. And said county auditors shall keep the lists so furnished in a conspicuous place or receptacle on the counter of the public office of their respective departments, and when requested so to do shall mail copies of such lists to residents of their counties. The Commissioner of Public Lands shall retain for free distribution in his office five hundred copies of said lists, as above set forth, such lists to be kept in a conspicuous place or receptacle on the counter of the general office of the Commissioner of Public Lands; and when requested so to do, the commissioner shall mail copies of said lists each month as issued to any applicant therefor. Proof of publication shall be made by affidavit of the publisher or person in charge of the newspaper publishing the notice of sale and by certificate of the auditor showing the posting of the notice of sale as aforesaid and the receipt of the lists as aforesaid, which shall forthwith be sent to and filed with the Commissioner of Public Lands. The Board of State Land Commissioners is hereby authorized to expend any sum of money, not exceeding fifteen dollars, in additional advertising of such sale as the said board shall determine to be for the best interests of the state. Such sale

shall take place on the day advertised, between the hours of 10 o'clock in the forenoon and 4 o'clock in the afternoon, in front of the courthouse, or of the building in which the superior court is held, in the counties in which there is no courthouse, and shall be sold at public auction Auction. to the highest bidder, on the terms prescribed by law and as specified in the notice hereinbefore provided; and no land shall be sold for less than its appraised value. Such sale shall be conducted under the direction of the board, or the Commissioner of Public Lands, by the county auditor of the county in which the lands are situate; and such auditor shall at once deliver to the purchaser, under his hand and seal, a memorandum of his purchase, containing a description of the land purchased, the price bid and the terms of sale, upon the delivery to such auditor, by the purchaser, either in cash or by certified check, or draft drawn upon some bank doing business in this state, or Completion of bid. by postal order, of an amount equal to one-tenth of the price of the land by him purchased, payable to the order of the Commissioner of Public Lands; and such auditor shall at once send to the Commissioner of Public Lands such cash or certified check, draft or postal order and a copy of the memorandum delivered to the purchaser, together with such additional report of his doings and proceedings with reference to such sale as may be required by the Commissioner of Public Lands or the Board of State Land Commissioners. If any land so offered for sale be not sold, the same may again be advertised for sale, as provided in this act, whenever in the opinion of Re-advertisement. the board it shall be expedient so to do; and such land shall again be advertised for sale, as provided in this act, whenever any person shall apply to said board in writing to have such land sold and shall agree to pay at least the appraised price thereof and shall deposit with the Commissioner of Public Lands, at the time of making such application, a sufficient sum of money to pay the cost of advertising for such sale, as provided in making original application.

SEC. 5. That section twenty-five of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Rentals.

Sec. 25. The Commissioner of Public Lands shall keep a full and complete record of all leases so issued and payments made thereon, and on or before the 5th day of each month the Commissioner of Public Lands shall cause to be mailed to each lessee whose rental will become due and payable during the following calendar month a notice stating the date upon which the rental falls due and the amount thereof; and if such rental be not paid on or before the date the same becomes due, according to the terms of the lease, the Commissioner of Public Lands shall declare a forfeiture, cancel the lease and eject the lessee from the land: *Provided*, That the Commissioner of Public Lands may extend the time for payment of annual rental not to exceed one year when, in his judgment, the interests of the state will not be prejudiced thereby.

[Am'd. § 6,
ch. 89, p. 245,
L. '97, § 2160
Bal., ch. 48,
p. 77, L. '99,
§ 8190
Pierce.]

SEC. 6. That section thirty of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Re-lease.

Sec. 30. If, at the expiration of any lease, or any renewal thereof, the lessee desires to re-lease the lands covered thereby, he may make application to the Commissioner of Public Lands for a re-lease. Such application shall be made within thirty days after the expiration of the lease and shall be in writing and under oath, setting forth the character and value of all improvements existing on the land, the name and postoffice address of the owner thereof, the purpose for which he desires to re-lease the land, the amount considered by such lessee as the reasonable annual rental value thereof and such other information as the Commissioner of Public Lands may require, and shall be accompanied with a deposit of ten dollars, which deposit, if the land be not leased, through the failure or refusal of the applicant to accept a lease at the rate fixed by the Commissioner of Public Lands, shall be forfeited to the state and by the commissioner paid to the State Treasurer and credited to the fund to which the rental of the land should be credited. The Commissioner of Public Lands may, upon the filing of such application, cause the

lands to be inspected by a state land inspector; and if he deems it for the best interests of the state to re-lease said lands, he shall fix the rental value thereof and, upon receipt of the first year's rental, together with the fees required by law, the Commissioner of Public Lands shall issue to the applicant a renewal lease for any period not exceeding five years. The Commissioner of Public Lands shall notify the applicant, by mail, of the rental value fixed, and if, within thirty days after the date of such notice, the applicant fails or refuses to pay to the Commissioner of Public Lands the first year's rental, together with the statutory fee for issuing a lease, the Commissioner of Public Lands may cause the improvements existing upon the land to be appraised, in the same manner as in the case of the sale of land, offer the land for lease at public auction to the highest bidder, as provided for original leases, and if the successful bidder be not the owner of the improvements, he shall deposit with the officer making the sale the appraised value of the improvements. The amount so deposited as the appraised value of improvements, together with the first year's rental and the fees required by law, shall be transmitted to the Commissioner of Public Lands and, upon confirmation of the lease by the Commissioner of Public Lands, the amount so deposited in payment for the improvements shall be disposed of by the Commissioner of Public Lands in the same manner as in the case of the sale of the land: *Provided*, That no bid shall be received for less than the minimum price fixed by the Commissioner of Public Lands.

SEC. 7. That section sixty-five of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Sec. 65. It shall be the duty of the Attorney General, and he is hereby authorized to institute or defend any action or proceeding to which the state or any officer thereof is or may be a party or in which the interests of the state are involved in any court of this or any other state, or of the United States, or in any department of the United States, or before any board or tribunal, when so directed to do by the Commissioner of Public Lands or

Rental value.

Auction of lease.

[Am'd. § 65.
ch. 89, p. 261.
L. '97. § 2196
Bal.. § 8234
Pierce.]Duties of
Attorney
General.

the Board of State Land Commissioners, or upon his own initiative. The Commissioner of Public Lands is also authorized to appear for and represent the state in any such action or proceeding, relating to the public lands of the state.

[Am'd. § 67,
ch. 89, p. 261,
L. '97, § 2198
Bal.: § 8236
Pierce.]

SEC. 8. That section thirty-seven [sixty-seven] of chapter eighty-nine of the Session Laws of 1897 be amended to read as follows:

Sec. 67. The Board of State Land Commissioners or the Commissioner of Public Lands may review and reconsider any of their official acts relating to the public lands of the state until such time as a lease, contract or deed shall have been made, executed and finally issued by the Commissioner of Public Lands: *Provided*, That the Board of State Land Commissioners or the Commissioner of Public Lands may recall any lease, contract or deed for the purpose of correcting mistakes or errors or supplying omissions.

Board may
reconsider
action.

Passed by the House March 6, 1909.

Passed by the Senate March 9, 1909.

Approved March 20, 1909.

CHAPTER 224.

[S. B. 241.]

RELATING TO IMPROVED ROADS.

AN ACT providing for the construction and improvement of county roads at the expense of the lands specially benefited thereby; authorizing the creation of local improvement districts and the levying of special assessments on the lands in such districts for paying the cost and expenses thereof, and the payment of such assessments immediately or by installments; providing for the issuance and disposal of local improvement district warrants to pay the cost and expenses of such construction and improvements, as a charge upon the property of the local district, and providing for the payment of such warrants.

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

SECTION 1. The board of county commissioners of any county in this state shall have power, as hereinafter pro-

vided, to cause to be constructed or improved any county road, or any part of such road, within the limits of their respective counties, by deviating from existing lines whenever it shall be deemed of advantage to obtain a shorter or more direct road without lessening its usefulness or whenever such deviation is of advantage by reason of lessened gradients, or by draining in any direction to reach the most convenient and sufficient outlet, or by grading or by constructing thereon a roadway of Elford, macadam, gravel, or any other suitable material; and to levy and cause to be collected an assessment upon all lots, tracts and parcels of land specially benefited by such improvement for paying the cost and expenses thereof, which assessment shall become a first lien upon all property liable therefor, prior and superior to all other liens and encumbrances; and to provide for the payment of such assessment either on the immediate payment plan or by installments, and to issue local improvement district warrants for such installments.

Road may be improved.

Cost charged to property benefited.

SEC. 2. Upon the presentation of a petition as provided in section three hereof the board of county commissioners shall pass a resolution that the public interest demands the improvement of any such county road, or part thereof, situated within such county, and described in such resolution, but such description shall not include any portion of a highway within the boundaries of any city or incorporated town.

Resolution to improve.

SEC. 3. The owners of two-thirds of the lineal feet of lands fronting on such county road, or part thereof sought to be improved, in any county in this state may present to the board of county commissioners of such county a petition setting forth that the petitioners are such owners and that they desire such road, or part thereof, to be improved under the provisions of this act, the particular road or portion thereof sought to be improved, the kind and nature of the improvement desired, and the mode of payment of the assessments to be levied for defraying the cost and expenses of such improvement. If any such property

Petition for improvement.

stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator or guardian, as the case may be, shall be deemed equivalent to the signature of the owner of the property on such petition.

Hearing
on petition.

Notice of
hearing.

Supervisors
appointed.

SEC. 4. Such board of county commissioners shall make an order appointing a place in the vicinity of said road in said county where, and a time when said petitioners and all owners of land fronting upon said road, or portion thereof sought to be improved, and to be specially benefited by such improvement, and upon whose lands special assessments will be levied to pay for such improvement, may meet with the county engineer, or his duly appointed deputy; and the county auditor shall immediately give notice to said county engineer of such meeting, and shall cause a notice thereof to be given by publication in a newspaper printed and published in the vicinity of said road, or nearest thereto, in said county, and of general circulation therein, for three consecutive weeks next prior to the time of such meeting, which notice shall state the time and place of said meeting, the kind of improvement asked for, the place of beginning, intermediate points if any, and place of termination of said road, or the portion thereof sought to be improved. At said meeting said county engineer, or his said deputy, or in the absence of both, some one of the said owners present, shall preside, and said petitioners and said owners of such lands shall then proceed to elect three of such owners as a committee of supervisors, at least one of whom shall be chosen from among the said petitioners. A majority of such owners present and voting at such meeting shall be sufficient for such election, and said presiding officer shall declare and certify to said board of county commissioners the names of such owners so elected as such committee of supervisors. The persons so elected shall, as soon as may be thereafter, qualify by taking an oath that they are owners of lands fronting upon or specially benefited by said improvement and to be included within the local assessment district therefor, as hereinafter provided, and that they will fully, im-

partially and faithfully perform the duties of such supervisors to the best of their ability, which said oath may be administered by any one authorized by the laws of the State of Washington to administer oaths, or by said county engineer or his deputy, who are thereunto hereby fully authorized.

SEC. 5. . It shall be the duty of such committee of supervisors and the county engineer or his said deputy to forthwith, or as soon as they can assemble at said place, meet and proceed to view, examine and survey said road, or the portion thereof sought to be improved, so that such county engineer can from such examination and survey make plans and specifications and an estimate of the cost of such construction and improvement; to examine and determine the lands that will be specially benefited by such improvement and should be included within the local district to be assessed to defray the cost and expense of such improvement; to ascertain what, if any, damage or injury to the property of any person or persons will be sustained by or in consequence of the making of such improvement for the payment of which such local district would be liable and, in so far as may be, obtain without cost to the local district the release in writing from such person or persons of their claim for such damage or injury, or, in case of failure so to do, arrange, in so far as may be, for such release to be given, upon the approval and ordering of such improvement, on such terms as to amount as may be deemed fair and reasonable to be paid from the funds collected upon the assessment of said district; and such county engineer shall without unnecessary delay prepare such plans and specifications and an estimate of the cost of such improvement, including therein all expenses incident thereto except for services of any county officer receiving a salary, and prepare a plat and description of such local improvement district and a description of the several tracts or parcels of land included therein and the valuation of said lands as appears upon the last annual assessment roll of the county made for the purpose of levying general taxes; and for the purpose of making such

View of
road.

Plans and
estimate
of cost.

Engineer may employ assistants.

surveys said county engineer shall take to his aid such assistants as are necessary and usually employed by him in making county surveys and at such compensation as is usually paid for like services employed in making other county surveys, the same to be charged as an expense against said local improvement district. The improved or permanent roadway of all such roads so improved shall not be less than eight nor more than sixteen feet in width with shoulders of not less than two feet nor more than four feet in width, unless for special reasons to be stated by said county engineer and committee of supervisors it is required that it shall be of greater width.

Width of road.

Boundaries of improvement district.

SEC. 6. Such local improvement district shall be constituted, and the boundaries thereof fixed, as follows: The road, or portion thereof to be improved, co-terminous with the improvement, shall be the central line through the district, and the bordering lands on each side, and within a distance of half a mile from the margin of said road and co-terminous with the construction work or improvement shall be included in and constitute the body of the improvement district, and shall be subject to assessment to the extent above provided. For the purpose of making an equitable apportionment of the assessment, such improvement district shall be divided longitudinally into three parts as follows: All land on both sides of said road, or portion thereof, to be improved, and within a distance of eight hundred and eighty feet from the margins thereof shall constitute the first subdivision; all the land outside of the first subdivision, and within eight hundred and eighty feet from the exterior margins thereof, shall constitute the second subdivision; and all the land outside of said second subdivision and within eight hundred and eighty feet from the exterior margins thereof shall constitute the third subdivision. Each separate tract or parcel of land in said first subdivision shall be assessed and be subject to a charge for a proportional part of forty-five per cent. of the whole cost of the construction work or improvement of said road, including said incidental expenses, and it shall be subject to a lien therefor until it

Three divisions.

1st division assessed 45 per cent.

shall be paid; each separate tract or parcel of land in said second subdivision shall be assessed and subject to a charge for a proportional part of thirty-five per cent. of said whole cost and expense of said construction work or improvement, and be subject to a lien therefor until it shall be paid; each tract or parcel of land in said third subdivision shall be assessed and subject to a charge for a proportional part of twenty per cent. of said whole cost and expense of said construction work or improvement, and be subject to a lien therefor until it shall be paid. The charge upon the several separate tracts or parcels of land in each subdivision shall be assessed ratably according to the front foot plan; that is to say, one foot of longitude measured along the road constituting the center of such improvement district, and extending latitudinally across the subdivision shall be taken as the unit by which to determine the proportion of the assessment, so that a unit in each subdivision will be 880 square feet of superficial area. If the areas of said subdivision are not equal to each other the rates fixed for each subdivision shall be fixed on the basis that the benefit conferred on 880 square feet of land in subdivisions first, second and third, are related to each other as are the numbers 45, 35 and 20, respectively.

2d division
assessed
35 per cent.

3d division
assessed
20 per cent.

Front foot
assessment.

SEC. 7. As soon as the county engineer shall have completed said work, and at the next ensuing meeting of the board of county commissioners the said county engineer in conjunction with said committee of supervisors shall render a detailed report to said board of county commissioners, with all maps, descriptions, plans, specifications, details and estimates of damages, costs and expenses, and if it shall appear from the said report that the whole amount of the damages, cost and expense of said construction or improvement, chargeable as a lien against the property specially benefited within such improvement district, does not exceed fifty per cent. of the total assessed valuation of the lots, tracts and parcels of land contained in such improvement district as the same appears upon the last annual assessment roll of the county made for levying

Engineer
to report
to com-
missioners.

Limit
of cost.

general taxes, the said board of county commissioners shall make and enter upon their records an order that the said improvement be made, and creating such local improvement district for the payment of said damages, costs and expenses of making said improvement, by special assessment of the property in said district specially benefited, according to said report, to be known and designated Local Improvement District No. in county, Washington, and such report shall be kept on file in the office of the auditor of said county with the files pertaining to the proceedings of said board of county commissioners.

Designation of district.

SEC. 8. When said county engineer and committee of supervisors are unable to agree with the owner of any lands upon the amount of damages, if any, sustained by the taking or injuring of his property by reason or in consequence of making of such improvement, they shall in said report to the county commissioners set forth such fact with a statement of their reasons therefor, and said county commissioners shall cause the amount thereof to be ascertained and determined by condemnation and paid in the same manner as damages are so ascertained, determined and paid where new roads are laid out and opened and the county commissioners and land owners are unable to agree upon the amount thereof; and such damages, and the expenses incident to ascertaining and determining the same, shall be advanced on the order of the county commissioners from the funds of the county, so that the progress of such work shall not be delayed, and said funds shall be reimbursed the amount so advanced from the first money collected of the local improvement district funds, and the same shall constitute a part of the cost and expense of making such improvement.

Condemnation proceedings.

County to advance cost.

SEC. 9. After the making of such order directing the making of such improvement and establishing such local improvement district, said county engineer and committee of supervisors shall let a contract for furnishing of the necessary materials and the performance of the work and labor necessary for the construction and completion of said improvement, according to said plans and specifica-

Contract.

tions, and under the supervision of said county engineer. They shall advertise for bids for three successive weeks in a newspaper published at the county seat of such county, and in such other newspaper as said committee of supervisors shall deem of advantage, for the construction of said improvement, according to such plans and specifications, fixing the time for opening such bids at the office of the county commissioners and award such contract to the lowest responsible bidder, except that no contract shall be awarded at a greater sum than the estimate of cost of such work hereinbefore provided for. But if no bid otherwise acceptable be made within such estimate, such county engineer may amend his estimate, and in conjunction with said committee of supervisors certify such amended estimate to the county commissioners, and, if said amended estimate does not exceed said fifty per cent. limit of valuation, said board of county commissioners shall make and enter a new order, in like manner as provided in section eight hereof, based upon such amended estimate, and said county engineer and committee of supervisors may proceed anew to obtain bids and award the contract as herein provided. The county engineer and committee of supervisors may reject any and all bids, and before the execution of a contract for such construction, they shall require a bond executed by a corporate surety or two or more individuals, good and sufficient sureties, satisfactory to them, conditioned that the contractor will furnish the required material and perform the required work upon the terms specified and within the time prescribed and in accordance with the plans and specifications, and will pay for all labor and materials employed upon or in said work; and as a bond of indemnity against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the construction of said improvement and until the same is accepted. Partial payments may be provided for in the contract, and paid in the manner herein provided when certified by the county engineer and committee of supervisors to an amount not to exceed eighty per cent. of the value of the work done. In letting

Bids
called for.

Amended
estimate.

Bond of
contractor.

Payments
made as
work
progresses.

Protection
for labor
and materials
furnished.

said contract said surveyor [engineer] and supervisors shall provide therein that at least twenty per centum of the amount due the contractor on estimates shall be retained to secure the payment of laborers who have performed work on said improvement and material men who have furnished materials therefor, and such laborers and material men shall for thirty days after their work has been completed or their materials furnished have a lien on such twenty per centum so reserved for labor done and materials furnished: *Provided*, Notice thereof in writing shall have been filed with the county engineer within said thirty days, which lien shall be senior to all other liens, whether by judgment, attachment or contract, and no improvement shall be deemed completed until the county engineer and committee of supervisors shall have filed with the clerk of the board of county commissioners a statement signed by a majority of them declaring the same to have been completed, and all such liens shall have been discharged. Such contract shall be executed in the name and on behalf of the county by the chairman of the board of county commissioners and attested with the seal of said board, for the use and benefit of said local improvement district; but such county shall not thereby be rendered subject to any claim or liability except from the special assessment made upon the property of such local district for such improvement or from the proceeds of the sale of any local improvement warrants issued to pay for such improvement as herein provided. Such contractor's bond shall be executed to the county, and in its name enforced by and for the use and benefit of any and all whom it may concern, and shall be kept in the custody of the county auditor.

District
only liable.

SEC. 10. Such notice for bids shall state generally the work to be done, and refer to the plans and specifications [filed] with the board of county commissioners, and shall call for proposals for doing the same and furnishing the necessary materials therefor, sealed and filed with the county auditor, as clerk of the board of county commissioners, on or before the day and hour named in said notice. All bids shall be accompanied by cash or a certified check payable

to the order of the county auditor for a sum not less than five per cent. of the amount of the bid, as a guaranty of the good faith of the bidder, and no bid shall be considered unless accompanied by such cash or check. At the time and place named such bids shall be publicly opened and read; no bid shall be rejected for informality, but shall be received if it can be understood what is meant thereby. The county engineer and committee of supervisors shall determine the lowest bidder, and may let such contract to such bidder if within said estimate, or if in their opinion all bids are too high, they may reject all of them and re-advertise for bids, and in such case all checks and cash shall be returned to the bidders; but if such contract be let, then and in such case all checks and cash shall be returned to the bidders except that of the successful bidder, which shall be retained until a contract be entered into for making such improvement between the bidder and the county in accordance with such bid. If the said bidder fails to enter into such contract in accordance with his bid within ten days from the date on which he is notified that he is the successful bidder, and to execute and file a bond as hereinbefore provided, the said cash and check and the amount thereof shall be forfeited to the county, for the use and benefit of the particular local improvement district, and the county auditor shall cash said check and pay said amount into the county treasury to the credit of the said local improvement district, and the said county engineer and committee of supervisors shall readvertise for bids for the doing of such work. Neither said supervisors nor any county officer shall have power to remit such forfeiture.

Good faith
in bid.

Rejection
of all bids.

Forfeit of
deposit.

SEC. 11. Whenever a contract has been let for the construction or improvement of any such county road in accordance with the provisions of this act, the contractors may and are hereby authorized to, whenever the county engineer supervising the work shall certify to the necessity therefor in writing, close any such road or part thereof to the public by putting up a sufficient obstruction and notice to the effect that such road is closed for improve-

Road closed
pending im-
provements.

ment. When so closed any person disregarding such obstruction and driving, riding or walking over any portion of such road so closed shall be deemed guilty of a misdemeanor and shall upon conviction thereof be subject to a fine of five dollars. Nothing herein contained, however, shall relieve the contractor of the burden of keeping county roads under construction or improvement at all times open to the public until the county engineer supervising the work shall have certified to the necessity for closing such road and shall have filed such in the office of the county auditor.

Inspectors.

SEC. 12. The committee of supervisors and county engineer together shall appoint some suitable and competent person, other than one of said committee, as an inspector of such work as it progresses, whose duty it shall be to be upon the work at all times during its progress and to inspect and observe the performance thereof and to report to and be under the supervision of the county engineer, and to inform said county engineer and said committee of supervisors of any inferior materials used or any departure from the plans and specifications not authorized by said county engineer and committee of supervisors; and he shall be paid for his services as such inspector at the rate of three dollars per day for the time he is actually engaged upon said works. Each member of the committee of supervisors shall be paid for his services the sum of three dollars per day for the time said committee of supervisors is actually engaged in meeting and acting with said county engineer, and in transacting as a committee the business of said local improvement district, until the work of said improvement shall have been fully completed and accepted by them and said county engineer.

Compensation of supervisors.

SEC. 13. When the final order for said improvement shall have been made, such county engineer and committee of supervisors shall proceed to apportion the estimated cost and expenses of said improvement upon the land embraced in said improvement district, according to the benefits to be derived therefrom, and, not more than thirty days after said contract shall have been let as hereinbefore provided,

report to and file with the board of county commissioners an assessment roll, in duplicate, prepared by such surveyor [engineer], which shall contain the description of each lot or parcel of land or part thereof to be assessed, the amount to be charged, levied or assessed against each lot or parcel of land or part thereof in proportion to the special benefits to be derived by each such lot or parcel or part thereof from such improvement, and the name of the owner of each such lot or parcel of land or part thereof, if known, but in no case shall a mistake in the name of the owner be fatal when the description of the property is correct. As soon as said assessment roll shall have been so reported and filed, the county commissioners shall cause notice to be published for three consecutive weeks, which notice shall be published in the newspapers in which notice of invitation for bids for the letting of said contract was published, notifying all persons interested that said assessment roll has been filed, and requiring them to appear at the office of the county commissioners, at the county seat, at a time not less than fifteen days from the date of the last issue of said publication of said notice, and make objections thereto if any they have. At the time fixed the county commissioners shall meet, and, if no objections have been filed to said assessment roll, they shall make and enter an order confirming the same; but if objections, in writing, have been filed by any of the land owners affected thereby, the county commissioners shall proceed to hear such objections and for that purpose shall hear any testimony that shall be offered by any party interested; and either one of the county commissioners shall be authorized to administer oaths to witnesses. After such hearing they shall make such corrections and changes, if any, as to them shall appear just and requisite to apportion the assessment to the benefits to be received from such improvement, and shall then make and enter an order approving and certifying such assessment roll, and levying and assessing the amounts thereof against each and all of the lots and parcels of land, or parts thereof, respectively, included in said roll as approved, and the same shall become a first lien

Assessment roll.

Notice of assessment.

Hearings.

thereon. The costs and expenses of surveys and of all preliminary proceedings to and including the letting of the contract and giving notice that the assessment roll has been certified for collection and the preparation, issuance and disposal of the warrants for the payment of the cost and expenses of such improvement shall be paid out of the county treasury, and shall be refunded, as well as all other amounts advanced by the county for expenses of such improvement, or for damages as hereinbefore provided, from the local improvement funds as soon as sufficient thereof shall come into the hands of the county treasurer.

Refund to
general fund.

Modes of
payment.

SEC. 14. There shall be two modes of making payment of such special assessments chargeable against the several tracts and parcels of land included in such local improvement district, namely, that of "immediate payment" and that of "payment by warrants." The mode adopted and the period, not exceeding ten years, over which such warrants shall be made payable, shall be that petitioned for.

"Immediate
payment."

SEC. 15. In case of the payment of such assessments by the mode of immediate payment, the county commissioners, as soon as such assessment roll has been approved and certified, shall deliver the same to the county auditor, who shall file one of such duplicates thereof in his office with the files of the proceedings of said county commissioners in relation to such improvement district, and shall immediately deliver the other of said duplicates to the county treasurer for the collection of such assessments. The county treasurer shall give notice by publication for two consecutive weeks in the newspapers in which notice of proposal for bids was advertised, and shall mail a copy of such notice to the owner of the property assessed when the name of such owner and his postoffice address is known, but the failure to mail such notice shall not be fatal when publication thereof is made, which said notice shall state that such assessment roll has been certified to him for collection, and that unless payment is made within thirty days from the date of such notice such assessment will become delinquent and shall bear interest at the rate of ten per cent. per annum, and if not paid before such assessment

Notice of
assessment.

shall have become delinquent, a penalty of five per cent. shall be added, and the sums delinquent shall be added on the annual tax roll for the current year against each lot, tract and parcel so delinquent, and, with the interest and penalty, collected as other taxes, separate account being kept thereof, and if not paid within the time fixed for the payment of general county taxes, shall be collected as such taxes are collected, together with such additional charges and penalties as are authorized to be charged and collected on other delinquent taxes, and each lot, tract or parcel so delinquent shall be sold for the amount of such assessment, with interest, penalty and costs, at the time and in the manner and by the same authority and process as lands and lots are sold for general county taxes.

Manner of
collecting
assessments.

SEC. 16. In case of the mode of "payment by warrants" being adopted, the county commissioners, and the county engineer and committee of supervisors, shall proceed the same in all respects as in case of the mode of "immediate payment," to the approval and certifying of the assessment roll; but the county commissioners at the time of levying said assessment, and in their order making such levy, shall provide and declare that the sum charged thereby against each of such tracts or parcels of land may be paid in equal annual installments, with interest upon the whole sum so charged at the rate fixed in said order, specifying the number of such installments, which shall be equal to the number of years which the warrants issued to pay for the improvement may run before payment of the same may be demanded by the holder thereof; and each year thereafter the county treasurer shall collect one of said installments, together with the interest due thereon and on all installments thereafter to become due, in the same manner and with the same added penalty and interest in case of delinquency, and by means of the same proceedings to enforce such payment by the sale of the land as hereinbefore provided for the collection of said assessment by the method of immediate payment.

"Payment
by warrants."

Collection of
installments.

SEC. 17. The county commissioners may, and, in all cases where the improvement is ordered upon a petition

specifying the method of payment by warrants, must provide for the payment of the cost and expenses of such improvement, to be made under the provisions of this act, by special warrants as a charge against the property of the local improvement district, issued to the contractor in payment of the contract price, or by the proceeds of such warrants to be issued and sold as hereinafter provided.

Special warrants.

SEC. 18. The county commissioners shall make and enter an order authorizing and directing the issuance of such warrants, which by their terms shall be made payable on or before a date not to exceed ten years from and after the date of their issue, which latter date may be fixed by the order, and payment of which shall not be demanded by the holder thereof until the end of said period, and they shall bear such interest as shall insure their being disposed of at par and as may be provided for in said order, not exceeding ten per cent. per annum, which interest shall be payable annually, and each warrant shall have attached thereto interest coupons for each interest payment. Such warrants shall bear the date of issue and be made payable to bearer. The warrants and each coupon shall be signed by the chairman of the board of county commissioners and shall be attested by the clerk of said board, and the seal of such board shall be affixed to each warrant but not to the coupon. Such warrant shall be printed, engraved or lithographed on good bond paper, and state on its face that it is issued in accordance and compliance with this act, designating the same by title and date of approval. Such warrants shall be in denominations of not less than one hundred nor more than one thousand dollars, and they shall refer to the improvement to pay for which the same shall be issued, and to the order and record thereof authorizing the same; each warrant shall provide that the principal sum therein named, and the interest thereon, shall be payable out of the local improvement fund created by special assessment for the payment of the cost and expenses of such improvement, and not otherwise, and shall bear upon its face the designation of the local improvement district, thus, Local

Interest on warrants.

Form of warrants.

Denominations.

Improvement District Number in County, Washington. Such warrants shall not be issued in excess of the cost and expenses of the improvement.

SEC. 19. In case of payment by such special warrants, the county treasurer shall give notice by publication for two consecutive weeks, and shall mail a copy of such notice to the owner of the property assessed in the manner and with the same qualifications as to the giving of such notice provided in section sixteen of this act with regard to immediate payment, which notice shall state that such assessment roll has been certified to him for collection, and that unless payment of the whole amount of such assessment is made within thirty days from the date of such notice, special warrants will be issued against said property for the payment of said assessment, and thereafter the same will be payable in annual installments with interest thereon at the rate provided for in said warrants. At any time within such thirty days any owner of lands within such local improvement district may pay the said assessment chargeable against his said lands, and release and discharge the same therefrom and from the operation and effect of such warrants; and no warrants shall be issued until twenty days after the expiration of such thirty days, nor for any amounts of such assessment so paid in full within such thirty days. The owner of any such lands may redeem the same from all liability for such assessment at any time after said thirty days by paying the entire installments of said assessment remaining unpaid and charged against such lands at the time of such payment with interest and all charges thereon to the date of the maturity of the installment next falling due. In all cases where any assessment or any installment thereof is paid as herein provided, the same shall be paid to the county treasurer, and all sums so paid shall be applied solely to the payment of the cost and expenses of such improvement, or to the redemption of such warrants issued therefor if paid after such warrants are issued.

Notice to
property
owners.

Whole
assessment
may be paid.

County
treasurer
to collect.

SEC. 20. The special warrants issued under the provisions of this act, or such portion thereof as may remain

Contractor
may take
special
warrants.

unsold, if the same are ordered sold by the county commissioners, may be issued to the contractor constructing the improvement in payment therefor, or the order of the board of county commissioners directing the issuance of such warrants may provide that the same may be sold by the county treasurer, in the manner prescribed in such order, at not less than their par value and accrued interest; and the proceeds of such warrants shall be applied in payment of the cost and expenses of such improvement.

Call for
warrants.

SEC. 21. The county treasurer shall pay the interest on the warrants authorized to be issued by this act out of the funds of the local improvement district collected on assessments on account of which said warrants are issued. Whenever there shall be sufficient money in such local improvement fund against which such warrants have been issued under the provisions of this act, over and above sufficient for the payment of interest on all unpaid warrants, to pay the principal of one or more of such warrants, he shall call in and pay such warrants in their numerical order. Such call shall be made by publication in the county official newspaper on the day following the maturity date of the installment of assessment or as soon thereafter as practicable, and shall state that special warrants No. . . . (giving the serial number or numbers of said warrants called) of such local improvement district will be paid on the day the next interest coupons of said warrants shall become due, and interest upon said warrants thus called shall cease upon said date.

Warrant
holder may
force
collection.

SEC. 22. If the county treasurer shall fail, neglect or refuse to pay said warrants issued under the provisions of this act, or to collect promptly any such assessments when due, the owner of any such warrants may proceed in his own name to collect such assessments and to foreclose the lien thereof in any court of competent jurisdiction, and shall recover in addition to the amount of such warrants and interest thereon, five per centum, together with the costs of such suit. Any number of holders of such warrants for any single improvement may join as plain-

tiffs and any number of owners of the property on which the same are a lien may be joined as defendants in such suit. Neither the holder nor any owner of any such warrant issued under the authority of this act shall have any claim therefor against the county through the instrumentality of which the same is issued, except from the special assessment made for the improvement for which such warrant was issued, but his remedy in case of non-payment shall be confined to the enforcement of such assessments. A copy of this section shall be plainly written, printed or engraved on each warrant so issued.

SEC. 23. It shall be the duty of the county auditor to audit all claims and accounts for services and every kind of expense payable from the funds of the local improvement district, when the same shall have been first approved and certified by the committee of supervisors; and when so approved and audited, the county auditor shall issue to the county treasurer an order, in favor of the person to whom such claim or account is payable, to pay the same, and upon the presentation of such order by the person to whom it was issued, or his assignee, the county treasurer shall pay the same from the funds of such local improvement district provided for the payment of the cost and expenses of such improvement, and not otherwise. Estimates for work done under the contract for the construction and completion of such improvement shall be made by the county engineer with the approval of the committee of supervisors, and the same shall be likewise audited by the county auditor, and, when so made, approved and audited, the same shall be likewise paid by the county treasurer upon the order of the county auditor, to an amount, however, not exceeding eighty per centum of such estimate during the progress of the work. In case of said assessment being made payable by installments, the county treasurer shall pay such order only from such assessments as shall have been collected prior to the issue of such special local improvement warrants and from the proceeds of the sales of such warrants after the issue

Claims, how audited.

Payments on work done.

thereof; but in case it has been arranged with the contractor for the work, and ordered by the board of county commissioners, that such contractor shall receive such warrants to pay the contract price of the work, such order of the county auditor upon such approved estimates shall call for such warrants instead of money, and shall be paid in such warrants by the county treasurer, with whom the same shall be deposited for that purpose, and in that case such warrants shall not be given a date prior to the time of their delivery to such contractor upon such order, which date shall be then written in such warrants by the county treasurer and be deemed to be the date of their issue, from which interest shall begin to run and the time at or after which their payment may be demanded by the holder shall be computed. The amounts collected upon the installment payments of such assessments shall be reserved and disbursed by said county treasurer for the payment of the principal and interest on and for the redemption of such warrants. The proceeds from the sale of such warrants shall be disbursed by such county treasurer in payment of the cost and expenses of such construction and improvement of such county road, upon the orders of such county auditor, as hereinabove provided.

SEC. 24. Any money remaining in the county treasury belonging to the funds of such local improvement district, after the payment of the whole cost and expense of such construction or improvement, in excess of the total sum required to defray all expenditures on account thereof, including the reimbursement of the county for any advancements, shall be refunded, on demand, to the amount of such overpayment; and if there shall be such an excess in the assessment of any person who shall not have paid his assessment in full a rebate shall, on demand, be allowed to such person to the amount of such over-assessment: *Provided*, Such demand hereinabove provided for be made within two years from the date upon which the assessment for such local improvement district became due. Any such funds remaining in the county treasury after the expiration of two years for which no demand has been

Refund of
assessments.

made as herein provided, belonging to any local improvement district, after the payment of the whole cost and expense of such improvement, shall go into a special fund and be disbursed by the county treasurer under the directions of the county commissioners for keeping in repair the county road or part thereof so improved in said local improvement district.

SEC. 25. No person shall be permitted to take advantage of any error committed in any proceeding to lay out, construct or improve any county road, or part thereof, under and by virtue of this act nor of any error committed by the county commissioners or by the county auditor, or county treasurer or county engineer or any other person or persons in the proceedings to lay out, construct or improve such road; nor of any informality, error, or defect appearing in the record of such proceedings, unless the party complaining is affected thereby. But the court in which any action may be brought to enjoin, reverse, or declare void the proceedings by which any such road has been laid out, constructed or improved, or ordered to be laid out, constructed or improved, or to enjoin the collection of any tax or assessment levied or ordered to be levied for the purpose aforesaid, may, if there be manifest error in such proceedings affecting the rights of the plaintiff in such action, set the same aside, as to him, without affecting the rights or liabilities of other parties in interest; and the court shall, in the final hearing, make such order in the premises as may be equitable and just, and may order the assessment levied against the plaintiff's property to remain on the assessment roll for collection, or to be again levied in whole or in part, or may perpetually enjoin the same, or any part thereof. The cost of such action, and the proceedings had therein, shall be apportioned among the parties, or paid out of the county treasury, in whole or in part, as justice may require and the court direct: *Provided*, That all the land liable to assessment, under the provisions of this act, for the construction of such road, shall be held responsible to the county, to protect the county against all loss or liability arising from

Who may maintain action.

Review by court.

Property benefited only liable.

any judicial proceedings affecting the assessment for benefits, and also all costs and expenses that may arise in any litigation; and re-assessments by the county engineer and committee of supervisors shall be made to discharge the same.

Roads, how
kept up.

SEC. 26. All roads laid out, constructed or improved under the provisions of this act, shall thereafter be maintained in repair by the county, as other roads are kept and maintained in repair.

Present laws
continued.

[See ch. 123,
p. 301, L. '98.]

SEC. 27. Nothing herein shall be construed as repealing or modifying any existing law for the creation, laying out, opening, construction or improvement of any public highway or county road, but shall be construed as an additional power and method for the improvement of county roads, and as extending to owners of rural lands a similar right to that enjoyed by cities of the first class of making good roads of the public highways which are appurtenant to such lands at their own expense by charging the cost thereof upon such lands specially benefited, without impairing the county general funds or road and bridge funds, and shall be construed as co-operating and concurrent with the laws providing for the improvement of public highways under the supervision of the State Highway Commissioner.

Passed by the Senate March 8, 1909.

Passed by the House March 10, 1909.

Approved March 20, 1909.

CHAPTER 225.

[S. B. 245.]

RELATING TO DIKES AND DRAINS.

AN ACT to provide for the establishment and creation, and the construction and maintenance of a system of dikes and drainage, including flood and drift barriers; for the establishment and creation of districts and boards for such purposes, and providing methods of raising funds for such purposes, when the lands affected are situated in two or more counties, and declaring an emergency.

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

SECTION 1. Whenever a portion of two or more counties, which contain one hundred or more inhabitants and freeholders therein, require diking, draining, or the erection of flood dams or drift barriers to prevent inundations, such portion of two or more counties may be organized into a district; and the board of commissioners, hereinafter provided for, shall have and possess the powers herein conferred, or that may hereafter be conferred by law upon such district and board of commissioners, and all such powers not in conflict with those herein granted, which now exist under the provision of the laws of the state relating to the establishment, construction and maintenance of dikes and drains; and such districts shall be known and designated as "Diking and Drainage District No., in and Counties (here insert name of counties), of the State of Washington;" and shall have the right to sue and be sued by, in the name of its board of commissioners herein provided for, and shall have perpetual succession, and shall adopt and use a seal.

One hundred inhabitants may petition.

In two or more counties.

SEC. 2. For the purpose of the formation of such diking district, a petition shall be presented to the board of county commissioners of each of the two or more counties in which the portion of said counties are situated; which petition shall set forth the objects for the creation of said district, and shall designate in a general way the boundaries thereof, and set forth therein approximately the number of acres of land to be benefited by the proposed system,

Petition filed in both counties.

Contents of petition.

and shall also contain a brief description of the proposed system, and approximately the route over which the same is to be constructed, together with the proposed flood dams or drift barriers, if any, and approximately the termini thereof. The petition shall also set forth the further fact that the establishment of the said district and the proposed system will be conducive to the public health, convenience and welfare, and will increase the public revenue, and that the establishment of said district will be of special benefit to the property included in each of the counties in such district. The petition shall be signed by at least one hundred of the freeholders in the proposed district, or by a majority of the freeholders in said district in each of the counties, in case there are less than two hundred freeholders in the proposed district. Said petition shall ask that a district be organized under the provisions of this act. A duplicate of the petition shall be filed with each of the board of county commissioners in each of the counties in which the proposed district is situated. At the time of filing of the petition, the petitioners shall file a bond with the board of county commissioners, running to the State of Washington, in the penal sum of \$1,000, 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.

Petitioners
must be
freeholders.

Bond.

SEC. 3. Immediately thereafter the chairman of each of the respective boards of county commissioners shall notify the Commissioner of Public Lands of the State of Washington that such petition and bond has been filed praying for the establishment and maintenance of a district, as aforesaid, and thereupon the Commissioner of Public Lands shall at once give written notice to the board of county commissioners of each county that the said boards, together with the Commissioner of Public Lands, will hold a joint meeting, at a time and place specified, not less than five or more than twenty days after the mailing of such notice, to consider the petition and to determine upon the matters therein prayed for. At such joint

Commis-
sioner of
Public Lands
to call
meeting.

meeting said joint body, including the Commissioner of Public Lands, shall proceed to consider the said petition and determine whether such proposed diking and drainage district shall be established in the locality and vicinity of the proposed system. If such body finds the district should be established, it shall then enter an order upon its minutes creating such district, and defining the boundaries thereof, and the boundaries so established may embrace more or less land than that embraced in the original petition, and the proposed boundaries may be enlarged or diminished as [to] the board may seem proper; such body shall not establish such district, however, unless they find that the proposed system of dikes and drains will be conducive to the public health, welfare and convenience, and will increase the public revenue and be of benefit to the majority of the lands included within the boundaries of the district. Said body shall at this first meeting elect a secretary, and the Commissioner of Public Lands shall act as chairman of the body. If such body after consideration determines that a diking and drainage system shall be established, then the chairman and secretary shall certify to the board of county commissioners of each county a copy of the resolutions of the body creating such district, and a certificate to the same effect shall be made to the Commissioner of Public Lands, and such certificates shall be filed with the board of county commissioners of each county, and in the office of the Commissioner of Public Lands, and shall be recorded in the records and journals of the respective offices; a majority of all the members of said body shall be necessary to establish any diking and drainage system hereunder, and a majority of the body shall constitute a quorum for the transaction of any business. If such district is established the aforesaid body shall at its first meeting also designate the day upon which the first election shall be held under the provisions of this act, which shall not be less than thirty nor more than sixty days from the time when the day of election is fixed.

Boundaries
may be
changed.

Certificate of
formation of
district.

Time of
election
fixed.

Notice of
election.

Publication
of notice.

Ballots.

SEC. 4. Upon the establishment of a district as aforesaid, the said body shall give notice of an election to be held in the diking and drainage district established, as aforesaid, for the purpose of determining whether the same shall be approved and become an organized diking and drainage district, and for the further purpose of choosing at such election five commissioners, who shall be known and designated as "Commissioners for Diking and Drainage District No. . . . ; (here insert number), in and Counties (here insert names of counties), State of Washington," and such notice shall particularly describe the boundaries as established, and shall state the name of such proposed diking and drainage district, and the same shall be published for at least two weeks prior to such election in two or more weekly newspapers published within the proposed district, and in case no such newspaper be published in such district, then in two or more newspapers of general circulation in such district for two successive issues; and shall be posted for the same period in at least ten public places within the boundaries of such 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 "Diking and Drainage District 'yes,'" or "Diking and Drainage District 'no,'" and also the names of the persons voted for as commissioners of such district. The voting places shall be designated by such body; said body shall also appoint two judges, one inspector and two clerks for such election, to act at each polling place, whose compensation shall be the same as in elections for county and state officers, and which shall be a charge upon such district in case the same be established; in case such district be not established, then all costs and expenses shall be collected from the bond hereinbefore provided for. The election shall be held on the day designated in the notice, and shall be conducted in accordance with the general election laws of the State of Washington, as far as applicable. The returns of all the elections hereunder shall be made by the judges of

election to the Commissioner of Public Lands. No person shall be entitled to vote at such election unless he be a qualified elector in the county in which said district is located, and shall have resided within the boundaries of such proposed district for a period of not less than ninety days next preceding the election. The Commissioner of Public Lands shall, within fifteen days next succeeding said election, canvass the vote, and if upon such canvass and count it appears that the majority of votes cast in each of the counties are for "Diking and Drainage District 'yes'," then the said body shall immediately certify to the board of county commissioners of each county interested and to the Commissioner of Public Lands the result of such election, and shall in such certificate declare the proposed territory duly organized as a drainage and diking district; and that the five persons receiving the highest number of votes are duly elected commissioners of such diking and drainage districts. The commissioners so elected shall hold their position for the period of two years from and after their election and until their successors are elected and qualified. Not more than three commissioners shall be elected from any one county when the district is composed of two counties, and not more than two commissioners shall be elected from any county when the district is composed of three or more counties. All commissioners must be qualified electors of the district. Any vacancies occurring upon said board by failure to qualify, death or resignation, or otherwise, shall be filled by the board of county commissioners of the county in which the vacancy occurs. After the first election a general election for the election of such board of commissioners for the diking and drainage district shall be held every second year thereafter, on the first Tuesday of October, and the returns thereof shall be canvassed by the Commissioner of Public Lands, who shall certify the result to the respective boards of county commissioners. The Commissioner of Public Lands at the time of certifying any election shall also issue a certificate to each person elected as a member of the board that he has been duly

Qualifications
of electors.

Canvass
of vote.

Term of
office of com-
missioners.

Vacancies.

General
election.

Certificates
of election.

elected as one of the commissioners for Diking and Drainage District No., in the Counties of and, 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 elections held under this act. The ballots shall designate the county from which the commissioners are to be elected, for example:

For Commissioners from County.

For Commissioners from County.

SEC. 5. The members of such board, before entering upon their duties, shall take and subscribe an oath substantially as follows:

State of Washington, County ofss.

Oath.

I, the undersigned, a member of the board of commissioners of the Diking and Drainage District No., in and counties, do solemnly swear (or affirm) that I will well and truly discharge my duties as a member of said commission.

Bond of commissioners.

The members shall also, before entering upon their duties, give a bond to the State of Washington for the benefit of such diking and drainage district, for the faithful performance of their duties as such board of commissioners, in the penal sum of \$5,000.00, with a company or corporation as surety, authorized to make and execute official bonds under the laws of the state, the district to bear the expense of such bond; and upon the oath and bond being filed with the Commissioner of Public Lands, that officer shall enter an order upon his records that the five persons named as aforesaid have qualified as the board of commissioners for Diking and Drainage District No., in and counties, and that said persons and their successors do and shall constitute a board of commissioners for the aforesaid diking and drainage district; which order when made shall be conclusive of the regularity of the election and qualification of the board of diking and drainage commissioners for the particular district, and the persons named therein

shall constitute such board of diking and drainage commissioners.

The said board of diking and drainage commissioners shall thereupon immediately organize and elect one of their number as chairman and another as secretary. The said board shall then proceed to make and cause to be made specifications and details of a system which may be adopted by the board for the improvements to be made, together with an estimate of the total cost thereof; and shall, upon the adoption of a plan of improvement of the district as aforesaid, proceed to levy an assessment upon the taxable real property within the said district which the board may find to be specially benefited by the proposed improvements; and shall make and levy such assessment upon each piece, lot, parcel and separate tract of real estate in proportion to the particular and special benefits thereto. Upon determining the amount of the assessment against each particular tract of real estate as aforesaid, the commissioners shall make or cause to be made an assessment roll, in which shall appear the names of the owners of the property assessed, so far as known, and a general description of each lot, block, parcel or tract of land within such district, and the amount assessed against the same, as separate, special or particular benefits. The board shall thereupon make an order setting and fixing a day for hearing any objections to the assessment roll by any one affected thereby, which day shall be at least twenty days after the mailing of notices thereof, postage prepaid, as herein provided. The board shall send or cause to be sent by mail to each owner of the premises assessed, whose name and place of residence is known, a notice, substantially in the following form, to-wit:

Officers of board.

Assessment according to benefits.

Board to fix time of hearing.

To.....: Your property (here describe the property) is assessed \$..... A hearing on the assessment roll will be had before the undersigned at the office of the said board at.....,, on the.....day of....., at which time you are notified to be and appear and to make any and all

Notice of hearing.

objections which you may have as to the amount of the assessment against your property, or as to whether it should be assessed at all; and to make any and all objections which you may have to the said assessment against your lands, or any part or portion thereof.

The failure to send or cause to be sent such notice shall not be fatal to the proceedings herein described. The secretary of the board on the mailing of said notices shall certify generally that he has mailed such notices to the known address of all owners, and such certificate shall be *prima facie* evidence of the mailing of all such notices at the date mentioned in the certificate.

Publication
of notice.

The board shall cause at least ten days' notice of the hearing to be given by posting notice in at least ten public places within the boundaries of the district, and by publishing the same at least five successive times in a daily newspaper published in each of the counties affected; and for at least two successive weeks in one or more weekly newspapers within the boundaries of said district, in each county if there be such newspapers published therein, and if there be no such newspaper published, then in one or more weekly newspapers, having a circulation in the district, for two successive weeks, which notice shall be signed by the chairman or secretary of the said board of commissioners, and shall state the date and place of hearing of objections to the assessment roll and levy, and of all other objections; and that all interested parties will be heard as to any objection to said assessment roll and the levies as therein made.

Objections to
assessment.

SEC. 6. Any person interested in any real estate affected by said assessment may, within the time fixed, appear and file objections. As to all parcels, lots or blocks as to which no objections are filed, within the time as aforesaid, the assessment thereon shall be confirmed and shall be final. On the hearing, each person may offer proof, and proof may also be offered on behalf of the assessment, and the board shall affirm, modify, change and determine the assessment, in such sum as to the board appears just and right. The commissioners may increase

the assessment during such hearing upon any particular tract by mailing notice to the owner at his last known address, to be and appear within a time not less than ten days after the date of the notice, to show cause why his assessment should not be increased. When the assessment is finally equalized and fixed by the board, the secretary thereof shall certify the same to the county treasurer of each county in which the lands are situated, for collection; or if appeal has been taken from any part thereof, then so much thereof as has not been appealed from shall be certified. In case any owner of property appeals to the superior court in relation to the assessment or other matter when the amount of the assessment is determined by the court finally, either upon determination of the superior court, or appeal to the supreme court, then the assessment as finally fixed and determined by the court shall be certified by the clerk of the proper court to the county treasurer of the county in which the lands are situated and shall be spread upon and become a part of the assessment roll hereinbefore referred to.

Modification
of assess-
ment.

SEC. 7. Any person who feels aggrieved by the final assessment made against any lot, block or parcel of land owned by him, may appeal therefrom to the superior court of the county in which the land is situated. Such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts. All notice of appeal shall be filed with the said board, and shall be served upon the prosecuting attorney of the county in which the action is brought. The secretary of the board shall, at appellant's expense, certify to the superior court so much of the record as appellant may request, and the cause shall be tried in the superior court *de novo*.

Appeals to
superior
court.

Any person desiring to appeal from any final order or judgment made by the superior court concerning any assessment authorized by this act, may appeal therefrom to the supreme court, in accordance with the laws of this state relative to appeals, except that all such appeals

Appeals to
supreme
court.

shall be taken within thirty days after the entry of such judgment.

Assessment
a lien.

SEC. 8. The final assessment shall be a lien paramount to all other liens except liens for taxes and other special assessments upon the property assessed, from the time the assessment roll shall have been finally approved by the said board, and placed in the hands of the county treasurers as collectors. After the roll shall have been delivered to the county treasurers for collection, each treasurer shall proceed to collect the amounts due in the manner that other taxes are collected as to all lands situated within the county of which he is treasurer. Such treasurer shall give at least ten days' notice in one or more daily newspapers published in the counties in which the lands are situated for two successive weeks, that such roll has been certified to him for collection, and that unless payment be made within thirty days from the date of the notice, that the sum charged against each lot or parcel of land shall be paid in not more than ten equal annual payments, with interest upon the whole sum so charged, at a rate not to exceed seven per cent. per annum. Said interest shall be paid annually. The county treasurer shall proceed to collect the amount due each year upon the publication of notice as hereinafter provided. In such publication notice it shall not be necessary to give a description of each tract, piece or parcel of land, or of the names of the owners thereof.

County
treasurer to
give notice of
assessment.

Collection of
assessment.

The treasurer shall also mail a copy of the notice to the owner of the property assessed, when the postoffice address of such owner is known to the treasurer; but the failure to mail such notice shall not be necessary to the validity of the collection of such tax.

Powers of
commission.

SEC. 9. The commissioners herein provided for and their successors in office, shall from the time of their election and qualifications aforesaid, have the power, and it shall be their duty, to manage and conduct the business affairs of the district, making and executing all necessary contracts, appoint such agents and employes as may be required, and prescribe their duties, and perform any and

all acts which may be necessary, proper or requisite to carry into effect their duties as commissioners, and all such other acts as may be provided in this act or in any other act.

SEC. 10. The districts organized under the provisions of this act, and the commissioners appointed and qualified as such shall have the right of eminent domain with the power by and through the board of commissioners to condemn and cause to be condemned and appropriated private property for the use of said district in the construction and maintenance of the system of dikes, drains, flood dams and drift barriers, and for any other purpose proper, necessary and convenient for the purpose of carrying into effect the powers vested in said district and the commissioners thereof; and that the property of private corporations shall be subject to the same rights of eminent domain as private individuals. Said board of commissioners shall also have the power to acquire by purchase, in the name of the district, any and all real property necessary to make the improvements herein provided for.

Eminent
domain
powers.

SEC. 11. Said board of commissioners herein provided for shall have the exclusive charge of the construction and maintenance of all dikes and drainage systems which may be constructed within the said district, and shall be the executive officers thereof, with full power to bind said district by their acts in the performance of their duties as provided by law.

Dikes and
drains.

SEC. 12. In the exercise of the right of eminent domain, all proceedings shall be prosecuted by the board of commissioners for and on behalf of the district, or in the name of the district itself, and such proceedings shall be conducted in the superior court of the county in which the lands sought to be condemned are situated, and shall be in the manner and in accordance with the procedure now provided by law regulating the mode of procedure to appropriate lands, real estate, or property by corporations for corporate purposes.

Procedure in
eminent
domain.

SEC. 13. Any district so established as aforesaid through its board of commissioners shall have the right,

Water courses may be improved.

power and authority to straighten, deepen and improve any and all rivers, water courses, or streams, whether navigable or otherwise, flowing through or located within the boundaries of said diking or drainage district, whenever necessary or proper in carrying out the objects of the system. The district by and through its board of commissioners shall also have the power to construct all needed auxiliary ditches, canals, flumes, locks, flood barriers, and all necessary artificial appliances in the construction of the system, and which shall be necessary and advisable to protect the land in any such district from overflow or to assist, or which may become necessary in the preservation or maintenance of such system.

Works against overflow.

City in diking district.

SEC. 14. Within the limits of said diking or drainage district may be included any incorporated city or town, or any part thereof.

State lands assessed.

SEC. 15. Any of the state, school, or granted land within the district, shall also be assessed the same as other lands are assessed in proportion to the benefit, but any such lands shall not be sold for delinquencies, but the amount of the assessment shall be paid by the state at the time, in the manner, under the circumstances, and in accordance with the provisions of the act relating to the payment by the state of assessments made on state, school and granted lands for the construction and maintenance of dikes and drains benefiting such lands, approved March 5, 1907; Laws of 1907, pp. 125-126.

Ch. 74, pp. 125-6, L. '07.

Bonds may be issued.

SEC. 16. Any such district by and through its board of commissioners, may, by resolution of such board, cause to be issued in the name of the district, bonds for the whole estimated cost of the improvement, less such amounts as shall have been paid within the thirty days provided for redemption, as herein specified. Such bonds shall be called Local Improvement Bonds, Diking and Drainage District No. in and Counties, State of Washington, and shall be payable in not more than ten years after date, and shall be subject to annual call by the board, in such manner and amount as there may be cash on hand to pay, in the respective local im-

provement fund, from which such bonds are payable, interest to be paid at the office of the treasurer of the fund. Such bonds shall be executed and delivered to the contractor for the work from month to month in such amounts as the engineer in charge of the improvement shall certify to be due on account of work performed; however, if the said board resolve so to do, such bonds may be offered for sale after thirty days' public notice by it to be delivered to the highest bidder therefor, but in no case shall said bonds be sold for less than par, the proceeds to be applied in payment for the improvement: *Provided*, That unless the contractor for the work shall agree to take such bonds in payment of the work, such work shall not be begun until the bonds shall have been sold and the proceeds shall have been paid into the fund, the fund to be called Local Improvement Fund, Diking and Drainage District No., in and Counties, and the holder or holders of such bonds shall look only to such fund for the payment of either the principal or interest of such bond. Said bond shall be issued in the denomination of one hundred dollars each, and shall be substantially in the following form:

Special fund.

Local Improvement Bond, Diking and Drainage District No. in the Counties of and, State of Washington. No. Dollars. This bond is not a general debt of the counties of or either of them, and has not been authorized by the voters of said counties, or either of them, as a part of the indebtedness of said counties; it is issued in pursuance of an act of the legislature of the State of Washington, passed the day of, 1897, and is a charge against the fund herein specified, and its issuance and sale is authorized by the resolution of the board of commissioners of said district, passed on the day of, A. D. The Diking and Drainage District No. in counties, a municipal corporation of the State of Washington, hereby promises to pay to

Form of bonds.

Form of bond continued.

..... or bearer one hundred (\$100.00) dollars, lawful money of the United States of America, out of the fund established by resolution of the board of commissioners on the day of, A. D., and known as Local Improvement Fund, Diking and Drainage District No., in and

Maturity of bonds.

Counties, State of Washington, and not otherwise. This bond is payable ten years after date and is subject to annual call by the treasurer of the board at the expiration of any year before maturity, in such manner and amounts as there may be cash on hand to pay the same in the said fund from which the same is payable, and shall bear interest at per centum per annum, payable annually, both principal and interest payable at the office of the treasurer of the fund. A coupon is hereby attached for each installment of interest to accrue thereon and said interest shall be paid only on presentation and surrender of such coupon to the treasurer of the fund, but in case this bond is called for payment before maturity, each and every coupon representing interest not accrued at the expiration of the call shall be void. The board of commissioners of said diking and drainage district has caused this bond to be issued as a bond of said district and the proceeds thereof to be applied in part payment of so much of the cost of said improvement as is to be borne by the owners of property in said district and the said district has been established for such purpose, and the holder or holders of this bond shall look only to said fund for the payment of either the principal or interest of this bond. The call for the payment of this bond or any bond issued on account of said improvement may be made by the board, by publishing the same in a newspaper in each county for ten consecutive issues, beginning not more than twenty days before the expiration of any year from the date hereof, and if such call be made interest on this bond shall cease at the date named in such call. This bond is one of a series of bonds, aggregating in all the principal sum of dollars, issued for such district, all of which bonds are

Interest coupons.

Call of bonds.

subject to the same terms and conditions as herein expressed.

In Witness Whereof, said board of commissioners of such Diking and Drainage District No. has caused these presents to be signed by its chairman and countersigned by its secretary and sealed by its corporate seal, this day of, A. D., 190.

Form of bond continued.

The Diking and Drainage District No. in and Counties, Washington. By, chairman of its board of commissioners. Countersigned, secretary of said board.

There shall be attached to each bond such number of coupons as shall be required to represent the interest thereon, payable semi-annually for the term of said bonds, which coupons shall be substantially in the following form:

No. \$. On the day of, the Diking and Drainage District No., in the Counties of and, Washington, promise to pay to the bearer, at the office of, dollars, being one year's interest due that day on bond No. of the bonds of the said diking and drainage district. The sum being payable only from the fund of the said district known as Local Improvement Fund thereof, and not otherwise: *Provided*, That this coupon is subject to all terms and conditions contained in the bond to which it is annexed, and if said bond be called for payment before maturity hereof, then this coupon shall be void.

Form of coupons.

The Diking and Drainage District No. in and Counties, Washington. By, chairman of the board of commissioners. Countersigned,, secretary of said board.

The bonds issued for each district shall be in the aggregate for such an amount as authorized by the board of commissioners for the respective district, and each issue of said bonds shall be numbered consecutively, beginning with number "one." The board of commissioners shall keep a register of all such bonds, in which shall be en-

tered the local improvement districts for which the same were issued and the number and total amount of each bond, with terms of payment.

Lien may be lifted.

SEC. 17. The owner of any lot or parcel of land charged with any assessment, as hereinbefore provided, may redeem the same from all liability by paying the entire assessment charged against such lot or parcel of land, or part thereof, without interest, within thirty days after notice to him of such assessment, as herein provided, or may redeem same any time after the bonds above specified shall have been issued by paying the full amount of all the principal and interest to the end of the interest year then expiring or next to expire. The board shall pay the interest on the bonds authorized to be issued under this act out of the respective local improvement funds, from which they are payable, and whenever there shall be sufficient money in any of such fund against which bonds have been issued under provisions of this act, over and above the amount necessary for the payment of interest on all unpaid bonds, and sufficient to pay the principal of one or more bonds, the board shall call in and pay such bond: *Provided*, Said bonds shall be called in and paid in their numerical order: *Provided further*, That such call shall be made by publication in one or more newspapers on the day following the delinquencies of the installment of the assessment, or as soon thereafter as practicable and shall state that bonds Nos. (giving serial number and numbers of the bonds called) will be paid on the day the interest coupons on such bonds shall become due, and interest upon such bonds shall cease upon such date.

Interest, how paid.

Road districts assessed.

SEC. 18. Whenever any highways, roads, or bridges are maintained by either county in which a diking and drainage district may be established, as herein provided, and it shall appear that the construction and maintenance of such diking and drainage system will be beneficial to such highways, roads, and bridges, or which will be beneficial to such highways, roads and bridges as may thereafter be constructed or maintained by the county, in which

any part of the system of dikes and drains 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 diking and drainage district an amount of money sufficient to pay the proportionate share of such county in accordance with the benefits received or to be received; and whenever it may appear to the board of county commissioners of any county that any improvements made or to be made in any diking or drainage 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 diking and drainage district in such an amount to such board as may seem proper.

County
may pay
part of cost.

SEC. 19. Whenever it shall appear to the city council of any incorporated city or town not included or not wholly included within the limits of any diking or drainage district established hereunder, which incorporated city or town may be within a county in which a portion of such district is located that the construction and maintenance of such diking and drainage system will be beneficial to the health of the inhabitants of said incorporated city and to the general welfare of the said city, then the city council of said city is hereby empowered and authorized to appropriate such amount of money out of the general funds of the city as may to the city council seem proper and just to such diking and drainage system, or the city council may for such purpose levy an assessment upon all the property in said city subject to taxation by said city, which shall not exceed one-half mill for each dollar of property.

Cities
may pay
part of cost.

SEC. 20. In the construction and maintenance of the improvements herein provided for, the said district may acquire by purchase or otherwise, and by the exercise of the right of eminent domain, any right-of-way through, over and across any property situated without said district which may be necessary or proper to the completion of the system of improvements.

District may
condemn
right-of-way.

Duties of
officers.

SEC. 21. The chairman of the board shall preside at all meetings and shall have the right to vote upon all questions the same as other members, and shall perform such duties in addition to those in this act prescribed as may be fixed by the board. The secretary of the board shall perform the duties in this act prescribed, and such other duties as may be fixed by the board. A majority of the board shall constitute a quorum for the transaction of business, but it shall require a majority of the entire board to authorize any action by the board.

County
treasurer
to collect
assessments.

SEC. 22. The treasurer of each county shall collect the taxes levied and assessed hereunder upon all that portion of the property situated within the county for which the treasurer is acting. The treasurer of the county in which the smaller or minor portion of the taxes are to be collected shall forward the amount collected by him quarterly each year on the first Monday in January, April, July and October, to the treasurer of the county in which the larger or major portion of the taxes are to be collected. The treasurer of the county in which the larger portion of the taxes have been levied and assessed shall be the disbursing officer of such diking and drainage district, and shall pay out the funds of such district upon orders drawn by the chairman and secretary of the board acting under authority of the board, and shall be the treasurer of the fund.

Property
may be sold
to pay
assessments.

SEC. 23. If any of the installment of taxes are not paid as herein provided, the county treasurer shall sell all lots or parcels of land on which taxes have been levied and assessed, whether in the name of the designated owner or the name of an unknown owner, to satisfy all delinquent and unpaid assessments, interests, penalties and costs. The treasurer must commence the sale of property upon which taxes are delinquent within sixty days after the same become delinquent, and continue such sale from day to day thereafter until all the lots and parcels of land upon which taxes have not been paid are sold. Such sales shall take place at the front door of the courthouse. The proper treasurer shall give notice of such sales by publishing a

notice thereof once a week for two successive weeks in two or more newspapers published within the district, or if no such newspaper is published, within the district, then within any two or more newspapers having a general circulation in such district; such notice shall contain a list of all lots and parcels of land upon which such assessments are delinquent, with the amount of interest, penalty and cost at the date of sale, including costs of advertising had upon each of such lots, pieces or parcels of land, together with the names of the owners thereof, if known to the treasurer, or the word "unknown" if unknown to the treasurer, and shall specify the time and place of sale, and that the several lots or parcels of land therein described, or so much as may be necessary, will be sold to satisfy the assessment, interest, penalty and cost due upon each. All such sales shall be made between the hours of 10 o'clock a. m. and 3 o'clock p. m. Such sales shall be made in the manner now prescribed by the general laws of this state for the sale of property for delinquent taxes, and certificates and deeds shall be made to the purchasers and redemptions made as is now prescribed by the general laws of this state in the manner and upon the terms therein specified: *Provided*, That no tax deeds shall be made until after the expiration of one year after the issuance of the certificate, and during such year any person interested may redeem. A certificate of purchase shall be issued to the district for all lots and parcels of land not sold. Certificates issued to the district shall be delivered to the board of commissioners of the district. The board of commissioners of the district may sell and transfer any such certificate to any person who is willing to pay to the district the amount for which the lot or parcel of land therein described was stricken off to the district, with the interest subsequently accrued thereon. Within ten days after the completion of sale of all lots, pieces and parcels of land authorized to be sold as aforesaid, the treasurer must make a return to the board of commissioners with a statement of the doings thereon, showing all lots and parcels of land sold by him, to whom

Notice
of sale.

Time
of sale.

Deed, when
to issue.

Report
of sales.

Rights of purchaser.

sold and the sum paid therefor. The purchaser at improvement sales acquires a lien on the lot, piece or parcel of land sold for the amount paid by him at such sales for all delinquent taxes and assessments, and all costs and charges thereon, whether levied previously or subsequently to such sale, subsequently paid by him on the lot or parcel of land, and shall be entitled to interest thereon at the rate of 10 per cent. per annum from the date of such payment.

Control of lands bid in by district.

SEC. 24. The board of commissioners of the district shall have the power to sell, lease and dispose of any and all lands which may be acquired by it by virtue of deeds issued to it by the treasurer for lands not redeemed from sale, and the funds derived from any disposition of such land shall become the fund of the district to be used for the benefit of the district under the direction of its board of commissioners.

Cancellation of lien on part of land.

SEC. 25. When a piece, lot, or tract of land has been assessed in one body, if the same is subsequently subdivided by the owner, or there should be purchasers of different portions of such tract, then the owner or purchaser may pay the taxes upon such piece or tract of land, paying the proportion which is proper upon such separate piece or tract.

General powers of board.

SEC. 26. The board shall have power and authority to straighten, widen, deepen and improve any and all rivers, water courses or streams, whether navigable or otherwise, flowing through or located within the boundaries of such district; and the beds of any streams or rivers which may be changed, shall become the property of the district, and the board shall have the power to sell and dispose of the same, or exchange the same or any portion thereof for other lands.

District may condemn state lands.

SEC. 27. Any district created hereunder is hereby granted the right to exercise the power of eminent domain against any lands or other property belonging to the State of Washington or any municipality thereof, and such power of eminent domain shall be exercised under and by the same procedure as is now, or may hereafter be,

provided by the laws of this state for the exercise of the right of eminent domain by ordinary railroad corporations.

SEC. 28. The board of commissioners shall have power to adjourn any and all proceedings before them from time to time.

Adjournments.

SEC. 29. When any notice is required to be given to the owner under any of the provisions of this act, such notice shall be given to the agent instead of the owner, in case the owner prior to the giving of the notice required by the board or proper officer has filed with the board or proper officer the name of the agent with his postoffice address.

Notice may be served on agent.

SEC. 30. If because of a substantial reduction of the amount of the assessment upon any lands, the result would be to leave the amount of the assessment upon other lands insufficient, or if for any cause the assessment should be held invalid or become inoperative, then the board shall have power to make a re-assessment of all lands to the same extent as the original assessment.

Re-assessments.

SEC. 31. It shall be the duty of the board to levy an annual tax upon all property within the district, for the purpose of maintaining such diking and drainage system. Such levy shall be made and the taxes collected in the manner now provided by law for the levying and collection of school district taxes.

Annual tax levy.

SEC. 32. The board shall have power and authority to make rules and regulations for the purpose of carrying into effect any of the provisions of this act.

Rules.

SEC. 33. The members of the board shall receive as compensation the sum of \$5.00 per day for each day while engaged in the actual performance of their duties, and in addition thereto their actual incurred expenses in the performance of their duties: *Provided*, That the board may fix a different salary for the secretary thereof in lieu of the per diem. The salary and expenses shall be paid by the treasurer of the fund, upon orders made by the board. Each member of the board must before being

Compensation of commissioners.

paid for expenses, take vouchers therefor from the person or persons to whom the particular amount was paid, and must also make affidavit that the amounts were necessarily incurred and expended in the performance of his duties.

Emergency. SEC. 34. An emergency exists and this act shall take effect immediately.

Passed by the Senate March 1, 1909.

Passed by the House March 6, 1909.

Approved March 20, 1909.

CHAPTER 226.

[H. B. 103.]

RELATING TO THE ACQUISITION AND PREPARATION OF ROAD MATERIAL.

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.

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

Survey
for road
materials.

SECTION 1. That the board of geological survey shall cause to be made, under the superintendence of the state geologist, a field examination and survey of the state for the purpose of ascertaining and determining the existence within the state of suitable road making materials; and shall likewise cause to be compiled and made a map or maps showing the locations and areas, as nearly as can be ascertained, of the various deposits of such material; and shall cause to be made suitable analyses and laboratory tests necessary to determine the relative merits or value for road building purposes of the various deposits so located. Upon final completion of said work, said board of geological survey shall file in the office of the state high-

Tests of
materials.

way commissioner a complete report of said examination and survey, including all maps, analyses, tests and any other data which said board may have compiled touching the same: *Provided, however,* That pending the completion and final report thereof, all information gained by said state geologist during the progress of said examination and work shall at all times be available to the state highway commissioner, and a partial report showing such deposits of road making materials as may in the meantime have been examined, together with such analyses and tests thereof as may in the meantime have been made, showing the relative value and merits of such materials for road making purposes, shall be furnished to said state highway commissioner by the 1st day of September, 1909.

Results
available to
Highway
Commis-
sioner.

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 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 of which sites shall be selected west of the summit of the Cascade mountains and two east thereof.

Four sites
to be
selected.

SEC. 3. Said state highway commissioner shall report such selections or locations to the state board of control, whose duty it shall then become to acquire the said quarry sites so selected, together with sufficient area of land adjoining the same as may be necessary for the purpose of establishing and constructing thereon all such facilities, conveniences and plants as may be requisite, suitable and adequate to carry out the objects of this act. For this purpose said board of control is hereby authorized to accept on behalf of the state, any deed of gift or grant of any such site, or to purchase the same and accept deed of purchase thereof. In all cases where said board of control is unable to agree with the owners as to the reasonable and fair value of the premises sought, said board shall report such failure to the governor, who shall forthwith,

Board of
Control to
acquire
sites.

Sites
may be
condemned.

by order, direct proceedings to acquire the same by condemnation, to be instituted by the attorney general in the superior court of the county wherein such premises are located, which proceedings shall be instituted therein by the attorney general in the manner provided by law for the taking of private property for public use, and to that end it is hereby declared necessary for the public uses of the state to acquire or appropriate the premises described in the order of the governor, and said attorney general is hereby authorized to institute and maintain, in the name of the state, the proceedings so far as applicable provided for in section 5616 to section 5625 inclusive of Ballinger's Annotated Codes and Statutes of Washington, to the same extent and in like manner as if the legislature had by specific act declared it necessary for the public uses of the state to acquire or appropriate the same.

[§§ 1-2, ch.
74, L. '91;
§§ 5616-17
Bal.; §§ 5035-
36 Pierce.]

Board
to erect
buildings
for prisoners.

SEC. 4. Whenever, under the provisions of this act, any site and quarry is procured, said state board of control shall take possession thereof and shall forthwith erect and construct, at and upon the same, such stockades, buildings and structures as shall be necessary, suitable and adequate for the safe confinement and comfortable housing of such convicts as may from time to time be confined or worked therein, and shall likewise purchase and install therein such suitable and proper rock crushing plants, machinery and appliances and tools, and with such capacity as in the judgment of said board of control may be necessary and adequate to keep continuously employed and occupied such force of convicts as may from time to time be worked therein.

Machinery.

Convicts
to work
quarry.

SEC. 5. It shall be the duty of the state board of control to keep and employ in the several quarry sites so established and equipped as aforesaid, under charge of the superintendent of the penitentiary, or such other persons in the employ of the state as the state board of control shall direct, a sufficient number of able-bodied convicts (should there be sufficient) to keep and maintain said plant therein installed in continuous operation to its

full capacity, for which purpose said convicts may be transferred from the penitentiary at Walla Walla.

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 construction or maintenance of state roads or state aid roads: *Provided, however,* That so much of said material as the state highway 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 or 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 proportions as in his judgment may seem fair and equitable: *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

Materials used on state roads.

Surplus may be sold to municipalities.

Private parties may purchase.

or proper. The proceeds of all material sold under the provisions of this act in excess of the cost of production f. o. b. the car or vessel shall be turned into the public highway fund of the state. The amount realized from all material sold to the extent of cost of production as above provided shall be paid into the general fund of the state.

Shipping
facilities.

SEC. 7. If, after the acquisition of the quarry sites and the installation of the crushing plants, machinery and appliances herein provided for, there be sufficient funds left of the appropriation in this act provided, it shall be the duty of the state board of control to acquire by purchase or otherwise, cars or scows sufficient in number, in their judgment most suitable and best adapted for the transportation of materials from the said quarries to the place where the same is to be used.

Appropriation for
survey,
\$5,000.

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 not otherwise appropriated.

Appropriation for
sites and
equipment,
\$100,000.

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 any funds in the treasury not otherwise appropriated. 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 upon said fund 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.

Appropriation for
convict
camps,
\$24,000.

Passed by the House March 10, 1909.

Passed by the Senate March 11, 1909.

Approved March 17, 1909.

CHAPTER 227.

[H. B. 267.]

PROVIDING FOR A FEMALE ASSISTANT OF LABOR
COMMISSIONER.

AN ACT to provide for the appointment of a female as assistant commissioner of labor, defining her duties and fixing her compensation.

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

SECTION 1. The commissioner of labor shall appoint one female as assistant commissioner of labor and such female assistant shall have charge, under the direction of the commissioner of labor, of the enforcement of all laws relating to the health, sanitary conditions, surroundings, hours of labor and all other laws affecting the employment of female wage earners. She shall receive a salary of twelve hundred dollars per annum and shall be allowed her actual and necessary expenses in the performance of her duties as such assistant. Such salary and expenses to be paid in the same manner as other expenses of the office of commissioner of labor.

Female
assistant.

Salary.

Passed by the House March 8, 1909.

Passed by the Senate March 10, 1909.

Approved March 20, 1909.

CHAPTER 228.

[H. B. 46.]

AUTHORIZING THE STATE COLLEGE TO ACQUIRE LANDS
FOR EXPERIMENTAL PURPOSES.

AN ACT authorizing and empowering the board of regents of the State College of Washington to acquire by lease or gift a tract or tracts of land for experimental or other purposes, and exempting such land from taxation.

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

SECTION 1. That the board of regents of the State College of Washington is hereby authorized and empowered to acquire by lease or gift, any tract or tracts

Regents
to acquire
lands for
experimental
purposes.

Rental.

of land, which, in its judgment, are necessary for experimental or demonstrational purposes, or for otherwise carrying out the purposes or work of the college as defined by law, and to pay for the same out of the maintenance fund of the college: *Provided*, That not more than \$1,200.00 a year shall be paid from said fund for said purposes: *Provided further*, That when said land is leased by the state for the purposes of this act, such land shall be exempt from taxation.

Passed by the House February 1, 1909.

Passed by the Senate February 18, 1909.

Approved March 20, 1909.

CHAPTER 229.

[H. B. 371.]

RELATING TO DRIVING AND BOOMING COMPANIES.

AN ACT amending chapter CXL of the Session Laws of 1901, approved March 18, 1901, the same being "An act amending section 4391 of Ballinger's Annotated Codes and Statutes of Washington, the same being section 5 of an act entitled 'An act to provide for the organization and incorporation of companies for clearing out and improving rivers and streams in this state, and for the purpose of driving, sorting, holding and delivering logs and other timber products thereon, fixing maximum tolls therefor,' approved March 18, 1895."

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

SECTION 1. That section 1491 [4391] of Ballinger's Codes and Statutes of Washington, being section 5 of an act entitled "An act to provide for the organization and incorporation of companies for clearing out and improving rivers and streams in this state and for the purpose of driving, sorting, holding and delivering logs and other timber products thereon, fixing minimum tolls therefor," approved March 18, 1895," be and the same is amended to read as follows: Section 4391. After such corporation shall have entered upon its duties, which shall be within three months of the filing of its maps of location, such corporation shall come in streams theretofore navigable,

[Am'd. § 5.
ch. 72, p. 130,
L. '95, §
4391, Bal.;
§ 7124
Pierce.]

upon the request of the owners, and in case of logs and other timber products being commingled, or lying in such a position as to obstruct or impede the drive, without such request: *Provided*, That when a navigable stream upon which it was not previously practicable to float logs or other timber products is improved by clearing out rocks, straightening the channel, or the construction of wing dams and sheers by the corporation having a charter thereon, and thereby aiding and assisting the floating of logs and other timber products, a corporation shall be entitled to driving charges on all such logs or other timber products placed in said stream without request to drive the same, and in streams not navigable before such improvements were made, without request, sluice, sack and drive all logs and other timber products of suitable length that may be placed in the beds of the stream improved as aforesaid, or that may be delivered into its ponds, and shall handle all such logs and other timber products of all persons upon the same terms, without discrimination as to time of sluicing, sacking and driving such logs, or other timber products, and shall be entitled to charge and collect reasonable and uniform tolls for such services and improvements, on all logs and other timber products so handled, or sheered out of sloughs or off of bars by means of such improvements; such tolls shall not exceed one dollar per thousand feet, board measure, on logs, spars, or other large timber, and reasonable compensation on all other timber products, for the use of such improvements, and for sluicing, sacking and driving the same, such charges to be fixed by the board of trustees of such corporation in proportion to the distance such timber is to be driven and the number of dams through which the same is necessarily sluiced or sheered, and in case any such corporation shall be engaged in the booming and rafting of logs and other timber so sluiced, sacked and driven, an additional sum not to exceed sixty cents per thousand feet for logs, spars and other large timber, and reasonable compensation on all other timber products may be charged for

To work
on river,
when.

Driving
charges.

Logs to be
handled
without dis-
crimination.

Additional
charges.

booming and rafting the same; the amount of such logs and other products is to be determined by the usual method of scaling, and such corporation shall have a lien upon all logs and other timber products handled for sluicing, sacking and driving, and for booming and rafting the same, to be enforced in any manner now or hereafter provided by law for the enforcement of liens for labor on logs.

Passed by the House March 6, 1909.

Passed by the Senate March 8, 1909.

Approved March 20, 1909.

CHAPTER 230.

[H. B. 221.]

MAKING ASSESSORS CLERKS OF THE BOARD OF EQUALIZATION.

AN ACT relating to revenue and taxation, making county assessors *ex-officio* clerks of county boards of equalization, prescribing the method of certifying state, county, municipal, and other tax levies, and providing for the computation and extension of the same upon assessment and tax rolls.

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

SECTION 1. The county board of equalization shall hold its annual meetings at the office of the county assessor, who shall act as clerk of said board, keeping an accurate journal or record of the proceedings thereof, and making a due record of the changes of the descriptions and assessed values ordered by the county board of equalization. Having corrected the real and personal assessment rolls, in accordance with the changes made by the said county board of equalization, he shall make duplicate abstracts of such corrected values, one copy of which shall be retained in his office, and one copy forwarded to the state auditor on or before the first Monday of September following each county equalization.

SEC. 2. When the state board of equalization shall have completed their equalization, the state auditor shall,

Assessor
to be clerk
of board of
equalization.

Abstract
of rolls
filed with
State
Auditor.

within ten days after the adjournment of said board, transmit to each county assessor a transcript of the proceedings of the board, specifying the amount to be levied and collected on said assessment books for state purposes for such year. He shall also certify to each county assessor the amounts due to each fund and unpaid from such county for the seventh preceding year, which sum shall be added to the amount levied for the current year.

Transcript of proceedings of state board furnished assessors.

SEC. 3. It shall be the duty of the board of county commissioners of each county, of city and town councils, school directors, town officers, and all other officials, or boards, required by law to levy or assess taxes upon real or personal property, through their chairman and clerk, or secretary, on or before the 10th day of October in each year, to certify to the county assessor the amount of taxes levied upon the real and personal property in the county, or such city, town, school, road, or other taxing district.

Levies certified to assessor.

SEC. 4. The county assessor shall extend the tax rolls of his county in the manner required by law, and upon the completion of such tax extension, it shall be his duty to make in each assessment book, tax roll, or list, a certificate in the following form:

Assessor to extend rolls.

I,, assessor of county, State of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of for the year one thousand nine hundred and

Form of certificate.

Witness my hand this day of, 190...
....., County Assessor.

Delivering said tax rolls to the county auditor on or before the 15th day of December, taking his receipt therefor.

Rolls delivered to county auditor.

SEC. 5. On the first Monday of January next succeeding the date of the levying of taxes, the county auditor shall deliver to the county treasurer the tax rolls of his county, with his warrant thereto attached, and taking his receipt therefor, and charging the county treasurer there-

Delivery of rolls to treasurer.

with, and keeping an account thereof in the manner required by law.

Time
of taking
effect of act.

SEC. 6. This act shall take effect on the second Monday in January, 1911.

Passed by the House February 18, 1909.

Passed by the Senate March 4, 1909.

Approved March 18, 1909.

CHAPTER 231.

[H. B. 367.]

RELATING TO GOVERNMENT TOWNSITES.

AN ACT prescribing rules and regulations for the execution of the trusts arising under an act of congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867 (sections 2386, 2387, 2388, 2389, 2391, 2392, 2393 and 2394 of the Revised Statutes of the United States) and all acts of congress amendatory thereof and supplemental thereto, including section 16 of an act of congress, entitled "An act to repeal timber culture laws, and for other purposes," approved March 3, 1891, and to repeal an act of the Legislature of Washington territory, entitled "An act prescribing rules and regulations for the execution of trusts arising under the act of congress, entitled 'An act for the relief of inhabitants of cities and towns upon the public lands,' approved March 2, 1867," approved January 31, 1888, fixing the time for doing certain acts, prescribing a limitation of time for the commencement of certain actions, prescribing the procedure therein, prescribing rules of evidence therein, and declaring an emergency.

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

Town
to select
limits.

SECTION 1. It is the duty of the city or town council of any city or town in this state situate upon public lands of the United States or lands, the legal and equitable title to which is in the United States of America, to enter at the proper land office of the United States such quantity of land as the inhabitants of any incorporated city or town may be entitled to claim, in the aggregate, according to their population, in the manner required by the laws of the United States and the regulations prescribed by the

secretary of the interior of the United States, and by order entered upon their minutes and proceedings, at a regular meeting, to authorize and direct the mayor and clerk of such council, attested by the corporate seal, to make and sign all necessary declaratory statements, certificates, and affidavits, or other instruments requisite to carry into effect the intentions of this act and the intentions of the act of congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and all acts of congress amendatory thereof and supplemental thereto, including section sixteen of an act of congress entitled "An act to repeal timber culture laws and for other purposes," approved March 3, 1891, and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said acts of congress, and file in the proper United States land office a proper application in writing describing the tracts of land on which such city or town is situate, and make proof and payment for such tracts of land in the manner required by law.

SEC. 2. Said council must cause a survey to be made by some competent person, of the lands which the inhabitants of said city or town may be entitled to claim under the said act of congress, located according to the legal subdivisions of the sections and by the section lines of the United States, and the same must be distinctly marked by suitable monuments; such survey must further particularly designate all streets, roads, lanes and alleys, public squares, churches, school lots, cemeteries, commons and levees as the same exist and have been heretofore dedicated in any manner to public use, and by measurement the precise boundaries and area of each, and every lot or parcel of land and premises claimed by any person, corporations or associations within said city or townsite must, as far as known by the surveyor, be designated on the plat, showing the name or names of the possessor or occupants and claimants, and in case of any disputed claim as to lots, lands, premises or boundaries the said surveyor, if

Ch. 172, p.
541, vol. 14.
St. at L., §§
2387-2394
Rev. St.; vol.
6, pp. 344-353
Fed. St.
Anno.

Ch. 561, p.
1101, vol. 26,
St. at L.; vol.
6, p. 352,
Fed. St.
Anno.

Filing of
application.

Survey.

Details
platted.

the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely.

Scale
of plats.

Plats,
where filed.

SEC. 3. A plat thereof must be made in triplicate, on a scale of not less than eighty feet to one inch, which must be duly certified under oath by the surveyor, one of which must be filed with the county auditor of the county wherein the city or town is situated, one must be deposited in the proper United States land office, and one with the city or town clerk. These plats shall be considered public records, and each must be accompanied with a copy of the field-notes, and the county auditor must make a record of such plat in a book to be kept by him for that purpose, and such county auditor must file a copy of said field-notes in his office. The said surveyor must number the blocks as divided by the roads, highways and streets opened and generally used, and for which a public necessity exists at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said town or city surveyed as herein provided, which said numbers must be a sufficient description of any parcel of land in said plats. Said survey and plat thereof shall conform as near as may be to the existing rights, interests and claims of the occupants thereof, but no lot in the central or business portion of such city or town shall exceed in area four thousand, two hundred square feet, and no suburban lot in such city or town shall exceed two acres in area.

Blocks
and lots
numbered.

Notice of
survey.

SEC. 4. Before proceeding to make such survey, at least ten days' notice thereof must be given, by posting within the limits of such city or townsite, not less than five written or printed notices of the time when such survey shall commence, or by publication thereof in a newspaper published in the city or town, if one there be. The survey of said city or town lands must be made to the best advantage and at the least expense to the holders, claimants and occupants thereof; and the council is hereby authorized and directed to receive bids for such surveying, and to let the same by contract to the lowest competent bidder:

Provided, That the possessors, owners and claimants of water works, electric light, telegraph, telephone, pipe or power lines, sewers and like or similar property located in such roads, streets, alleys and other public places in such cities and towns shall be maintained and protected in the same, as the same shall exist at the time of the entry in the United States land office of the land embracing such city or town, and the right to continue to use such property for the purposes for which said property was intended, is hereby acknowledged and confirmed.

Franchises
continued.

SEC. 5. Such plat must show as follows:

(a) All streets, alleys, avenues, roads and highways, and the width thereof.

(b) All parks, squares and all other grounds reserved for public uses, with the boundaries and dimensions thereof.

Contents
of plat.

(c) All lots and blocks, with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot.

(d) The angles of intersection of all boundary lines of the lots and block, whenever the angle of intersection is not a right angle.

(e) The location of all stone or iron monuments set to establish street lines.

(f) The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances.

(g) The location of all section corners, quarter section or meander corners of sections within the limits of said plat.

(h) In case no such section or quarter section or meander corners are within the limits of the plat, it must show a connection line to some corner or initial point of the government surveys, or a government mineral monument, if there be any within one mile of such townsite. All distances marked on the plat must be in feet and decimals of a foot.

SEC. 6. Such surveyor must mark all corners of blocks or lots shown on the plat by substantial stakes or monuments, and must set stone or iron monuments at the points

Corners to
be marked.

of intersection of the center lines of all the streets, where practicable, or as near as possible to such points, and their location must be shown by marking on the plat the distances to the block corners adjacent thereto. The top of such monument must be placed one foot below the surface of the ground, and in size must be at least six inches by six inches by six inches, and be placed in the ground to the depth of one foot.

Monuments.
how placed.

SEC. 7. If a stone is used as a monument, it must have a cross cut in the top at the point of intersection of the center lines of streets, or a hole may be drilled in the stone to mark such point. If an iron monument is used it must be at least two inches in diameter by two and one-half feet in length, and may be either solid iron or pipe. The dimensions of the monuments must be marked on the plat, and reference thereto made in the field-notes, and establish permanently the lines of all the streets. The surveyor must make and subscribe on the plat a certificate that such survey was made in accordance with the provisions of this act, stating the date of survey, and verify the same by his oath.

Markings
on monu-
ments.

SEC. 8. All such plats must be made on mounted drawing paper, and filed and recorded in the office of the county auditor, and he must keep the original plat for public inspection. The fee of such county auditor for filing and recording each of such plats and the field-notes accompanying the same shall be the sum of \$10.00.

Original
plat filed.

Auditor's
fee.

SEC. 9. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, shall be rated and assessed by the said corporate authorities at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth and not exceeding one-eighth of one acre in area, shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one-quarter of

Assessments.

an acre and not exceeding one-half of one acre in area, shall be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved exceeding one-half acre in area shall be assessed at the rate of two dollars and fifty cents for each half an acre or fractional part over half an acre; and every lot or parcel of land enclosed, which may not otherwise be improved, claimed by any person, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings or for business purposes each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of such premises may be conveyed in one deed; which moneys so assessed must be received by the clerk and be paid by him into the city or town treasury.

SEC. 10. Every person, company, corporation or association claimant of any city or town lot or parcel of land within the limits of such city or townsite, must present to the council, by filing the same with the clerk thereof, within three months after the patent (or certified copy thereof) from the United States has been filed in the office of the county auditor, his, her, its or their affidavit, (or by guardian or next friend where the claimant is under disability), verified in person or by duly authorized agent, attorney, guardian or next friend, in which must be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof and to a deed therefor as against all other persons, to the best of his knowledge and belief, and stating who was an occupant of such lot or parcel of land at the time of the entry of such townsite at the United States land office, to which must be attached a copy of so much of the plat of said city or townsite as will fully exhibit the particular lot or parcel of land so claimed, and every such claimant, at the time of filing such affidavit, must pay to such clerk such sum of money as

Notice of
ownership.

said clerk shall certify to be due for the assessment mentioned in the preceding section, together with the further sum of four dollars, to be appropriated to the payment of expenses incurred in carrying out the provisions of this act, and the said clerk must thereupon give to such claimant a certificate, attested by the corporate seal, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The council of every such city or town must procure a bound book, wherein the clerk must make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of lot or lands claimed.

Records.

Additional assessments.

SEC. 11. If it is found that the amounts hereinbefore specified as assessments and fees for costs and expenses prove to be insufficient to cover and defray all the necessary expenses, the council must estimate the deficiency and assess such deficiency *pro rata* upon all the lots and parcels of land in such city or town, and declare the same upon the basis set down in section nine of this act, which additional amount, if any, may be paid by the claimant at the time when the certificate hereinafter [hereinbefore] mentioned, or at the time when the deed of conveyance hereinbefore [hereinafter] provided for, is issued.

Council to execute deeds.

SEC. 12. At the expiration of six months after the time of filing of such patent, or a certified copy thereof in the office of the county auditor, if there has been no adverse claim filed in the meantime, the council must execute and deliver to such claimant, his or her, its or their heirs, executors, administrators, grantees, successors or assigns a good and sufficient deed of the premises described in the application of the claimant originally filed, if proper proof shall have been made, which said deed must be signed and acknowledged by the mayor or other presiding officer of the council, and attested by the corporate seal of such city or town. No conveyance of any such lands made as in this act provided, concludes the rights of third persons:

but such third persons may have their action in the premises, to determine their alleged interest in such lands and their right to the legal title thereto against such grantee, his, her, its or their heirs, successors or assigns, to which they may deem themselves entitled either in law or equity; but no action for the recovery or possession of such premises, or any portion thereof, or to establish the right to the legal title thereto, must be maintained in any court against the grantee named therein, or against his, her, its or their legal representatives or assigns, unless such action shall be commenced within six months after such deed shall have been filed for record in the office of the county auditor of the county where such lands are situate; nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon the possessory claim or title to real estate, when such action is barred by law at the time of the passage of this act.

Interests
of third
persons not
precluded.

SEC. 13. That townsite entries may be made by incorporated towns or cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such townsites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral vein applicant.

Townsites
on mineral
lands.

SEC. 14. In all cases of adverse claims or disputes arising out of conflicting claims to lands or concerning boundary lines, the adverse claimants may submit the de-

Boundary
disputes.

cision thereof to the council of such city or town by an agreement in writing specifying particularly the subject matter in dispute, and may agree that their decision shall be final. The council must hear the proofs, and shall order a deed to be executed or denied in accordance with the facts; but in all other cases of adverse claims, the party out of possession shall commence his action in a court of competent jurisdiction within six months after the time of filing of the patent from the United States (or a certified copy thereof), in the office of the county auditor. In case such action be commenced, the plaintiff must serve a notice of *lis pendens* upon the mayor, who must thereupon stay all proceedings in the matter of granting any deed to the land in dispute until the final decision in such suit; and upon presentation of a certified copy of the final judgment of such court in such action, the council must cause to be executed and delivered a deed of such premises, in accordance with the judgment, adjudging the claimant to have been an occupant of any particular lot or lots at the time of the entry of such townsite in the United States land office, or to be the successor in interest of such occupant. If in any action brought under this act, or under said acts of congress, the right to the ground in controversy shall not be established by either party, the court or jury shall so find and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and neither party shall be entitled to a deed to the ground in controversy, and in such action it shall be incumbent upon each claimant to establish that he, she or it was an occupant of the ground in controversy within the meaning of the said acts of congress at the time of the entry of said townsite in the United States land office, or is the successor in interest of such occupant.

Lis pendens.

Costs.

Notice by
council.

SEC. 15. The said council must give public notice by advertising for four weeks in a newspaper published in said city or town, or, if there be no newspaper published in said city or town, then by publication in some newspaper having general circulation in such city or town, and not less than five written or printed notices must be posted in

public places within the limits of such city or townsite; such notice must state that patent for said townsite (or certified copy thereof) has been filed in the county auditor's office. If any person, company, association or any other claimant of lands in such city or town fails, neglects or refuses to make application to the council for a deed of conveyance to the lands so claimed, and to pay the sums of money specified in this act, within three months after filing of such patent, or a certified copy thereof, in the office of the county auditor, shall be deemed to have abandoned the same and to have forfeited all right, title and interest therein or thereto both in law and in equity as against the trustee of said townsite, and such abandoned or forfeited lot or lots shall be sold as unoccupied lands, and the proceeds thereof placed in the special fund in this act mentioned.

Laches of claimants.

SEC. 16. All lots in such city or townsite which were unoccupied at the time of the entry of said townsite in the United States land office shall be sold by the corporate authorities of such city or town, or under their direction, at public auction to the highest bidder for cash, each lot to be sold separately, and notice of such sale or sales shall be given by posting five written or printed notices in public places within said townsite, giving the time and particular place of sale, which notices must be posted for at least thirty days prior to the date of said sale, and by publishing a like notice for four consecutive weeks prior to such sale in a newspaper published in such city or town, or, if no such newspaper be published in such city or town, then in some newspaper having general circulation in such city or town, and deeds shall be given therefor to the several purchasers: *Provided*, That no such unoccupied lot shall be sold for less than five dollars in addition to an assessment equivalent to assessment provided in section 9 of this act, and all moneys arising from such sale, after deducting the costs and expenses of such sale or sales, shall be placed in the treasury of such city or town.

Corporate authorities to sell lots.

Notice of sale.

Minimum price of lots.

SEC. 17. All school lots or parcels of land, reserved or occupied for school purposes, must be conveyed to the

School sites.

school district in which such city or town is situated, without cost or charge of any kind whatever. All lots or parcels of land reserved or occupied for municipal purposes must be conveyed to such city or town without cost or charge of any kind whatever. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this act are a charge against the city or town on behalf of which the work was done, and such expenses necessarily incurred, either before or after the incorporation thereof, shall be paid out of the treasury of such city or town upon the order of the council thereof; and all moneys paid for lands or to defray the expenses of carrying into effect the provisions of this act shall be paid into the city or town treasury by the officer or officers receiving the same, and shall constitute a special fund, from which shall be paid all expenses, and the surplus, if any there be, shall be expended under the direction of the city or town council for public improvements in such city or town.

Property conveyed to city free.

Expenses incident to this act.

SEC. 18. No mere informality, failure or omission on the part of any of the persons or officers named in this act invalidates the acts of such person or officer; but every certificate or deed granted to any person pursuant to the provisions of this act is *prima facie* evidence that all preliminary proceedings in relation thereto have been correctly taken and performed, and that the recitals therein are true and correct.

Omissions not to affect proceedings.

SEC. 19. Such corporate authorities shall promptly execute and perform all duties imposed upon them by the provisions of this act.

Duties of corporate authorities.

SEC. 20. No deed to any lot or parcel of land in such townsite entry shall be made or delivered to any alleged occupant thereof before proof shall have been made under oath showing such claimant to have been an occupant of such lot or parcel of land within the meaning of said laws of congress at the time of the entry of such townsite at the proper United States land office, but the grantees, heirs, successors in interest or assigns of such occupant of any lot, as such, may receive such deed.

Initiation of claim to lot.

SEC. 21. It is the duty of the judge of the superior court of any county in this state to enter at the proper land office of the United States such quantity of land as the inhabitants of any unincorporated town, situate upon lands the legal and equitable title to which is in the United States of America, or situate upon public lands of the United States within the county wherein such superior court is held, may be entitled to claim in the aggregate, according to their population, in the manner required by the laws of the United States, and valid regulations prescribed by the secretary of the interior of the United States, and to make and sign all necessary declaratory statements, certificates and affidavits, or other instruments requisite to carry into effect the intentions of this act, and the intention of the act of congress of the United States, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven, and all acts of congress amendatory thereof and supplemental thereto, and to file in the proper United States land office a proper application in writing, describing the tracts of land on which such unincorporated town is situated, and all lands entitled to be embraced in such government townsite entry, and make proof and payment for such tracts of land in the manner required by law.

Superior
judge to
file claim for
inhabitants.

SEC. 22. The judge of the superior court of any county in this state, whenever he is so requested by a petition signed by not less than five residents, householders in any such unincorporated town, whose names appear upon the assessment roll for the year preceding such application in the county wherein such unincorporated town is situated— which petition shall set forth the existence, name and locality of such town, whether such town is situated on surveyed or unsurveyed lands, and if on surveyed lands an accurate description according to the government survey of the legal subdivisions sought to be entered as a government townsite must be stated; the estimated number of its inhabitants; the approximate number of separate lots or parcels of land within such townsite, and the amount of

Petition to
superior
judge.

Contents of
petition.

land to which they are entitled under such acts of congress—must estimate the cost of entering such land, and of the survey, platting and recording of the same, and must endorse such estimate upon such petition, and upon receiving from any of the parties interested the amount of money mentioned in such estimate, the said judge may cause an enumeration of the inhabitants of such town to be made by some competent person, exhibiting therein the names of all persons residing in said proposed townsite and the names of occupants of lots, lands, or premises within such townsite, alphabetically arranged, verified by his oath, and cause such enumeration to be presented to such judge.

Judge
to cause
survey of
townsite.

SEC. 23. Such judge must thereupon cause a survey to be made by some competent person, of the lands which the inhabitants of said town may be entitled to claim under said acts of congress, located according to the legal subdivisions of the sections according to the government survey thereof, and the same must be distinctly marked by suitable monuments; such survey must further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries, commons, and levees, as the same exist and have been heretofore dedicated, in any manner to public use, and by measurement the precise boundaries and area of each and every lot or parcel of land and premises claimed by any person, corporation, or association within said townsite must, as far as known by the surveyor, be designated on the plat, showing the name or names of the possessor, occupant or claimant; and in case of any disputed claim as to lots, lands, premises or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines in different color from the body of the plat of such part of any premises so disputed or claimed adversely; said surveyor shall survey, lay out and plat all of said lands, whether occupied or not, into lots, blocks, streets and alleys.

Plats in
triplicate.

SEC. 24. The plat thereof must be made in triplicate on a scale of not less than eighty feet to an inch, which must be duly certified under oath by the surveyor, one of

which must be filed with the county auditor of the county wherein such unincorporated town is situated, one must be deposited in the proper United States land office, and one with such judge. These plats shall constitute public records, and must each be accompanied by a copy of the field notes, and the county auditor must make a record of such plat in a book to be kept by him for that purpose, and such county auditor must file such copy of said field notes in his office. The said surveyor must number and survey the blocks as divided by the roads, and streets opened and generally used and for which a public necessity exists, at the time of making such survey, and must number the several lots consecutively in each block, and all other parcels of land within said unincorporated town as herein provided, which said numbers must be a sufficient description of any parcel of land represented on said plats. Said survey and plat thereof shall conform as nearly as may be to the existing rights, interest, and claims of the occupants thereof, but no lot in the center or business portion of said unincorporated town shall exceed in area four thousand two hundred feet, and no suburban lot in such unincorporated town shall exceed two acres in area.

Survey to include, what.

SEC. 25. Before proceeding to make such survey, at least ten days' notice thereof must be given, by posting within the limits of such townsite, not less than five written or printed notices of the time when such survey shall commence, or by publication thereof in a newspaper published in said town, if one there be. The survey of said townsite must be made to the best advantage and at the least expense to the holders, claimants, possessors and occupants thereof. The said judge is hereby authorized and directed to receive bids for such surveying, platting and furnishing copies of the field notes, and to let the same by contract to the lowest competent bidder: *Provided*, That the possessors, owners, or claimants of water works, electric light, telegraph, telephone, pipe or power lines, sewers, irrigating ditches, drainage ditches, and like or similar property located in such townsites or in the roads, streets, alleys

Notice of intention to survey.

Public service franchises.

or highways therein or in other public places in such townsite, shall be maintained and protected in the same as the same shall exist at the time of the entry in the United States land office of the land embraced in such government townsite, and the right to continue to use such property, for the purposes for which said property was intended, is hereby acknowledged and confirmed.

SEC. 26. Such plat must show as follows:

Contents
of plats.

(a) All streets, alleys, avenues, roads and highways, and the width thereof.

(b) All parks, squares and all other ground reserved for public uses, with the boundaries and dimensions thereof.

(c) All lots and blocks, with their boundaries, designating such lots and blocks by numbers, and giving the dimensions of every lot.

(d) The angles of intersection of all boundary lines of the lots and block, whenever the angle of intersection is not a right angle.

(e) The location of all stone or iron monuments set to establish street lines.

(f) The exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances.

(g) The location of all section corners, or legal subdivision corners of sections within the limits of said plat.

(h) In case no such section or subdivision corners are within the limits of the plat, it must show a connection line to some corner or initial point of the government surveys, or a government mineral monument, if there be any within one mile of such townsite. All distances marked on the plat must be in feet and decimals of a foot.

Corners,
how marked.

SEC. 27. Such surveyor must mark all corners of blocks or lots shown on the plat by substantial stakes or monuments, and must set stone or iron monuments at the points of intersection of the center lines of all the streets, where practicable, or as near as possible to such points, and their location must be shown by marking on the plat the distances to the block corners adjacent thereto. The top of such monument must be placed one foot below the surface

of the ground, and in size must be at least six inches by six inches by six inches, and be placed in the ground to the depth of one foot.

SEC. 28. If a stone is used as a monument it must have a cross cut in the top at the point of intersection of center lines of streets, or a hole may be drilled in the stone to mark such point. If an iron monument is used it must be at least two inches in diameter by two and one-half feet in length, and may be either solid iron or pipe. The dimensions of the monuments must be marked on the plat, and reference thereto made in the field notes, and establish permanently the lines of all the streets. The surveyor must make and subscribe on the plat a certificate that such survey was made in accordance with the provisions of this act, stating the date of survey, and verify the same by his oath.

Monuments,
how marked.

SEC. 29. All such plats must be made on mounted drawing paper, and filed and recorded in the office of the county auditor, and he must keep the original plat for public inspection. The fee of such county auditor for filing and recording each of such plats, and the field notes accompanying the same shall be the sum of \$10.00.

Maps,
how drawn.

Fee for
filing plats.

SEC. 30. Each lot or parcel of said lands having thereon valuable improvements or buildings ordinarily used as dwellings or for business purposes, not exceeding one-tenth of one acre in area, shall be rated and assessed by the said judge at the sum of one dollar; each lot or parcel of such lands exceeding one-tenth, and not exceeding one-eighth of one acre in area, shall be rated and assessed at the sum of one dollar and five [fifty] cents; each lot or parcel of such lands exceeding in area one-eighth of one acre and not exceeding one-quarter of an acre in area, shall be rated and assessed at the sum of two dollars; and each lot or parcel of such lands exceeding one-quarter of an acre and not exceeding one-half of one acre in area, shall be rated and assessed at the sum of two dollars and fifty cents; and each lot or parcel of land so improved, exceeding one-half acre in area, shall be assessed at the rate of two dollars and fifty cents for each half an acre

Assessments.

or fractional part over half an acre; and every lot or parcel of land enclosed, which may not otherwise be improved, claimed by any person, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where upon one parcel of land there shall be two or more separate buildings occupied or used ordinarily as dwellings or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land; but the whole of such premises may be conveyed in one deed; which moneys so assessed must constitute a fund from which must be reimbursed or paid the moneys necessary to pay the government of the United States for said townsite lands, and interest thereon, if such moneys have been loaned or advanced for the purpose and expenses of their location, entry and purchase, and cost and expenses attendant upon the making of such survey, plats, publishing and recording, including a reasonable attorney's fee for legal services necessarily performed, and the persons or occupants in such townsite procuring said townsite entry to be made, may employ an attorney to assist them in so doing and to assist such judge in the execution of his trust, and he shall be allowed by such judge out of said fund a reasonable compensation for his services.

SEC. 31. Every person, company, corporation, or association, claimant of any town lot or parcel of land, within the limits of such townsite, must present to such judge, within three months after the patent (or a certified copy thereof), from the United States has been filed in the office of the county auditor, his, her, its or their affidavit, (or by guardian or next friend where the claimant is under disability), verified in person, or by duly authorized agent or attorney, guardian or next friend, in which must be concisely stated the facts constituting the possession or right of possession of the claimant and that the claimant is entitled to the possession thereof and to a deed therefor as against all other persons or claimants, to the best of his knowledge and belief, and in which must be stated who

Filing of
claims
to lots.

Requisites
of claim.

was an occupant of such lot or parcel of land at the time of the entry of such townsite at the United States land office, to which must be attached a copy of so much of the plat of said townsite as will fully exhibit the particular lots or parcels of land so claimed; and every such claimant, at the time of presenting and filing such affidavit with said judge, must pay to such judge such sum of money as said judge shall certify to be due for the assessment mentioned in section thirty of this act, together with the further sum of \$4.00, to be appropriated to the payment of cost and expenses incurred in carrying out the provisions of this act, and the said judge must thereupon give to such claimant a certificate, signed by him and attested by the seal of the superior court, containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. Such judge must procure a bound book for each unincorporated government townsite in his county wherein he must make proper entries of the substantial matters contained in such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of the lot or lands claimed.

Fee for
filing claim.

Judge
to keep
record.

SEC. 32. If it is found that the amounts hereinbefore specified as assessments and fees for costs and expenses, prove to be insufficient to cover and defray all the necessary expenses, the said judge must estimate the deficiency and assess such deficiency *pro rata* upon all the lots and parcels of land in such government townsite, and declare the same upon the basis set down in section thirty of this act; which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance herein-after provided for, is issued.

Additional
assessments.

SEC. 33. At the expiration of six months after the time of filing such patent, or certified copy thereof, in the office of the county auditor, if there has been no adverse claim filed in the meantime, said judge must execute and deliver to such claimant or to his, her, its or their heirs, executor,

Deeds issued,
when.

administrator, grantee, successor or assigns a good and sufficient deed of the premises described in the application of the claimant originally filed, if proper proof shall have been made, which said deed must be signed and acknowledged by such judge as trustee, and attested by the seal of the superior court. No conveyance of any such lands made as in this act provided, concludes the rights of third persons; but such third persons may have their action in the premises, to determine their alleged interest in such lands, and their right to the legal title thereto, against such grantee, his, her, its or their heirs, executors, administrators, successors or assigns, to which they may deem themselves entitled, either in law or in equity; but no action for the recovery or possession of such premises, or any portion thereof, or to establish the right to the legal title thereto, must be maintained in any court against the grantee named therein, or against his, her, its or their heirs, executors, administrators, successors or assigns, unless such action shall be commenced within six months after such deed shall have been filed for record in the office of the county auditor of the county where such lands are situated; nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate, when such action is barred by law at the time of the taking effect of this act.

Rights
of third
persons.

Time of
commencing
actions.

Entries on
mineral
lands.

Title to
mineral
lands.

SEC. 34. That townsite entries may be made by such judge on mineral lands of the United States, but no title shall be acquired by such judge to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing laws. When mineral veins are possessed within the limits of an unincorporated town, and such possession is recognized by local authority, or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such townsite to such judge, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Pro-*

vided, That no entry shall be made by such mineral vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral vein applicant.

SEC. 35. In all cases of adverse claims or disputes arising out of conflicting claims to land or concerning boundary lines, the adverse claimants may submit the decision thereof to said judge by an agreement in writing specifying particularly the subject matter in dispute and may agree that his decision shall be final. The said judge must hear the proofs, and shall execute a deed or deny the execution of a deed in accordance with the facts; but in all other cases of adverse claims the party out of possession shall commence his action in a court of competent jurisdiction within six months after the filing of the patent (or a certified copy thereof) from the United States, in the office of the county auditor. In case such action be commenced within the time herein limited, the plaintiff must serve notice of *lis pendens* upon such judge, who must thereupon stay all proceedings in the matter of granting or executing any deed to the land in dispute until the final decision in such suit; upon presentation of a certified copy of the final judgment in such action, such judge must execute and deliver a deed of the premises, in accordance with the judgment, adjudging the claimant to have been an occupant of any particular lot or lots at the time of the entry of such townsite in the United States land office, or to be the successor in interest of such occupant.

SEC. 36. If in any action brought under this act, or under said acts of congress, the right to the ground in controversy shall not be established by either party, the court or jury shall so find and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and neither party shall be entitled to a deed to the ground in controversy, and in such action it shall be incumbent upon each claimant or claimants to establish that he, she, it or they, was or were, an occupant of the ground in controversy within the meaning of said acts of congress

Adverse claims.

Hearing on.

lis pendens.

Costs.

at the time of the entry of said townsite in the United States land office, or is or are the successor, or successors in interest of such occupant.

Notice of
filing of
patent.

SEC. 37. Said judge must promptly give public notice by advertising for four weeks in any newspaper published in such town, or if there be no newspaper published in such town, then by publication in some newspaper having general circulation in such town, and not less than five written or printed notices must be posted in public places within the limits of such townsite; such notice must state that the patent for said townsite (or a certified copy thereof) has been filed in the county auditor's office.

Abandonment
of claims.

SEC. 38. If any person, company, association, or any other claimant of lands in such townsite fails, neglects or refuses to make application to said judge for a deed of conveyance to said land so claimed, and pay the sums of money specified in this act, within three months after the filing of such patent, or a certified copy thereof, in the office of the county auditor, shall be deemed to have abandoned the claim to such land and to have forfeited all right, title, claim and interest therein or thereto both in law and in equity as against the trustee of said townsite, and such abandoned or forfeited lot or lots may be sold by such trustee as unoccupied lands, and the proceeds thereof placed in the fund heretofore mentioned in this act.

Sale of
unclaimed
lots.

SEC. 39. All lots in such townsite which were unoccupied within the meaning of the said acts of congress at the time of the entry of said townsite in the United States land office shall be sold by such judge or under his direction, at public auction to the highest bidder for cash, each lot to be sold separately, and notice of such sale, or sales, shall be given by posting five written or printed notices in public places within said townsite, giving the time and particular place of sale, which notices must be posted at least thirty days prior to the date of any such sale, and by publishing a like notice for four consecutive weeks prior to any such sale in a newspaper published in such town, or if no newspaper be published in such town, then in some newspaper having general circulation in such

town. And deed shall be given therefor to the several purchasers: *Provided*, That no such unoccupied lot shall be sold for less than five dollars in addition to an assessment equivalent to assessment provided for in section thirty of this act, and all moneys arising from such sale or sales after deducting the cost and expenses of such sale or sales shall be placed in the fund hereinbefore mentioned.

Minimum
price per lot.

SEC. 40. All school lots or parcels of land reserved or occupied for school purposes, must be conveyed to the school district in which such town is situated without cost or charge of any kind whatever. All lots or parcels of land reserved or occupied for public purposes must be set apart and dedicated to such public purposes without cost or charge of any kind whatever. All expenses necessarily incurred or contracted by the carrying into effect of the provisions of this act or said acts of congress are a charge against the fund herein provided for.

School sites.

SEC. 41. Any sum of money remaining in said fund after defraying all necessary expenses of location, entry, surveying, platting, advertising, filing and recording, reimbursement of moneys loaned or advanced and paying the cost and expenses herein authorized and provided for must be deposited in the county treasury by such judge to the credit of a special fund of each particular town, and kept separate by the county treasurer to be paid out by him only upon the written order of such judge in payment for making public improvements, or for public purposes, in such town.

Proceeds of
sales and
assessments.

SEC. 42. No mere informality, failure, or omission on the part of any persons or officers named in this act invalidates the acts of such person or officers; but every certificate or deed granted to any person pursuant to the provisions of this act is *prima facie* evidence that all preliminary proceedings in relation thereto have been taken and performed and that the recitals therein are true and correct.

Regularity
of proceed-
ings.

SEC. 43. No deed to any lot in such unincorporated town or unincorporated government townsite entry shall

Proof
of claims
required.

be made or delivered to any alleged occupant thereof before proof shall have been made under oath, showing such claimant to have been an occupant of such lot or parcel of land within the meaning of said laws of congress at the time of the entry of such townsite at the proper United States land office, but the grantees, heirs, executors, administrators, successors in interest or assigns of such occupant of any lot, as such, may receive such deed.

Streets
and roads
dedicated to
public use.

SEC. 44. All streets, roads, lanes and alleys, public squares, cemeteries, parks, levees, school lots, and commons, surveyed, marked and platted, on the map of any townsite, as prescribed and directed by the provisions of this act, are hereby declared to be dedicated to public use, by the filing of such town plat in the office of the county auditor, and are inalienable, unless by special order of the board of commissioners of the county, so long as such town shall remain unincorporated; and if such town at any time thereafter becomes incorporated, the same becomes the property of such town or city, and must be under the care and subject to the control of the council or other municipal authority of such town or city.

Duties of
county clerk.

SEC. 45. All clerical work under this act where a judge of the superior court is trustee must be performed by the clerk of the superior court.

Judge to
account for
moneys
received.

SEC. 46. Such judge when fulfilling the duties imposed upon him by said acts of congress, and by this act, must keep a correct account of all moneys received and paid out by him. He must deposit all surplus money with the treasurer of the proper county, and he must promptly settle up all the affairs relating to his trust pertaining to such town.

Records
filed with
county clerk.

SEC. 47. Whenever the affairs pertaining to such trust shall be finally settled and disposed of by such judge, he shall deposit all books and papers relating thereto in the office of the county clerk of the proper county to be thereafter kept in the custody of such county clerk as public records, and the county clerk's fee, for the use of his county therefor, shall be the sum of \$10.00.

SEC. 48. Every such judge when fulfilling the duties imposed upon him by said acts of congress, and by this act, shall be deemed and held to be acting as a trustee for the purposes of fulfilling the purposes of said acts and not as a superior court, and such judge shall be deemed to be disqualified to sit as judge of such superior court in any action or proceeding wherein is involved the execution of such trust or rights involved therein.

Judge is
mere trustee.

SEC. 49. Appeals and writs of review may be prosecuted to the supreme court from a superior court from the judgment of [or] orders of the superior court in all cases arising under this act or said acts of congress as in other cases and the general statutes as to the commencement of actions, bringing the same to trial, making an entry of judgment, the taking and perfecting appeals, and the making up of the records on appeal and relating to writs of review in the superior and supreme court, and all other procedure in the superior and supreme courts shall be applicable to actions under this act and under said acts of congress.

Appeals.

SEC. 50. The act of the legislature of Washington territory, entitled "An act prescribing rules and regulations for the execution of trusts arising under the act of congress, entitled 'An act for the relief of inhabitants upon public land,' approved March second, 1867," approved January 31, 1888, be and the same is hereby repealed.

Ch. 124, pp.
216-220, L.
'87-8.

SEC. 51. The successors in office of such superior court judge shall be his successors as trustee of such trust.

Trust
attaches
to office.

SEC. 52. The judge of the superior court of any county is hereby declared to be the successor as trustee of any territorial probate judge in such county who was trustee under any such acts of congress, and may as such succeeding trustee perform any unperformed duties of his predecessor in office as such trustee, agreeably to the provisions of this act as nearly as may be. And when entry was made by any such probate judge under any of said acts of congress and subsequent to such entry, the city or town situated upon such townsite entry has been incorpor-

Succession
of trustees.

Title to lands
formerly
reserved.

ated according to law, and the corporate authorities thereof have or have attempted to vacate any common, plaza, public square, public park or the like, in such government townsite, and where thereafter, any person, or corporation, has placed permanent improvements on such land so vacated or attempted to be vacated, exceeding in value the sum of five thousand dollars, with the knowledge, consent, or acquiescence of the corporate authorities of such city or town and with the general consent and approval of the inhabitants of said city or town and such improvements have been made for more than five years and such person or corporation making such improvements has been in the open, notorious and peaceable possession of such lands and premises for a period of more than five years, such superior court judge, as trustee, of such government townsite, and successor as trustee to such judge of probate, trustee of such government townsite, shall have the power and authority to make and deliver to such person or corporation, or to his or its heirs, executors, administrators, successors or assigns, a deed for such lands and premises, conveying a fee simple title to such lands and premises upon such terms and for such price as he shall deem just and reasonable under all the facts and surrounding circumstances of the case, and the consideration paid for such deed, one dollar or more, shall be placed in the city or town treasury of such city or town, in the general fund.

Controversies,
by whom
settled.

SEC. 53. Except as hereinbefore specially provided, the city or town council in incorporated cities and towns, and the judge of the superior court, as trustee, in cases of unincorporated government townsites, are hereby expressly given power and jurisdiction to hear and determine all questions arising under this act and under said acts of congress and the right to ascertain who were the occupants of lots in such government townsites at the time of the entry thereof in the United States land office, and to determine from sworn testimony who are and who are not entitled to deeds of conveyance to specific lots in such

government townsite, subject to review by courts of competent jurisdiction.

SEC. 54. An emergency exists and this act shall take effect immediately.

Passed by the House February 25, 1909.

Passed by the Senate March 5, 1909.

Approved March 20, 1909, except as to emergency clause.

House bill No. 367 is transmitted herewith, approved except as to the emergency clause.

Respectfully submitted,

M. E. HAY, *Acting Governor.*

CHAPTER 232,

[H. B. 155.]

PROVIDING FOR THE NOMINATION OF CANDIDATES BY DISTRICTS.

AN ACT relating to the nomination of candidates for county commissioner.

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

SECTION 1. The qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following general biennial election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated, except as above provided.

District
nominations.

Passed by the House February 16, 1909.

Passed by the Senate March 9, 1909.

Approved March 22, 1909.

CHAPTER 233.

[S. B. 14.]

GRANTING CERTAIN SHORE LANDS TO SEATTLE FOR
PARK PURPOSES.

AN ACT authorizing and directing the Commissioner of Public Lands to certify certain shore lands to the Governor for deed and directing the Governor to execute and the Secretary of State to attest a deed conveying to the city of Seattle certain shore lands for use as, and in connection with its public parks, and for no other purpose.

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

SECTION 1. That the Commissioner of Public Lands of the State of Washington be and he is hereby authorized and directed to certify, in manner now provided by law in other cases, to the Governor, for deed to the city of Seattle, in the State of Washington, all of the following described Lake Washington shore lands, to-wit:

Blocks nine (9), ten (10), eleven (11), twelve (12), thirteen (13), and fourteen (14), Lake Washington shore lands; lot one (1) of block forty-two (42), Lake Washington shore lands; block forty-eight (48), Lake Washington shore lands; block fifty-two (52), Lake Washington shore lands, except the north one hundred sixty-five (165) feet thereof; blocks sixty-four (64), sixty-five (65), sixty-six (66), sixty-seven (67), sixty-eight (68), sixty-nine (69), seventy (70) and seventy-one (71), Lake Washington shore lands.

Also all of the following Lake Union shore lands as shown by the map of said Lake Union shore lands, on file in the office of the Commissioner of Public Lands: Lake Union shore lands—lots one (1) to nine (9), inclusive, in block seventeen (17).

SEC. 2. The Governor is hereby authorized and directed to execute, and the Secretary of State to attest a deed conveying to the city of Seattle all of said shore lands.

SEC. 3. That all of the shore lands described in section one (1) of this act be and the same are hereby granted to the city of Seattle in the county of King, State of Wash-

ington, to be used by said city as a part of and in connection with its public park system, and for no other purpose. In case the said city of Seattle should attempt to use or permit the use of said lands, or any portion thereof, for any other purpose, the same shall forthwith revert to the State of Washington without suit, action or any proceeding whatsoever, or the judgment of any court forfeiting the same.

.. Passed by the Senate February 19, 1909.

.. Passed by the House March 4, 1909.

.. Approved March 23, 1909.

CHAPTER 234.

[S. B. 248.]

RELATING TO THE IMPROVEMENT OF THE COLUMBIA RIVER.

AN ACT making an appropriation and creating a commission, to be known as the Columbia river improvement commission, for the purpose of the improvement of the Columbia river between Bridgeport and Kettle Falls.

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

SECTION 1. That there is hereby appropriated out of the general fund, not otherwise appropriated, the sum of fifty thousand dollars (\$50,000.00), or as much thereof as may be necessary, to be used for the improvement of the Columbia river for steamboat navigation between the towns of Bridgepart and Kettle Falls.

Appropriation
\$50,000.

SEC. 2. That for the purpose of conducting and effecting such improvements and expending such appropriation, or any part thereof, as provided in section 1 of this act, there is hereby created a commission, to be known as the Columbia River Improvement Commission of the State of Washington. Such commission shall consist of five members, who shall be appointed by the Governor, and who shall be residents of the State of Washington. Said commissioners shall hold office from the date of appointment to July 1, 1911, or for any lesser period as may be required to complete their duties, unless sooner removed for

Columbia
River Im-
provement
Commission.

cause by the Governor. In event of vacancies occurring in said commission by reason of death, inability or refusal to act, or removal for cause, appointments shall be made by the Governor to fill such vacancies.

Expenses
allowed.

SEC. 3. Each of said commissioners so appointed shall serve without salary, except as hereinafter provided, but shall be allowed actual necessary traveling expenses incurred in attending meetings of said commission in discharge of the duties of the office, to be paid out of the sum of money appropriated in section 1 of this act, upon vouchers approved, in the manner hereinafter provided, by the commission.

Organization
of com-
mission.

SEC. 4. The members of the Columbia River Improvement Commission shall meet at the call of the Governor within ten days after their appointment, at such place as may be designated by him, and organize by the election of one of their members as president, and the employment of a secretary, who shall keep full records of the proceedings and the accounts of the commission. Headquarters thereafter shall be established at any point selected by the commissioners, at which place such regular or stated meetings as may be necessary for carrying out the purposes of this act shall be held. The commission shall fix the salaries of all persons employed by it, such salaries to be paid out of the money appropriated in section 1, and shall purchase all material and equipment and provide for other necessary expenditures out of said fund. Double entry accounts shall be kept, together with complete vouchers covering every financial transaction involving the disbursement of the money appropriated; and on July 1, 1910, January 1, 1911, or at the close of their period of appointment, or at any time upon the completion of the work contemplated, shall report to the Governor of the State of Washington a complete summary of its administration, with a detailed statement of the disbursements made. The commission is hereby authorized and empowered to assume and exercise all powers and functions necessary to the carrying out of the purposes of this act in so improving, within their best judgment, and to the extent of the means here provided,

Accounts,
how kept.

the Columbia river between the towns of Bridgeport, in Douglas county, State of Washington, and Kettle Falls, in Stevens county, State of Washington, a distance, approximately, of 175 miles, by blasting, removing and clearing out such rocks, ledges, obstructions and bars so as to make the river practically navigable, or such portions thereof as may be practicable with the funds provided, between said towns of Kettle Falls and Bridgeport; and they are empowered to negotiate and co-operate with the proper authorities of the national government, wherever such co-operation may be practicable; to build and operate any equipment, and to take any other measures necessary to the carrying out of the purposes of this act. The commission may elect, and is hereby authorized to elect, out of its membership, an executive commissioner, who shall, at the instance of the commission, exercise personal direction and control over the entire improvements, workmen, materials, equipment and operations provided for by this act. The salary of such executive commissioner shall not exceed twenty-five hundred dollars (\$2,500.00) per year. He shall have the supervision and care of all property whatsoever acquired under the provisions of this act by the state, and shall carry on the work contemplated in this act at such seasonable times and places as the stages of water in the river, or other circumstances, may permit, and shall perform such other functions and duties as may be designated by the commission.

Improvement
of river.

To assist
Federal
government.

Executive
commiss-
sioner.

SEC. 5. Upon the completion of the improvements contemplated by this act, or at any time within the judgment of the commission that such disposition may be deemed advisable, the commission may sell any plant or equipment, or part thereof, to the United States government, or make any other disposition of any such acquired property or equipment that may be fit and proper, and the proceeds thereof, together with any other sums that may be left on hand, shall be returned to the state treasury.

Equipment
may be
sold.

SEC. 6. The appropriation made in section 1 of this act is hereby placed at the disposal of, and the same shall

Appropriation, how expended.

be used and expended by, and under the direction of, the Columbia River Improvement Commission, according to the terms hereinbefore provided, and the State Auditor is authorized to draw his warrants upon the State Treasurer upon vouchers, in the manner provided by law for the disbursements of general appropriations, made by the executive commissioner when approved in writing by the president of the commission and attested by the secretary, and the State Treasurer shall pay the same.

Passed by the Senate March 6, 1909.

Passed by the House March 8, 1909.

Approved March 23, 1909.

CHAPTER 235.

[S. B. 247.]

REGULATING THE PRACTICE OF OPTOMETRY.

AN ACT to regulate the practice of optometry and for the appointment of a board of examiners, and providing penalties for the violation thereof.

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

Optometry.

SECTION 1. The practice of optometry is defined to be the employment of any means, other than the use of drugs, for the measurement of the powers of vision and the adaptation of lenses for the aid thereof.

Board of examiners.

SEC. 2. That a board to be known as the Board of Examiners in Optometry, for the State of Washington, is hereby established. Said board shall consist of three members, who will possess sufficient knowledge of theoretical and practical optics to practice optometry, and who shall have been residents of this state, actually engaged in the practice of optometry for at least five years. The term of each member of the said board shall be three years, or until his successor is appointed and qualified, and vacancies shall be filled for the unexpired term only; but in the original appointment of the members of the board, one shall be appointed for the term of one year, one for two years, and one for three years, from July 1, 1909. Said board

shall be appointed by the Governor of this state within 90 days after this act shall become effective and annually thereafter as vacancies occur. After the first board has been appointed only licensed optometrists shall be eligible to appointment. No member of said board shall be a stockholder, member of the faculty, or on a board of trustees of any school of optometry, or financially interested in a manufacturing or wholesale optical house.

Qualifica-
tion
of members.

SEC. 3. The members of said board shall qualify by taking oath of office before a notary public, or other officer empowered to administer oaths in the county in which each one, respectively, resides. At the first meeting of said board after each annual appointment the board shall elect a president, vice-president and secretary-treasurer. A majority of said board shall at all times constitute a quorum. Regular meetings shall be held at least once a year, at such time and place as shall be deemed most convenient for applicants. Due notice of such meetings shall be given by publication in such papers as may be selected by the board. Special meetings may be held upon a call of two members of the board. The board may prescribe rules, regulations and by-laws, in harmony with the provisions of this act, for its own proceedings and government for the examination of applicants for the practice of optometry. Said board or any member thereof shall have the power to administer oaths for all purposes required in the discharge of its duties and shall adopt a seal to be affixed to all of its official documents.

Officers of
board.

Seal.

SEC. 4. The Board of Examiners shall preserve a record of its proceedings in a book kept for that purpose, showing name, age, place and duration of residence of each applicant, the time spent in schools of optometry, and in the study and practice of same, and the year and school from which degrees were granted. Said register shall also show whether applicants were rejected or licensed, and shall be *prima facie* evidence of all matters contained therein. The secretary of the board shall, on March 1 of each year, transmit an official copy of said register to the Secretary of State for permanent record,

Records.

Register to
be filed.

a certified copy of which, with hand and seal of the secretary of said board, or Secretary of State, shall be admitted as evidence in all courts.

Practitioner
to register
in county.

SEC. 5. From and after the passage of this act it shall be unlawful for anyone to practice optometry within the limits of this state who has not registered in the district clerk's office of the county in which he resides, and in each county in which he practices, his authority for so practicing, as herein prescribed, together with his age, postoffice address, place of birth, subscribed and certified by oath, which, if wilfully false, shall subject the applicant to conviction and punishment for false swearing as provided by law. The fact of such oath and record shall be indorsed by the district clerk upon the certificate. The holder of the certificate must have the same recorded upon each change of residence or practice to another county, and the absence of such record shall be *prima facie* evidence of the want of possession of such certificate.

County
clerk to keep
register.

SEC. 6. It is hereby made the duty of the district clerk of each organized county in this state to purchase a book of suitable size to be known as the "Optometry Register" of such county, and set apart one full page for the registration of each optometrist, and to record in said optometry register the name and record of each optometrist who presents a certificate from the Board of Examiners, issued under this act. The district clerk shall receive the sum of \$1 from each optometrist so registered, which shall be his full compensation for all duties required under this act. When an optometrist shall die or remove to another county, or have his license revoked, it shall be the duty of said clerk to make a note of the fact at the bottom of the page as closing the record. On January 1st in each year said clerk shall, upon request of the board, certify to the office of the State Board of Examiners in Optometry a correct list of the optometrists then registered in the county, together with such other information as said board may require. Any district clerk upon conviction of knowingly violating any of the provisions of this act shall be fined not less than \$10 nor more than \$50. A copy from the

Fee for
registration.

Clerk to
notify board
of examiners.

optometry register pertaining to any person, certified to by said district clerk, under the seal of said court, also a certificate issued by said official, certifying that any person named has or has not registered in said office, as required by this act, shall be admitted as evidence in all trial courts.

SEC. 7. Every person desiring to commence or to continue the practice of optometry after January 1, 1910, except as hereinafter provided, upon presentation of satisfactory evidence, verified by oath, that he is more than 21 years of age, of good moral character, has a preliminary education equivalent to at least two years in a public high school, and has also studied at least three years in a registered optometrist's office, or has graduated from a school of optometry, maintaining a standard of not less than 12 months' actual attendance, said 12 months to be divided into at least two equal terms, with an interval of not less than six months separating each term, and satisfactory to the said Board of Examiners in Optometry, shall take an examination before said Board of Examiners in Optometry to determine his qualifications therefor. Every candidate successfully passing examination shall be registered by said Board of Examiners in Optometry as possessing the qualifications required by this act, and shall receive from said Board of Examiners in Optometry a certificate therefor; but any person who shall submit to said Board of Examiners in Optometry satisfactory proof as to his character, competency and qualifications, and that he has been continuously engaged in the practice of optometry in the state for more than two years next prior to the passage of this act, may receive from the said Board of Examiners in Optometry a certificate of exemption from such examination, which certificate shall be registered and entitle him to practice optometry under this act. Every person entitled to a certificate of exemption as herein provided, must make application therefor and present the evidence to entitle him thereto on or before January 1, 1910, or he shall be deemed to have waived his right to such certificate. Before any certificate is issued it shall be num-

Qualifications
of appli-
cant.

Examination.

Certificate
without ex-
amination.

Registry of
certificate.

Examina-
tion fee.

Other fees.

Disposition
of fees.

Examina-
tions, how
conducted.

bered and recorded in a book kept by the secretary of the State Board of Examiners in Optometry, and its number shall be noted upon the certificate. Applications for examination must be made in writing under affidavit to the secretary of the Board of Examiners in Optometry, and on forms prepared by said board, accompanied by a fee of \$25.00. Such applicants shall be given due notice of the date and place of examination. In case any applicant, because of his failure to pass examination, be refused a license, he or she, shall, after six months, be permitted to take a second examination without additional fee. The fee for issuing a certificate of registration shall be \$15, and for a certificate of exemption \$10, to be paid to the Board of Examiners in Optometry.

SEC. 8. The fund realized from the aforesaid fees shall be applied (first) to the payment of all necessary expenses of the Board of Examiners; any remaining funds shall be applied, by order of the board, to compensating members of the board in proportion to their labors: *Provided*, Said compensation shall in no case exceed \$5 each per day for time occupied.

SEC. 9. All examinations shall be conducted in writing and in such manner as shall be entirely fair and impartial to all individuals and every recognized school of optometry, the applicants being known by numbers, without name or other method of identification, on examination papers, by which members of the board may be able to identify such papers until after the applicants have been granted licenses or rejected. Upon satisfactory examination, under the rules of the board, applicants shall be granted licenses to practice optometry. All questions and answers, with grades attached, shall be preserved for one year. All applicants examined at the same time shall be given identical questions. All certificates shall be attested by the official seal, and signed by all members of the board, or a quorum thereof.

SEC. 10. The State Board of Examiners in Optometry may refuse to admit persons to its examinations or to is-

sue the certificates provided for in this act for any of the following causes:

(First) The presentation to the board of any certificate, or testimony, which was illegally or fraudulently obtained, or when fraud or deceit has been practiced in passing the examination. Grounds for refusing certificates.

(Second) Conviction of or charged by indictment with a crime of the grade of a felony, or one which involved moral turpitude.

(Third) Other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public; or for habits of intemperance of [or] drug addiction, calculated to destroy the accuracy of the work of an optometrist: *Providing*, That any applicant who may be refused admittance to examination before said board shall have his right of action to have such issue tried in the district court of the county in which some member of the board shall reside.

SEC. 11. The right herein to practice optometry in this state may be revoked by any court of competent jurisdiction upon proof of the violation of the law in any respect in regard thereto, or for any cause for which the State Board of Examiners in Optometry is authorized to refuse to admit persons to its examinations, as provided in Sec. 10 of this act, and it shall be the duty of the several district and county attorneys of this state to file and prosecute appropriate and judicial proceedings in the name of the state upon request of any member of said board. Revocation of certificate.

SEC. 12. Any person practicing optometry in this state in violation of the provisions of this act, shall, upon conviction thereof, be fined not less than \$50, nor more than \$500, or by imprisonment in the county jail for a term not less than two months nor exceeding six months, or both, and each day of such violation shall constitute a separate offense. Penalty.

SEC. 13. Nothing in this act shall be construed to apply to duly licensed physicians authorized to practice medicine under the laws of the State of Washington, nor Physicians and merchants exempt.

persons who sell spectacles, eye glasses or lenses as merchandise from permanently located and established places of business.

Repeal. SEC. 14. All acts and parts of acts inconsistent with this act are hereby repealed.

Passed by the Senate March 2, 1909.

Passed by the House March 11, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM. H. NICHOLS, Secretary of State.

CHAPTER 236.

[S. B. 363.]

APPROPRIATION FOR STATE ROADS.

AN ACT making an appropriation for the construction and maintenance of state roads and for the examination and survey of proposed state roads and extensions thereof and apportioning such appropriation.

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

Appropriation \$650,000. SECTION 1. There is hereby appropriated out of the public highway fund, the sum of six hundred and fifty thousand dollars (\$650,000), for the construction and maintenance of state roads and for the examination and survey of proposed state roads and extensions thereof, to be apportioned as hereinafter provided, to-wit:

Distribution.	For state road No. 1, the sum of	\$50,000
	For state road No. 2, the sum of	25,000
	For state road No. 3, the sum of	
	For state road No. 4, the sum of	20,000
	For state road No. 5, the sum of	60,000
	For state road No. 6, the sum of	25,000
	For state road No. 7, the sum of	120,000
	For state road No. 8, the sum of	60,000
	For state road No. 9, the sum of	60,000
	For state road No. 10, the sum of	20,000
	For state road No. 11, the sum of	30,000
	For state road No. 12, the sum of	20,000
	For state road No. 13, the sum of	10,000
	For state road No. 14, the sum of	35,000
	For state road No. 15, the sum of	15,000

For state road No. 16, the sum of	25,000
For state road No. 17, the sum of	20,000
For state road No. 18, the sum of	25,000
For first payment on Wenatchee bridge	10,000
For maintenance of state roads	10,000
For examination and survey of proposed state roads	10,000

Passed by the Senate March 6, 1909.

Passed by the House March 9, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 237.

[H. B. 344.]

APPROPRIATION FOR SOUTHWEST WASHINGTON FAIR.

AN ACT creating the Southwest Washington Fair Association and making an appropriation therefor.

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

SECTION 1. The public welfare requires that there be and hereby is established a state institution, to be known as the Southwest Washington Fair Association. Fair association.

SEC. 2. It shall be the object and purpose of this institution to promote and further the advancement of all agricultural, stock-raising, horticultural, mining, mechanical and industrial pursuits in this state and particularly southwest Washington, and for this object the management shall provide an annual fair or exhibition, by the institution between and within three miles of the cities of Centralia and Chehalis, of all the industrial products of this state and especially of southwest Washington, commencing in the month of September of each year after the passage of this act, and continuing for at least five days after the day of its commencement. Objects.

SEC. 3. The portion of the state composing the said Southwest Washington Fair Association shall be made up of the following counties, to-wit: Lewis, Cowlitz, Thurston, Pacific, Wahkiakum and Chehalis. Counties included.

Management. SEC. 4. The southwest Washington fair shall be under the management and control of twelve commissioners, known as the Southwest Washington Fair Commission, who shall be appointed by the Governor of the State of Washington, from the citizens in the territory composing the association, and shall hold office for four years from the date of their appointment and until their successors are appointed and qualified: *Provided, however,* That the Term of office of commissioners. commissioners first appointed under this chapter shall continue in office six members thereof two years each and six for four years each, from and after the date of their appointment, the term of said commissioners to be determined by the Governor of the state on appointing the same. Before taking or entering upon the duties of his office, each and every commissioner shall take and subscribe an oath or affirmation before some person authorized to administer the same, that he will support the constitution of the United States, the constitution of the State of Washington, and that he will faithfully and impartially perform the duties of the office of the Southwest Washington Fair Commissioner, which oath or affirmation shall be filed in the office of the Secretary of State. Any commissioner may be removed by the Governor for malfeasance or misfeasance in office after having been served with a copy of charges preferred against him and had reasonable time to reply thereto: *Provided,* The first commissioners appointed by the Governor under this act shall be appointed within sixty days after the passage of the same.

Organization of commission. SEC. 5. Within thirty days after notice of their appointments, the persons so appointed shall qualify as hereinbefore required, and shall meet at Centralia and organize by the election of one of their number as president for the term of one year, and until the election of his successor. Secretary. The commission shall also at such meeting elect a secretary and treasurer from their number, who shall before qualifying furnish the said commission with a good and sufficient bond of five thousand dollars, to be approved by them, and hold office at the pleasure of the commission: *Provided always,* That the secretary shall be a resident of

the county in which the fair is held. All meetings of the commission shall be held at the office of the secretary: *Provided*, That before qualifying each of such commissioners shall file in the office of the Secretary of State a good and sufficient bond of two thousand dollars, with not less than two sureties each, to be approved by the Governor and Secretary of State, conditioned for the faithful performance of their duties as such commissioners.

Board of
commis-
sioners.

SEC. 4. [6.] Immediately after their organization the Southwest Washington Fair Commission shall take and have full management of the Southwest Washington Fair Association, and shall have the care of its property and be intrusted with the entire directions of its business and financial affairs; shall, in conformity with the provisions of this chapter, prepare, adopt, publish and enforce all necessary rules for the management of such fair, its meeting, and exhibitions or the guidance of its officers or employees; shall determine the duties, responsibilities, compensation and tenure of office of all officers or other employees, as may be deemed necessary, and may remove from office any person appointed by it to any office for any inefficiency, neglect of duty or malfeasance in office; shall have power to appoint all necessary marshals to keep order on the ground and in the buildings of the Southwest Washington Fair Association during all annual exhibitions, and the marshals so appointed shall be vested with the same authority, for such purposes, as executive peace officers are vested by law; shall have power to charge entrance fees, gate money, lease stalls, stands, restaurant sites, give prizes and premiums and do all things which by said commission may be considered proper to conduct in connection with such a fair not otherwise prohibited by law.

Powers and
duties of com-
mission.

Peace officers.

SEC. 7. The Southwest Washington Fair Association shall locate the buildings, track, etc., for fair purposes upon a tract of land containing not less than thirty acres, to be in one solid block or piece of land, of good soil, with ample water, and located between the cities of Centralia and Chehalis, Lewis county: *Provided*, That said tract of land is donated to the Southwest Washington Fair As-

Location
of fair.

sociation by the citizens of Lewis county by a good and sufficient warranty deed, to be approved by the Attorney General. The Attorney General of the state shall, on demand, examine and approve the title to said lands and pass upon the sufficiency of all conveyances before acceptance of the same by the Southwest Washington Fair Association.

Buildings.

SEC. 8. The land thus acquired by the Southwest Washington Fair Association shall be forever set apart for the use and benefit of the Southwest Washington Fair Association, and immediately thereon the Southwest Washington Fair Commission shall cause to be constructed all necessary buildings, pavilions, exhibition halls, stalls, stands, a speed track, driveways, sidewalks, and fences, and cause the same to be kept in complete and continual repair: *Provided*, That no member of the Southwest Washington Fair Association shall ever be personally interested in any purchase made or contract entered into by said commission for the use and benefit of the Southwest Washington Fair Association.

Meetings of
commission.

SEC. 9. The regular and called meetings of the Southwest Washington Fair Commission shall be held at the office of the secretary in Lewis county; the regular annual meeting thereat shall be held the last Monday in May of each year, at which meeting after 1909, the president shall be elected, the secretary and treasurer elected and such other business transacted as the interests of the Southwest Washington Fair Association shall require. On the last Monday of September of each year the commission herein created shall prepare and transmit to the Governor of the state a full financial statement, signed by the president and the treasurer, of all funds received and disbursed, also a report signed by the president and the secretary, of all the assets and liabilities of the Southwest Washington Fair Association, a full and detailed account of all its transactions, statistics and information gained, and for this purpose the commission shall cause the secretary to constantly collect all kinds of information calculated to instruct the agricultural and industrial classes and have the same embodied in this report.

Annual
report.

SEC. 10. For the purpose of carrying out the provisions of this chapter the sum of fifteen thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated: *Provided, however,* That such appropriation shall be made subject to the conditions set forth in section 7 of this act. All vouchers for the expenditure of money under the provisions of this chapter must be signed by the president and at least two members of the Southwest Washington Fair Commission and attested by the secretary; and the State Auditor shall upon the presentation of such vouchers draw his warrant upon the State Treasurer for the payment of the same, and the State Treasurer shall pay such warrant out of any money on hand appropriated for the purpose herein set forth: *Provided,* That every voucher must set forth the purpose for which the money, material or labor represented was used: *Provided further,* That no part of the money donated by the state shall be used as payment of purses in trial of speed between man or beast.

Appropriation
\$50,000.

Payments.
how made.

SEC. 11. When the said Southwest Washington Fair Commission shall be organized as herein provided, the secretary of the commission shall report such facts to the governor and the state auditor. He shall also report to the governor any vacancy that may at any time occur in said commission. The members of the Southwest Washington Fair Commission shall be paid actual expenses while actually engaged in the business of the Southwest Washington Fair Association, and no compensation: *Provided, however,* That the secretary of such association shall receive a salary as determined upon by the commission, and mileage, when traveling in the interest of the Southwest Washington Fair Association.

Notice of or-
ganization.

Compensation
of members.

SEC. 12. No expenditure shall be made or indebtedness contracted by the commission in excess of the amount herein appropriated and any indebtedness so contracted shall be void.

Deficiency
prohibited.

Passed by the House March 9, 1909.

Passed by the Senate March 11, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 238.

[H. B. 182.]

APPROPRIATION FOR THE RELIEF OF INDIAN WAR
VETERANS.AN ACT for the relief of Indian war veterans of the wars of 1855
and 1856.*Be it enacted by the Legislature of the State of Washington:*Appropriation
\$20,000.

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 twenty thousand dollars (\$20,000.00), or so much thereof as shall be necessary, to pay the veterans of the Indians 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.

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 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 States at said time: *Provided*, That any amount paid on account thereof by the United States shall be deducted therefrom.

Claims, how
presented.

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.

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 war. Act includes whom.

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

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.

SEC. 5. [6.] An emergency exists and this act shall take effect immediately. Emergency.

Passed by the House March 9, 1909.

Passed by the Senate March 11, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 239.

[S. B. 302.]

APPROPRIATION FOR FISH HATCHERIES ON COLUMBIA RIVER.

AN ACT relating to the establishment of fish hatcheries on the Columbia river or its tributaries.

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

SECTION 1. The state fish commissioner is hereby authorized and empowered to establish and maintain a central fish hatchery and nursery system for salmon fry on the Kalama river in connection with the present hatcheries now located thereon, and for such purpose may co-operate with the master fish warden of the State of Oregon and the United States bureau of fisheries in securing salmon spawn, hatching the same and caring for the fry. Central hatchery.

Appropriation \$5,000.

SEC. 2. For the purpose of carrying out the provisions of this act there is hereby appropriated out of the general fund the sum of five thousand dollars, or so much thereof as may be necessary.

Passed by the Senate March 8, 1909.

Passed by the House March 10, 1909.

Approved March 23, 1909.

CHAPTER 240.

[S. B. 244.]

APPROPRIATION TO ENTERTAIN THE NATIONAL IRRIGATION CONGRESS.

AN ACT appropriating the sum of thirty thousand dollars to the National Irrigation Congress meeting at Spokane.

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

Appropriation, \$30,000.

SECTION 1. That there is hereby appropriated out of the general fund, not otherwise appropriated, the sum of thirty thousand dollars, to the National Irrigation Congress to be held at Spokane, August 9th to 14th, 1909.

Commissioner.

SEC. 2. That the president of the chamber of commerce of the city of Spokane, the chairman of the board of county commissioners of Spokane county, and R. In-singer, chairman of the board of control of the 17th National Irrigation Congress, are hereby constituted a commission to be known as the national irrigation congress commission, for the proper handling of the money appropriated herein, and all warrants drawn against said fund shall be upon properly verified vouchers signed by said commissioners.

Warrant.

SEC. 3. The state auditor is hereby directed to issue his warrants for said sum, and the state treasurer is hereby directed to pay the same when presented.

Passed by the Senate February 26, 1909.

Passed by the House March 8, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 241.

[S. S. B. 246.]

APPROPRIATION FOR PUYALLUP AND STUCK RIVERS.

AN ACT appropriating fifty thousand dollars for the improvement of the Puyallup and Stuck rivers in Pierce county, Washington, providing for the appointment of a commission to expend the same and conferring upon such commission the power of eminent domain.

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

SECTION 1. That there is hereby appropriated out of the general funds of the State of Washington, the sum of fifty thousand (\$50,000) dollars, to be expended in the improvement of the Puyallup river from the head of the Puyallup water-way in Tacoma harbor to the intersection of the Stuck river, and the improvement of the Stuck river from its junction with the Puyallup river to the north line of Pierce county. Appropriation \$50,000.

SEC. 2. Said improvements shall consist of widening, straightening, altering, and deepening the channels of said rivers, diverting the course thereof into said straightened channels and removing bars, log-jams, snags, drifts and other obstructions therefrom and erecting such construction along the banks thereof as may be necessary to protect said banks from erosion and to enable said rivers to carry their volume of water without overflowing or washing away their banks. Improvement.

SEC. 3. That a commission consisting of three members shall be appointed by the Governor, who shall serve without compensation, by whom and under whose direction and control this appropriation shall be expended. Commission.

SEC. 4. That said commission so appointed by the Governor, as herein provided, is hereby given the right of eminent domain (to be exercised as provided by general law for the exercise of the right of eminent domain by private corporations) for the purpose of acquiring any rights of way necessary or requisite in carrying to completion any improvement contemplated by this act, and particul-

arly for the purpose of acquiring rights of way necessary in the straightening of said rivers.

Passed by the Senate March 6, 1909.

Passed by the House March 8, 1909.

Approved March 23, 1909.

CHAPTER 242.

[S. B. 187.]

APPROPRIATION FOR A STATE HISTORICAL BUILDING.

AN ACT relating to the construction of a state historical building for the use of the Washington State Historical Society and making an appropriation from the general fund for the construction thereof.

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

Appropriation \$25,000.

SECTION 1. That for the purpose of constructing a state historical building in the city of Tacoma, for the use of the Washington State Historical Society, there is hereby appropriated from the general fund of the State of Washington the sum of twenty-five thousand dollars: *Provided*, That a suitable site for such state historical building be furnished without cost to the State of Washington therefor, and that such site shall be deeded to the State of Washington.

Commission.

SEC. 2. For the purpose of erecting and completing the state historical building provided for by this act, the Governor, the Secretary of State, the State Treasurer, the president of the Washington State Historical Society, the vice president of the Washington State Historical Society and the secretary of the Washington State Historical Society shall constitute a board or commission to be known as the state historical building commission, of which board the Governor shall be chairman and the secretary of the Washington State Historical Society shall be secretary; the members of the said board shall act as such until the completion of the state historical building hereby provided for, and no member of said board shall be allowed

or shall receive any compensation for his services as a member of such board, but all such members shall be allowed and be paid all their actual expenses while attending meetings of the board.

SEC. 3. It shall be unlawful for any of the members of said board to be connected either directly or indirectly, in any manner whatsoever, with any contract for the erection of said building or for any work done thereupon or for any material or supplies furnished therefor.

Commissioners not to be interested in contract.

SEC. 4. It shall be the duty of said board to locate said state historical building upon a sightly and suitable site within the city of Tacoma, Pierce county, Washington, which site shall be approved by at least two-thirds of the members of said commission before any arrangements shall be made or any expenses incurred by said commission in the matter of the erection of said building, which site shall, before any steps are taken toward the erection of said building, be conveyed to the State of Washington by good and perfect title which shall be approved by the Attorney General for the State of Washington.

Site to be selected in Tacoma.

SEC. 5. After the selection and conveyance to the State of Washington of a site as hereinbefore provided, said commission shall proceed to obtain plans, specifications and details for the construction of such building, which plans before they are adopted shall be approved by two-thirds of the members of said commission, and having adopted plans, specifications and details shall proceed to procure the erection and completion of said building in strict conformity to such plans and specifications.

Plans of building.

SEC. 6. No construction or material exceeding five hundred dollars in amount shall be furnished except pursuant to bids advertised for in one daily newspaper in the city of Tacoma for a period of ten days prior to the time fixed for awarding the contract for such construction or material. The bid of the lowest and best responsible bidder shall be accepted, save that said board shall have the right to reject any and all bids. The performance of any contract shall be secured by a surety company bond to

Bids.

Bond of
contractor.

the State of Washington in a sum not less than one-third of the contract price, said bond to be conditioned for the faithful performance of said contract and to be approved by the commission; each bid shall be accompanied by a certified check in the sum of ten per cent. of the bid, payable to the chairman of the commission, which check shall be forfeited to the state for the use of the general fund upon failure of the party making the bid for a period of fourteen days after any contract is awarded to enter into a proper contract and furnish a satisfactory bond as required by law. All contracts shall reserve the right to the board, for good cause shown, to annul the contract without allowance for damages and allowing only expenses incurred and labor performed not exceeding the contract price of the proportion that the work done or material furnished thereupon bears to the total amount contracted for. Such a per centum, not less than twenty per centum, as the board shall deem proper shall be reserved from payment on monthly estimates of work done until such work shall have been completed, inspected and accepted. All material contracted for shall be of the best quality and all work done shall be performed by skilled mechanics and competent laborers in accordance with the plans and specifications to the satisfaction of a competent architect employed by the board.

Annullment
of contract.

Architect.

SEC. 7. The architect chosen by the board shall receive such compensation for his plans and designs as the board shall deem reasonable; he shall be the supervising architect of said building and for all contracts for construction or material therefor. He shall see that all material furnished and work done shall be of the best quality and that all contracts of said board are faithfully performed by the parties so contracting with said board. He shall perform all other duties [de]involving upon him as such architect and shall be the supervising architect of said building and may be removed at the pleasure of said board. Neither said architect or any of his subordinates or assistants shall be connected in any way with, or interested in any work done or material furnished for said

building or any contract therefor, nor shall he have any interest therein, either directly or indirectly. He shall furnish a surety bond to the State of Washington in the sum of ten thousand dollars conditioned for the faithful performance by said architect, his assistants and subordinates of his or their duties as herein prescribed. All disbursements on account of the construction of said building shall be made pursuant to certificates issued by said board. All claims, bills and demands for labor performed, work done or material furnished shall be presented to the board in duplicate and shall be passed upon by said board after a careful examination of every item therein; if found correct they shall audit the same, preserving one duplicate and transmitting the other as audited and allowed to the State Auditor and shall issue a certificate to the effect that the services have been rendered or material furnished and the person therein named is entitled to a warrant on the treasury for the amount therein named. Upon the presentation of said certificate and the duplicate of the vouchers therefor as audited and approved by said board, to the State Auditor, he shall draw his warrant on the State Treasurer upon the general fund for the amount thereof and the State Treasurer is hereby authorized to pay said warrant for the amount stated to the order of the person named in said certificate: *Provided*, That no certificate shall be issued in excess of the amount appropriated hereby. All certificates issued shall be recorded in a book for that purpose.

Bond of
architect.

Claims, how
paid.

SEC. 8. The Attorney General shall be the legal adviser of the board herein constituted.

Legal
adviser.

Passed by the Senate March 10, 1909.

Passed by the House March 10, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State*.

CHAPTER 243.

[S. B. 386.]

GENERAL APPROPRIATION BILL.

AN ACT making appropriations for the maintenance of and sundry expenses at the various state institutions, schools and state offices and for the sundry civil expenses of the state government for the fiscal term beginning April 1, 1909, and ending March 31, 1911, except as otherwise provided.

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

SECTION 1. The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated out of any moneys in the several funds of the state treasury hereinafter named in payment of the salaries of certain officers and employes of the state, and for the maintenance and construction of buildings at, and other expenses for, the various state institutions and officers hereinbelow designated and mentioned, and for other and divers purposes hereinafter expressed, for the fiscal term beginning April 1, 1909, and ending March 31, 1911, and as hereinafter or otherwise particularly specified, the amount appropriated for all buildings for state institutions, whether penal, charitable, educational or reformatory, to be expended under the direction of the State Board of Control:

FROM THE GENERAL FUND.

FOR THE GOVERNOR'S OFFICE.

Governor.	Salary of Governor at \$6,000.....	\$12,000
	Salary of private secretary at \$2,000.....	4,000
	Salary of stenographer at \$1,500.....	3,000
	Salary of second stenographer at \$1,200.....	2,400
	Postage, traveling expenses and incidentals.....	3,000
	Rewards offered by the Governor, extradition expenses and examinations into alleged infractions of the law.	10,500
	Traveling expenses of Governor attending National Irrigation Congress, Trans-Mississippi Commercial Congress and other national assemblies.....	1,000
	Survey of public lands reserve on application by Governor	5,000
	Fund for entertainment of visiting officials.....	2,500
	Clerical assistance Governor's office, account printing....	1,200
	Refitting and refurnishing Governor's office.....	2,000
	Total.....	\$46,600

FOR THE LIEUTENANT GOVERNOR'S OFFICE.

Salary of Lieutenant Governor at \$1,200 per year.....	\$2,400	Lieutenant governor. Supreme court.
Traveling and incidental expenses.....	500	
Total.....	\$2,900	

FOR THE SUPREME COURT.

Salary of five judges at \$6,000 per year each.....	\$60,000
Salary of four judges at \$4,000 per year each.....	32,000
Salary of clerk at \$2,000 per year.....	4,000
Salary of reporter at \$3,500 per year.....	7,000
Proof-reader for reporter, clerk hire and incidentals.....	4,800
For board of examiners for examining applicants for ad- mission to practice law.....	620
Incidental expenses	13,000
Total.....	\$121,420

FOR THE OFFICE OF SECRETARY OF STATE.

Salary of Secretary at \$3,000 per year.....	\$6,000	Secretary of state.
Salary of assistant secretary at \$1,800 per year.....	3,600	
Salary of auditor and cashier at \$1,800 per year.....	3,600	
Salary of index clerk at \$1,000 per year.....	2,000	
Salary of three recording clerks at \$900 per year each...	5,400	
Salary of two stenographers at \$720 per year each.....	2,880	
Postage, incidentals and extra clerk hire.....	3,000	
Salary of Deputy Commissioner of Statistics and Emi- gration at \$1,500 per year.....	3,000	
Postage, traveling expenses and incidentals in Depart- ment of Statistics and Emigration.....	1,200	
Printing in Department of Statistics and Emigration....	4,800	
Total.....	\$35,480.	

FOR ATTORNEY GENERAL'S OFFICE.

Salary of Attorney General at \$3,000 per year.....	\$6,000	Attorney general.
Salary of two assistants at \$2,400 per year each.....	9,600	
Salary of one assistant at \$1,800 per year.....	3,600	
Salary of law clerk at \$1,200 per year.....	2,400	
Salary of stenographer at \$1,000 per year.....	2,000	
Traveling expenses, court expenses, witness fees, postage, telephone, telegraph and incidentals.....	8,000	
Total.....	\$31,600	

FOR AUDITOR'S OFFICE.

Salary of Auditor at \$3,000 per year.....	\$6,000	Auditor.
Salary of deputy auditor at \$1,800 per year.....	3,600	
Salary of bookkeeper at \$1,600 per year.....	3,200	
Salary of clerk at \$1,500 per year.....	3,000	
Salary of stenographer at \$960 per year.....	1,920	

Traveling expenses	250
Postage and incidentals.....	1,500
	<hr/>
Total.....	\$19,470

FOR TREASURER'S OFFICE.

Treasurer.	Salary of Treasurer at \$3,000 per year.....	\$6,000
	Salary of deputy treasurer at \$1,800 per year.....	3,600
	Extra clerk hire.....	1,200
	Stenographer at \$720 per year.....	1,440
	Postage and incidentals.....	1,250
	Premium on treasurer's bond.....	2,000
		<hr/>
	Total.....	\$15,490

FOR SUPERINTENDENT OF PUBLIC INSTRUCTION'S OFFICE.

Superintendent of public instruction.	Salary of Superintendent at \$3,000 per year.....	\$6,000
	Salary of deputy superintendent at \$1,800 per year.....	3,600
	Salary of assistant superintendent at \$1,800 per year....	3,600
	Incidentals and clerk hire.....	4,440
	Examination of teachers' manuscripts.....	3,800
	Traveling expenses of superintendent, assistant and deputy	2,500
	Postage, expressage, telephone and telegraph.....	1,500
	State board of education.....	1,500
	Office equipment	600
		<hr/>
	Total.....	\$27,540

FOR LAND COMMISSIONER'S OFFICE.

Land commissioner.	Salary of Commissioner at \$3,000 per year.....	\$6,000
	Salary of assistant commissioner at \$2,000 per year.....	4,000
	Salary of auditor and cashier at \$1,800 per year.....	3,600
	Salary of secretary to board at \$1,800 per year.....	3,600
	Salary of assistant secretary to board at \$1,200 per year.	2,400
	Salary of chief stenographer at \$1,400 per year.....	2,800
	Salary of engineer at \$2,000 per year.....	4,000
	Salaries of draughtsmen, additional clerks and abstracters	32,600
	Expenses of appraisement, sale and lease of state lands; expenses of selecting and perfecting title to state lands, including salaries, per diem and expenses of inspectors and examiners, and expenses of the commissioner and the board, and including United States land office fees.....	64,000
	Expenses of defending state's title to tide, shore, granted, selected and other lands in the state courts, United States courts and land offices.....	5,000
	Expenses of advertising sale and lease of state lands...	30,000
	Postage, incidentals, office supplies and traveling expenses	7,000

Surveying, platting and appraising tide and shore lands and surveying and establishing harbor lines; surveying and platting school and granted lands, including compensation of field engineer, and expenses of the commissioner and the board..... 15,000

Total \$180,000

FOR SUPERIOR COURTS.

Salaries of judges.....	\$113,700	Superior courts.
Traveling expenses	5,000	
Judges <i>pro tem</i>	1,000	
Salaries of judges for term ending March 31, 1909.....	1,250	

Total \$120,950

FOR OFFICE OF STATE BOARD OF CONTROL.

Salary of two members at \$3,000 per year each.....	\$12,000	Board of control.
Salary of one member at \$2,000 per year.....	4,000	
Traveling expenses of board, salaries of secretary and clerks and incidental expenses.....	14,000	

Total \$30,000

FOR THE STATE BOARD OF TAX COMMISSIONERS.

Salaries of commissioners at \$3,000 per year each.....	\$18,000	Tax commission.
Salaries of secretary and clerks.....	9,600	
Incidental expenses, postage, supplies, traveling expenses, costs of suits, witness fees, expert assistance, etc....	10,000	

Total \$37,600

FOR STATE LIBRARIAN'S OFFICE.

Salary of Librarian at \$1,500 per year.....	\$3,000	State library.
Salary of assistant at \$1,200 per year.....	2,400	
Purchase of books	1,500	
Incidentals, exchange and distribution.....	2,000	
Shelving, matting and fixtures.....	100	

Total \$9,000

FOR THE OFFICE OF STATE LAW LIBRARIAN.

Salary of Librarian at \$2,400 per year.....	\$ 4,800	Law library.
Salary of assistant at \$1,000 per year.....	2,000	
Purchase of books	10,000	
Incidentals	1,200	
Shelving	500	

Total \$18,500

FOR THE STATE TRAVELING LIBRARY.

Traveling library.	Salary of Superintendent at \$1,200 per year.....	\$ 2,400
	Books and cases	1,800
	Incidentals	400
	Total	\$4,600

FOR THE OFFICE OF STATE LABOR COMMISSIONER.

Labor commissioner.	Salary of Commissioner at \$2,400 per year.....	\$ 4,800
	Salary of deputy commissioner at \$1,200 per year.....	2,400
	Expenses at \$750 per year.....	1,500
	Clerk hire	2,000
	Expenses of arbitration.....	1,000
	For factory inspector, deputies, traveling expenses and incidentals in connection with the office (so much thereof as may be necessary, but in no event to exceed the collections of the office).....	20,000
	For steamboat inspectors, deputies and traveling expenses (so much thereof as may be necessary, but in no event to exceed the collections for this purpose).....	2,600
	Total	\$34,300

FOR THE STATE BOARD OF RAILROAD COMMISSIONERS.

Railroad commissioner.	Salary of three Commissioners at \$4,000 per year each..	\$ 24,000
	Salary of secretary at \$2,000 per year.....	4,000
	Salary of inspector at \$3,000 per year.....	6,000
	Salary of rate expert at \$3,000 per year.....	6,000
	Salary of engineer at \$2,400 per year.....	4,800
	Salary of stenographer at \$1,500 per year.....	3,000
	Salary of accountant at \$1,800 per year.....	3,600
	Contingent expenses of clerks; expenses of inspector and mileage; stamps, telephone, telegraph and express bills; maps and stationery; expenses of commissioners, secretary, engineer, stenographer and attorney, including transportation; public hearings, witness fees, etc.; expenses of experts making appraisements of new lines, etc.....	27,400
	Contingent expenses of inspectors for mileage and expense bills, incurred in telephone and telegraph departments; including public hearings, witness fees, and expenses of experts in making appraisements at \$2,500 per year	5,000
	Grain inspector's office, salary and incidentals.....	5,000
	Salary of chief grain and hay inspector, per year, \$2,000..	4,000
	Clerk hire per year \$1,200.....	2,400
	Maintenance, salaries, postage, expenses and incidentals connected with grain, hay, scale and warehouse inspection (so much thereof as may be necessary, but in no event to exceed the collection of the office).....	38,600
	Total	[\$133,800] \$128,800

FOR THE STATE BOARD OF HEALTH.

Salary of Commissioner at \$3,600 per year.....	\$ 7,200	Board of health.
Laboratory	4,200	
Maintenance of board and vital statistics.....	8,600	
Control of contagious and communicable diseases.....	20,000	
Total	\$40,000	

FOR STATE DAIRY AND FOOD COMMISSIONER'S OFFICE.

Salary of Commissioner at \$1,800 per year.....	\$ 3,600	Dairy and food commissioner.
Expenses of Commissioner.....	4,100	
Salary of deputy dairy instructor at \$1,200 per year....	2,400	
Expenses of deputy dairy instructor.....	2,720	
Salary of office clerk at \$900 per year.....	1,800	
Salary of deputy dairy and food commissioner at \$1,200 per year	2,400	
Expenses of deputy dairy and food commissioner.....	2,000	
Salary of deputy drug inspector at \$1,200 per year.....	2,400	
Expenses of deputy drug inspector.....	2,500	
Salary of three extra dairy inspectors.....	7,200	
Expenses of three extra dairy inspectors.....	6,000	
Total	\$37,120	

FOR OFFICE OF STATE OIL INSPECTOR.

Salary of Inspector at \$2,000 per year.....	\$ 4,000	Oil inspector.
Salary of chief deputy at \$1,500 per year.....	3,000	
Salaries of extra deputies at \$100 per month.....	5,000	
Office and traveling expenses (so much thereof as may be necessary, but in no event to exceed the collections for this purpose)	4,800	
Total	\$16,800	

FOR THE OFFICE OF THE STATE INSURANCE COMMISSIONER.

Salary of Commissioner at \$3,000 per year.....	\$ 6,000	Insurance commissioner.
Salary of deputy commissioner at \$1,800 per year.....	3,600	
Salary of actuary and examiner at \$2,000 per year.....	4,000	
Salary of clerk at \$1,200 per year.....	2,400	
Salary of stenographer at \$900 per year.....	1,800	
Postage, incidentals and traveling expenses.....	4,000	
Total	\$21,800	

FOR THE OFFICE OF THE STATE VETERINARIAN.

For traveling expenses of Veterinarian and salaries and expenses of assistants, and incidentals.....	\$12,500	State veterinarian.
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FOR THE OFFICE OF STATE HORTICULTURAL COMMISSIONER.

Salary of Commissioner at \$2,000 per year.....	\$ 4,000	Horticultural commissioner.
Salary of deputy commissioner at \$1,500 per year.....	3,000	
Traveling expenses	2,000	

Clerk hire at \$900 per year.....	1,800
Postage and incidentals.....	800
Office rent	600

Total \$12,200

FOR THE OFFICE OF STATE MINE INSPECTOR.

Mine In- spector.	Salary of Inspector at \$2,400 per year.....	\$4,800
	Office expenses, postage, traveling expenses and inci- dentals	2,800

Total \$7,600

FOR THE OFFICE OF STATE BANK EXAMINER.

Bank examiner.	Salary of Examiner at \$3,600 per year.....	\$ 7,200
	Salary of two deputies at \$2,400.....	9,600
	Salary of secretary and stenographer at \$1,200 per year..	2,400
	Traveling expenses	8,000
	Office rent, postage, telegraph, telephone and incidentals..	2,500
	Official bonds	300

Total \$30,000

FOR THE OFFICE OF STATE FISH COMMISSIONER.

Fish com- missioner.	Salary of Commissioner at \$2,400 per year.....	\$ 4,800
	Traveling expenses of commissioner.....	2,000
	Salaries of three deputies at \$1,500 per year each.....	9,000
	Traveling expenses of deputies.....	3,600
	Salary of stenographer and bookkeeper, office rent of com- missioner and incidentals	5,200
	Maintenance and construction of fish hatcheries and pa- trol service	125,000
	Supervision, protection and improvement of the state oyster reserves (so much thereof as may be neces- sary, but not to exceed the amount collected).....	7,000
	Maintenance of Lake Chelan hatchery.....	3,000
	Maintenance of Little Spokane hatchery.....	3,000
	Maintenance of Kettle Falls hatchery.....	3,000
	Salary of deputy game warden at \$1,500 per year.....	3,000
	Expenses at \$750 per year.....	1,500

Total \$170,100

FOR THE STATE FIRE WARDEN.

Fire warden.	Salary of Fire Warden at \$2,000 per year.....	\$ 4,000
	Office expenses	600
	Office assistant for five months in each year at \$100 per month	1,000
	Per diem and expenses of deputy fire wardens and men employed in controlling and extinguishing timber fires	39,000

Traveling expenses of fire wardens.....	850
Total	\$45,450

FOR THE WESTERN WASHINGTON HOSPITAL FOR THE INSANE.

Maintenance	\$495,750	Insane hospital, Steilacoom.
Repairs and improvements	15,000	
Furniture and carpets	3,000	
Hydro therapeutics	5,000	
Floorings on wards	3,500	
Laundry	2,500	
Refrigerating plant	4,000	
Library	500	
Buildings and purchase of land.....	75,000	[See ch. 222.]
Oil burning plant	4,000	
Cow barn	3,000	
Total	\$611,250	

FOR THE EASTERN WASHINGTON HOSPITAL FOR THE INSANE.

Maintenance	\$282,875	Insane hospital, Medical Lake.
Repairs, improvements and new boilers.....	15,000	
Furniture and carpets.....	2,500	
Barn at hospital	2,000	
Hydro therapeutics	3,000	
Surgery and equipment	2,500	
Water sections	5,000	
Library	200	
Cold storage	4,000	
Farm buildings	2,000	
Total	\$319,075	

FOR THE STATE SCHOOL FOR THE BLIND.

Maintenance	\$15,330	Blind school, Vancouver.
Repairs and improvements.....	2,000	
Manual training	1,000	
Library	100	
Total	\$18,430	

FOR THE STATE SCHOOL FOR THE DEAF.

Maintenance	\$61,320	Deaf school, Vancouver.
Repairs and improvements.....	4,000	
Manual training, machinery, etc.....	2,500	
Library	200	
Expenses of students to Gallaudet college.....	600	
Total	\$68,620	

FOR THE STATE PENITENTIARY.

Penitentiary, Walla Walla.	Maintenance	\$295,000
	Furniture and carpets.....	2,000
	Repairs and water supply.....	15,000
	Library	500
	Material for jute mill.....	41,000
	Material for stockade.....	11,000
	New warehouse	15,000
	Material for shop row.....	24,480
	Operation of jute mill and brick yard and purchase of raw material	275,000
Total	<u>\$678,980</u>	

FOR THE STATE TRAINING SCHOOL.

Training school, Chehalis.	Maintenance (from charitable, educational, penal and reform current fund until exhausted, balance from general fund)	\$ 98,500
	Repairs, improvements and manual training.....	30,000
	Library	500
	Total	<u>129,000</u>

FOR THE STATE SOLDIERS' HOME.

Soldiers' home, Orting.	Maintenance	\$75,000
	Furniture and carpets	2,500
	Repairs and improvements	5,000
	Library	200
	Maintenance of colony	15,000
	Sidewalk	1,500
Total	<u>\$99,200</u>	

FOR THE STATE VETERANS' HOME.

Veterans' home, Port Orchard.	Maintenance	\$ 20,000
	One building	60,000
	Equipment and furnishing.....	20,000
Total	<u>\$100,000</u>	

FOR THE STATE INSTITUTION FOR THE FEEBLE MINDED.

School for feeble minded, Medical Lake.	Maintenance	\$ 98,550
	Building	45,000
	Heating plant	15,000
	Furniture, carpets, repairs and improvements.....	4,000
	To purchase agricultural land (not to include lake front)	8,000
Total	<u>\$170,550</u>	

FOR THE STATE REFORMATORY.

Reformatory, Monroe.	Maintenance, building, power plant, wall, water system, sewer system, etc.	\$250,000
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FOR THE UNIVERSITY OF WASHINGTON.

Maintenance, and establishing a chair in the Scandinavian language, equipment and buildings (from the University current fund until exhausted, balance from the general fund): <i>Provided</i> , That this appropriation for maintenance be made contingent upon the establishment by the Board of Regents, upon the opening of the college year for 1909, and the maintenance of a course in military drill, tactics and other proper theoretical and practical military instruction comprising at least two years for all male undergraduates..	\$652,322	University, Seattle.
Balance due on Stewart collection.....	6,000	
To acquire and remodel certain buildings situated on the Alaska-Yukon-Pacific Exposition grounds at Seattle (or so much thereof as may be necessary).....	15,000	
Total	\$673,322	

FOR THE STATE COLLEGE OF WASHINGTON.

Maintenance, experimental extension work, improvements and equipments from the Agricultural College and Scientific School current funds until exhausted, balance from general fund	\$487,244	State college, Pullman.
Farmers' institutes, and extensions and building.....	17,500	
Western Washington Experiment Station.....	29,792	
Total	\$534,536	

FOR STATE NORMAL SCHOOL AT ELLENSBURG.

Maintenance (from Normal School current fund until exhausted, balance from general fund).....	\$80,200	Normal, Ellensburg.
Repairs and improvements.....	17,800	
Total	\$98,000	

FOR STATE NORMAL SCHOOL AT BELLINGHAM.

Maintenance	\$ 97,000	Normal, Bellingham.
Repairs and improvements.....	28,000	
To pay assessment for street improvements.....	2,500	
Total	\$127,500	

FOR STATE NORMAL SCHOOL AT CHENEY.

Maintenance	\$ 90,000	Normal, Cheney.
Repairs and improvements	20,000	
Total	\$110,000	

FOR CAPITOL BUILDING AND GROUNDS.

Maintenance	\$30,000	Capitol building.
Sidewalks and grounds at capitol, maintenance and improvement of grounds	4,000	

Furniture and carpets for capitol.....	1,000
Paving and street improvements.....	15,000
Total	\$50,000

FOR GOVERNOR'S MANSION.

To be expended under the direction of the State Building Commission, as provided in Chapter 49 of the Session Laws of 1907.

Governor's mansion.	Maintenance at \$2,000 per year.....	\$ 4,000
	Furnishing mansion	15,000
	Improving grounds	2,000
	Total	\$21,000

FOR WASHINGTON STATE FAIR.

State fair, North Yakima.	Buildings, maintenance and repairs.....	\$35,000
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TO PAY JUDGMENTS AGAINST STATE OF WASHINGTON.

Judgments.	World Real Estate Commercial Company.....	\$ 70.30
	J. L. Corrigan	1,052.14
	U. T. Erickson	25.88
	City of Montesano.....	18.84
	C. Victor Martin	201.93
	C. W. Hatch	304.00
	C. W. Hatch	307.30
	W. C. Pendleton	312.00
	A. F. Crowell	312.00
	C. W. Hatch	312.00
	W. C. Pendleton	305.25
	W. C. Pendleton	309.00
	A. F. Crowell	305.25
	A. F. Crowell	309.00
	F. A. Huntley	956.25
	State College of Washington	7,493.75
	Total	\$12,594.89

FOR THE STATE BOARD OF EQUALIZATION.

Board of equalization.	Expenses of the Board.....	\$400
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FOR PAYMENT OF DEFICIENCIES.

Deficiencies.	Bounties on wild animals.....	\$18,000.00
	Extradition expenses	3,500.00
	Salaries and expenses of deputy state horticultural commissioners	1,855.55
	Total	\$23,355.55

FOR PUBLIC PRINTING.

For printing for state offices and institutions, for work ^{Printing.} done between April 1, 1909, and March 31, 1911, to be paid for upon requisitions and vouchers duly approved by the officers designated in the laws relating to public printing: *Provided*, That not more than one hundred copies of any annual or biennial report shall be bound in full cloth or leather, or any binding except pamphlet binding; for the state offices and institutions, and for no other purpose, as follows:

Governor	\$ 600	Distribution of printing appropriation.
Secretary of State	6,000	
Insurance Department	3,000	
State Auditor	4,000	
State Treasurer	900	
Attorney General	2,650	
Commissioner of Public Lands.....	8,000	
Superintendent of Public Instruction.....	8,000	
Adjutant General	1,000	
State Librarian	1,500	
Supreme Court	1,500	
Fish Commissioner	800	
State Grain Inspector	260	
Dairy, Drug and Food Commissioner.....	500	
Commissioner of Labor	2,000	
Printing Department	50	
Highway Commissioner	1,000	
Oil Inspector	200	
State Board of Health.....	2,500	
Tax Commission	3,000	
Railroad Commission	3,000	
Fire Warden	750	
Bank Examiner	1,500	
Horticultural Commissioner	1,000	
State Board of Equalization	450	
State Veterinarian	200	
Coal Mine Inspector	300	
Board of Finance	150	
Traveling Library	400	
Law Library	400	
State Historical Society	100	
Board of Control	1,600	
Soldiers' Home	300	
State Training School	200	
School for Defective Youth.....	75	
Penitentiary	1,000	

L. W. Hospital	500
W. W. Hospital	600
Institute for Feeble Minded.....	250
State Reformatory	350
Veterans' Home	250
State College	3,500
State University	3,500
Bellingham Normal	1,500
Cheney Normal	1,500
Ellensburg Normal	1,000
Western Washington Experiment Station.....	1,500
House and Senate Journals and Session Laws.....	10,000
Total	\$83,335

FOR MILEAGE AND PER DIEM OF PRESIDENTIAL ELECTORS.

Presidential electors.	J. H. Fish	\$130.80
	W. P. Trimble	29.80
	Frank M. Dallam	168.00
	J. R. O'Donnell	22.60
	Charles E. Kerlee	70.60
	Total	421.80

SPECIAL IMPROVEMENT GRADE TAX ON STATE LANDS.

Assessments on state lands.	Seattle tide lands.....	\$ 435.24
	Queen Anne Second Addition.....	220.25
	Nellie Lawton estate.....	3,980.46
	University of Washington.....	74,579.92
	Spokane armory	1,403.30
	Tacoma armory	1,345.40
	Total	\$81,964.57

IMPROVEMENTS ON SKAGIT COUNTY LANDS.

Dikes and drains.	Dikes and Drainage.....	\$3,634.53
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FOR MISCELLANEOUS PURPOSES.

Miscellaneous.	Cost bills on conviction of felonies.....	\$ 38,000.00
	Transportation of convicts, insane, etc.....	52,500.00
	Publishing of Washington Reports.....	5,000.00
	Indexing Senate Journal	300.00
	Indexing House Journal	300.00
	Indexing Session Laws	200.00
	Bounties on wild animals.....	25,000.00
	Interest on permanent school bonds.....	85,750.00
	Interest on Capitol fund warrants.....	48,739.74
	Florence Crittenden Home at Seattle.....	2,000.00
	Florence Crittenden Home at Spokane.....	2,000.00
	White Shield Home at Tacoma.....	2,000.00
	State Historical Society.....	3,000.00

Relief of W. A. Ritchie.....	2,172.20
Expense of Criminal Code Commission.....	1,000.00
Care of graves of Spanish-American war veterans in Olympia cemetery, \$36.00 per year.....	72.00
Salary of chaplain at penitentiary.....	2,400.00
Relief of Pacific county.....	185.10
Relief of Chas. E. Shepard.....	6.10
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Total	\$270,625.14

FROM THE PUBLIC HIGHWAY FUND.

FOR THE OFFICE OF THE HIGHWAY COMMISSIONER.

Salary of Commissioner at \$2,500 per year.....	\$ 5,000	Highway com- missioner.
Traveling expenses of Commissioner.....	2,000	
Salary of chief engineer at \$2,000 per year.....	4,000	
Salary of chief clerk at \$2,000 per year.....	4,000	
Salary of chief draughtsman at \$1,800 per year.....	3,600	
Salary of assistant draughtsman at \$1,200 per year.....	2,400	
Salary of stenographer at \$900 per year.....	1,800	
Salary of bookkeeper and stenographer at \$1,200 per year	2,400	
Salary of right-of-way agent at \$1,800 per year.....	3,600	
Traveling expenses of chief engineer.....	1,500	
Office expenses	1,200	
Instruments and camp outfits.....	3,000	
Traveling expenses of State Auditor and State Treasurer as members of Highway Board.....	500	
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Total	\$35,000	

FROM THE MILITARY FUND.

Salary of Adjutant General at \$2,500 per year.....	\$ 5,000.00	Militia.
Salary of assistant adjutant general at \$1,500 per year..	3,000.00	
Salary of chief clerk at \$1,200 per year.....	2,400.00	
Salary of storekeeper at \$1,200 per year.....	2,400.00	
Salary of stenographer at \$900 per year.....	1,800.00	
To complete armory at Seattle.....	4,462.55	
To complete armory at Tacoma.....	6,525.75	
To complete armory at Spokane.....	4,000.00	
Maintenance	60,000.00	
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Total	\$89,588.30	

FROM THE GENERAL FUND.

FOR INCREASE IN SALARIES FROM JANUARY 13 TO MARCH 31, 1909,
NOT PROVIDED FOR BY APPROPRIATION OF 1907.

For Auditor	\$ 216.41	Salary increases.
For Attorney General	216.41	
For Treasurer	216.41	
For Land Commissioner	216.41	
For Governor	432.80	

For Supreme Judges (three).....	1,322.58
For Insurance Commissioner	649.18
For Secretary of State	108.20
For Superintendent of Public Instruction.....	108.20
For Lieutenant Governor	49 23
	\$3,535.89

Passed by the Senate March 10, 1909.

Passed by the House March 11, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 244.

[S. B. 185.]

APPROPRIATION FOR TROUT HATCHERY ON LEWIS RIVER.

AN ACT to establish a state trout hatchery on the east fork of the Lewis river in Clarke county, Washington, and making an appropriation therefor.

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

Location.

SECTION 1. That the State Fish Commissioner is hereby authorized and directed to prospect the east fork of the Lewis river and its tributaries in Clarke county, with a view of establishing and maintaining a state trout hatchery thereon.

Appropriation, \$3,000.

SEC. 2. That if, after investigation, the State Fish Commissioner finds the east fork of the Lewis river in Clarke county or any of its tributaries in said county, a suitable stream for the location of a trout hatchery, he is hereby authorized and directed to establish and maintain a state trout hatchery on said east fork of the Lewis river, or one of its tributaries, in Clarke county, Washington, and there is hereby appropriated out of the moneys in the state treasury, not otherwise appropriated, the sum of three thousand dollars to erect, equip and maintain the same for two years.

Passed by the Senate March 5, 1909.

Passed by the House March 10, 1909.

Approved March 23, 1909.

CHAPTER 245.

[S. B. 238.]

APPROPRIATION FOR TOPOGRAPHICAL SURVEY.

AN ACT to provide for the making of topographic maps within the State of Washington, and the investigation of its water resources in co-operation with the United States government; also for geologic investigations within the State of Washington, and appropriating moneys therefor.

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

SECTION 1. In order to complete the topographic map of the State of Washington, and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, there is hereby appropriated the sum of thirty thousand dollars (\$30,000), for co-operation with those branches of the United States geological survey engaged in this work. This appropriation, however, shall be contingent upon, and not become available unless the United States government apportion an equal amount to be expended for similar purposes within the state. The board of geological survey is hereby authorized and directed to enter into such agreements with the director of the United States geological survey as will insure that the said surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible.

Appropriation
for topo-
graphic sur-
vey, \$30,000.

SEC. 2. In order to enable the board of geological survey to carry on investigations authorized by law, there is hereby appropriated the sum of twenty thousand dollars (\$20,000) for the use of said board in the geologic and other investigations provided for in chapter 165 of the Session Laws of the State of Washington for 1901, and as amended in chapter 157 of the Session Laws of 1903.

Appropriation
for geologic
survey.
\$20,000.

SEC. 3. In order to carry out the purposes of this act, all persons employed hereunder are authorized to enter and cross all lands within the state: *Provided*, That in so doing no damage is done to private property.

Privileges
of sur-
veyors.

Appropriation, when available.

SEC. 4. The sum of fifty thousand dollars (\$50,000) herein appropriated for the purposes specified in this act shall be available in the following manner: One-half during the first twelve months after this act takes effect, and the unexpended balance during the second twelve months after this act takes effect.

Passed by the Senate March 2, 1909.

Passed by the House March 9, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 246.

[S. B. 36.]

ESTABLISHING A HIGHWAY LEVY OF ONE MILL.

AN ACT relating to the public highway fund, and amending an act entitled "An act to amend section 2 of an act of the legislature of the State of Washington, approved March 9, 1905, entitled 'An act creating a fund to be known as the public highway fund and making provisions for an annual levy to produce revenue therein for the construction and repairs of highways and bridges,' approved February 15, 1907."

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

SECTION 1. That section one of an act of the legislature of the State of Washington, approved February 15, 1907, and entitled "An act to amend section two of an act of the legislature of the State of Washington, approved March 9, 1905, entitled 'An act creating a fund to be known as a public highway fund, and making provisions for an annual levy to produce revenue therein for the construction and repairs of highways and bridges,'" be and the same is hereby amended to read as follows: Sec. 2. For the purpose of raising revenue to repair and construct highways and bridges the proper state officers shall levy and collect a tax of one mill upon all the property in the state subject to taxation for the fiscal year commencing March 1, 1909, and for each fiscal year thereafter; that the funds provided by such levy shall be placed

[Am'd. §1,
ch. 18, p.
23, L. '07;
§2, ch. 137,
p. 253.
L. '05.]

One mill.

in said highway fund: *Provided, however,* That nothing in this act contained shall have the effect or be construed to have the effect to alter or modify in any particular any levy made or proceeding had or to be had, or any collection of any tax, under or pursuant to the provisions of said act, approved February 15, 1907, and of which this act is an amendment.

Passed by the Senate February 24, 1909.

Passed by the House March 8, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 247.

[S. B. 362.]

APPROPRIATION FOR STATE AID ROADS.

AN ACT making appropriation for the construction of state aid roads under the provisions of chapter 150, Laws of Washington, A. D. 1907.

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

SECTION 1. There is hereby appropriated out of the public highway fund the sum of five hundred and ninety-five thousand dollars (\$595,000) for the construction of state aid roads under the provisions of Chapter 150, Laws of Washington, A. D. 1907.

Appropriation
\$595,000.

Passed by the Senate March 6, 1909.

Passed by the House March 9, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 248.

[H. B. 245.]

AUTHORIZING REGENTS OF STATE UNIVERSITY TO
GRANT RIGHT-OF-WAY.

AN ACT authorizing the board of regents of the University of Washington to confirm a right-of-way in any railroad company now having in operation a line of railroad, or branches, or sidings, or spurs thereof, or to grant an easement for a right-of-way to any railroad company or street car company hereafter desiring to construct a railroad or line, with branches, sidings, or spurs, all upon any property in use by said university for university purposes, or as a part of the ground set aside or devoted to university purposes, and providing for the manner in which said right-of-way shall be ascertained and patented, and the terms upon which the same shall be granted and held.

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

SECTION 1. Any railroad company now having in operation a line of railroad, or branches, sidings, or spurs thereof, upon any property in this state in use by the University of Washington for university purposes, or as a part of the grounds set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the Commissioner of Public Lands; and any railroad company or street car company desiring hereafter to construct a railroad or street car line, or extensions thereof, with branches, sidings, or spurs, upon any property in this state in use by the University of Washington for university purposes, or as a part of the ground set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company or street car company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the Commissioner of Public Lands.

Companies
benefited.

Plat.

Future
rights-of-
way.

SEC. 2. The board of regents of said University of Washington are authorized, upon the filing of such plat with it, to agree in writing with any such railroad company or street car company, upon the boundaries and the extent of such right-of-way, the manner in which the same shall be maintained and fenced and occupied, and prescribe the number, character, and maintenance of crossings, cross-overs, and subways, and as to what sum said railroad company or street car company shall pay for the right-of-way granted.

Conditions
of grant.

SEC. 3. If such agreement is entered into, said board of regents shall transmit a certified copy thereof to the Commissioner of Public Lands, who shall, after the full amount of money provided in such agreement shall be paid by said railroad company or street car company to the State Treasurer, issue to such railroad company or street car company, in the name of the State of Washington, a deed for the right-of-way described in such agreement, which said deed shall recite and be subject to all the terms and conditions of such agreement, and certified copies of said deed shall be filed, one in the office of the Commissioner of Public Lands, and the other with the secretary of said board of regents.

Deed for
right-of-
way.

SEC. 4. The conveyance herein provided for shall not be deemed to convey the fee to the land described, but an easement only thereover and for railroad or street car purposes only, and when the right-of-way granted as aforesaid shall not be used for the purposes for which it was granted, then and thereupon the easement right shall immediately become void.

Deed conveys
easement,
only.

Passed by the House February 23, 1909.

Passed by the Senate March 9, 1909.

NOTE BY SECRETARY OF STATE.—This bill filed and allowed to become a law without the signature of the Governor.

SAM H. NICHOLS, *Secretary of State.*

CHAPTER 249.

[S. B. 300.]

CRIMINAL CODE.

[The Criminal Code was taken largely from New York and Minnesota.]

AN ACT relating to crimes and punishments and the rights and custody of persons accused or convicted of crime, and repealing certain acts.

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

CHAPTER 1.

GENERAL PROVISIONS.

SECTION 1. *Classification of Crimes.*

Classification of crimes.

A crime is an act or omission forbidden by law and punishable upon conviction by death, imprisonment, fine or other penal discipline. Every crime which may be punished by death or by imprisonment in the state penitentiary is a felony. Every crime punishable by a fine of not more than two hundred and fifty dollars, or by imprisonment in a county jail for not more than ninety days, is a misdemeanor. Every other crime is a gross misdemeanor.

SEC. 2. *Persons Punishable.*

Persons punishable.

The following persons are liable to punishment:

1. A person who commits in the state any crime, in whole or in part.
2. A person who commits out of the state any act which, if committed within it, would be larceny, and is afterward found in the state with any of the stolen property.
3. A person who, being out of the state, counsels, causes, procures, aids or abets another to commit a crime in this state.
4. A person who, being out of the state, abducts or kidnaps, by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends or conveys such person into this state.
5. A person who commits an act without the state which affects persons or property within the state, or the public health, morals or decency of the state, which, if committed within the state, would be a crime.

SEC. 3. *Duress of Married Woman No Defense.*

It is no defense for a married woman charged with the commission of a crime, that the alleged act committed by her was committed in the presence of her husband.

Duress of married woman.

SEC. 4. *Duress as a Defense.*

Whenever any crime, except murder, is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal he is liable to instant death or grievous bodily harm, such threats and apprehension constitute duress, which will excuse such participator from criminal prosecution.

Duress as a defense.

SEC. 5. *Responsibility of Children.*

Children under the age of eight years are incapable of committing crime. Children of eight and under twelve years of age are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age.

Responsibility of children.

SEC. 6. *Intoxication No Defense.*

No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular purpose, motive or intent is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such purpose, motive or intent.

Intoxication no defense.

SEC. 7. *Insanity, Idiocy, Imbecility, Criminal Propensity, No Defense.*

It shall be no defense to a person charged with the commission of a crime, that at the time of its commission, he

Insanity, etc., no defense.

was unable by reason of his insanity, idiocy or imbecility to comprehend the nature and quality of the act committed, or to understand that it was wrong; or that he was afflicted with a morbid propensity to commit prohibited acts; nor shall any testimony or other proof thereof be admitted in evidence.

SEC. 8. *Principal Defined.*

Principal defined.

Every person concerned in the commission of a felony, gross misdemeanor or misdemeanor, whether he directly commits the act constituting the offense, or aids or abets in its commission, and whether present or absent; and every person who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit a felony, gross misdemeanor or misdemeanor, is a principal, and shall be proceeded against and punished as such. The fact that the person aided, abetted, counseled, encouraged, hired, commanded, induced or procured, could not or did not entertain a criminal intent, shall not be a defense to any person aiding, abetting, counseling, encouraging, hiring, commanding, inducing or procuring him.

SEC. 9. *Accessory Defined.*

Accessory defined.

Every person not standing in the relation of husband or wife, brother or sister, parent or grandparent, child or grandchild, to the offender, who after the commission of a felony shall harbor, conceal or aid such offender with intent that he may avoid or escape from arrest, trial, conviction or punishment, having knowledge that such offender has committed a felony or is liable to arrest, is an accessory to the felony.

SEC. 10. *Trial and Punishment of Accessories.*

Trial and punishment of accessories.

Every accessory to a felony may be indicted, tried and convicted either in the county where he became an accessory, or where the principal felony was committed; and whether the principal offender has or has not been convicted, or is or is not amenable to justice, or has been pardoned or otherwise discharged after conviction; and, ex-

cept where a different punishment is specially provided by law, such accessory shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both.

SEC. 11. *Conviction of Lesser Crime.*

Upon the trial of an indictment or information, the defendant may be convicted of the crime charged therein, or of a lesser degree of the same crime, or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime. Whenever the jury shall find a verdict of guilty against a person so charged, they shall in their verdict specify the degree or attempt of which the accused is guilty.

Conviction of
lesser crime.

SEC. 12. *Attempts, How Punished.*

An act done with intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime; and every person who attempts to commit a crime, unless otherwise prescribed by statute, shall be punished as follows:

Attempts,
how pun-
ished.

1. If the crime attempted is punishable by death or life imprisonment, the person convicted of the attempt shall be punished by imprisonment in the state penitentiary for not more than twenty years.

2. In every other case he shall be punished by imprisonment in such manner as may be prescribed for the commission of the completed offense, for not more than half the longest term, or by a fine of not more than half the largest sum, prescribed upon conviction for the commission of the offense attempted, or by both such fine and imprisonment; but nothing herein shall protect a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the punishment prescribed for the crime actually committed; and a person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime was consummated, unless the court in its discretion shall discharge the jury and direct the defendant to be tried for the crime itself.

SEC. 13. *Punishment of Felony When Not Fixed by Statute.*

Punishment
of felony.

Every person convicted of a felony for which no punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 14. *Punishment of Misdemeanor When Not Fixed by Statute.*

Punishment
of misde-
meanor.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not more than ninety days, or by a fine of not more than two hundred and fifty dollars.

SEC. 15. *Punishment of Gross Misdemeanor When Not Fixed by Statute.*

Punishment
of gross mis-
demeanor.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both.

SEC. 16. *Failure of Duty by Public Officer a Misdemeanor.*

Nonfeasance.

Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor.

SEC. 17. *Prohibited Acts Are Misdemeanors.*

Prohibited
acts.

Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

SEC. 18. *Acts Punishable Under Foreign Law.*

Acts
punishable
elsewhere.

An act or omission punishable as a crime in this state is not less so because it is also punishable under the laws

of another state, government or country, unless the contrary is expressly declared in the law relating thereto.

SEC. 19. *Foreign Conviction or Acquittal.*

Whenever, upon the trial of any person for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted or convicted upon the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission with respect to which he is upon trial, such former acquittal or conviction is a sufficient defense.

Foreign conviction or acquittal.

SEC. 20. *Conviction or Acquittal in Other County.*

Whenever, upon the trial of any person for a crime, it shall appear that the defendant has already been acquitted or convicted upon the merits, of the same crime, in a court having jurisdiction of such offense in another county of this state, such former acquittal or conviction is a sufficient defense.

Conviction or acquittal in other county.

SEC. 21. *Punishment for Contempt.*

A criminal act which at the same time constitutes contempt of court, and has been punished as such, may also be punished as a crime, but in such case the punishment for contempt may be considered in mitigation.

Punishment for contempt.

SEC. 22. *Sending Letter, When Complete.*

Whenever any statute makes the sending of a letter criminal, the offense shall be deemed complete from the time it is deposited in any postoffice or other place, or delivered to any person, with intent that it shall be forwarded; and the sender may be proceeded against in the county wherein it was so deposited or delivered, or in which it was received by the person to whom it was addressed.

Sending letter.

SEC. 23. *Omission, When Not Punishable.*

No person shall be punished for an omission to perform an act when such act has been performed by another acting in his behalf, and competent to perform it.

Omission

SEC. 24. *Commitment to Washington State Training School.*

Commitment
to Wash-
ington state
training
school.

Whenever any boy between the ages of eight and sixteen years, or any girl between the ages of eight and eighteen years, shall be found guilty of any crime, except murder or manslaughter, the court may, in its discretion, order such person committed to the Washington State Training School to remain, in case of a boy, until he shall arrive at the age of eighteen years and, in case of a girl, until she shall arrive at the age of nineteen years, unless sooner paroled or legally discharged.

SEC. 25. *Commitment to Washington State Reformatory.*

Commitment
to Washing-
ton state
reformatory.

Whenever any male person, between the ages of sixteen and thirty years, never before convicted in this state or elsewhere of any crime which under the laws of this state would amount to a felony, shall be convicted of any felony except murder, arson in the first degree, or robbery, the court may in its discretion order such person to be committed to and confined in the Washington State Reformatory.

SEC. 26. *Transfer of Prisoners From One Institution to Another.*

Transfer of
prisoners.

Whenever in their judgment, the welfare of any prisoner or prisoners confined in any penal institution shall require that any prisoner be removed from one institution to another, the board having control of such institution shall have authority to order such removal.

SEC. 27. *Working Prisoners in County Jail.*

Employment
of prisoners.

The sheriff of each county shall employ all male persons sentenced to imprisonment in the county jail thereof in such manner and at such places within the county as may be directed by the board of county commissioners of such county.

SEC. 28. *Suspending Sentences.*

Suspending
sentences.

Whenever any person under the age of twenty-one years shall be convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery,

carnal knowledge of a female child under the age of ten years, or rape, the court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be staid and suspended until otherwise ordered by such court.

SEC. 29. *Indeterminate Sentences.*

Whenever any person shall be convicted of any felony for which no fixed period of confinement is imposed by law, the court shall, in addition to any fine or forfeiture which he may impose, direct that such person be confined in the state penitentiary, or in the Washington State Reformatory, as the case may be, for a term not less than the minimum nor greater than the maximum term of imprisonment prescribed by law for the offense of which such person shall be convicted; and where no minimum term of imprisonment is prescribed by law, the court shall fix the same in his discretion at not less than six months nor more than five years; and where no maximum term of imprisonment is prescribed by law, the court shall fix such maximum term of imprisonment.

Indeterminate sentences.

SEC. 30. *The Board Having Control to Determine Period of Imprisonment.*

The state board of control, acting in conjunction with the warden of the state penitentiary, or the board of managers of the Washington state reformatory, acting in conjunction with the superintendent of such reformatory, as the case may be, may at any time after the expiration of the minimum term of imprisonment for which such prisoner was committed thereto, direct that any prisoner confined in such institution shall be released on parole upon such terms and conditions as in their judgment they may prescribe in each case.

Period of imprisonment, determination.

SEC. 31. *Confinement of Insane Prisoners.*

Whenever, in the judgment of the court trying the same, any person convicted of a crime shall have been at the time of its commission unable by reason of his insanity, idiocy or imbecility to comprehend the nature and quality of his act, or to understand that it was wrong,

Confinement of insane prisoners.

or shall be at the time of his conviction or sentence insane or an idiot or imbecile, such court may in its discretion direct that such person be confined for treatment in one of the state hospitals for the insane or in the insane ward of the state penitentiary, until such person shall have recovered his sanity. In determining whether any person convicted of a crime was at the time of the commission thereof unable by reason of his insanity, idiocy or imbecility to comprehend the nature and quality of his act, or to understand that it was wrong, or is at the time of his conviction or sentence insane or an idiot or imbecile, the court may take counsel with one or more experts in the diagnosis and treatment of insanity, idiocy and imbecility, and may make such personal or other examination of the defendant as in his judgment may be necessary to aid in the determination.

SEC. 32. *Removal of Insane Convict.*

Removal of
insane
convict.

Whenever in the judgment of the state board of control the welfare of any person confined in any penal institution, or in any institution for the care of the insane, shall require that he be removed for treatment or confinement to another institution for the care of the insane, or to the insane ward of the state penitentiary, they shall be authorized to order such removal, but whenever a change is made in the location of any such inmate, a record open to the public shall be made and the relatives of such inmate shall be notified of the change.

SEC. 33. *Imprisonment on Two or More Convictions.*

Two or
more con-
victions.

Whenever a person shall be convicted of two or more offenses before sentence has been pronounced for either, the imprisonment to which he is sentenced upon the second or other subsequent conviction shall commence at the termination of the first or other prior term or terms of imprisonment to which he is sentenced; and whenever a person while under sentence of felony shall commit another felony and be sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms.

SEC. 34. *Habitual Criminals.*

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been twice convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be adjudged to be an habitual criminal and shall be punished by imprisonment in the state penitentiary for not less than ten years.

Habitual
criminals.

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been twice convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been four times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be punished by imprisonment in the state penitentiary for life.

SEC. 35. *Prevention of Procreation.*

Whenever any person shall be adjudged guilty of carnal abuse of a female person under the age of ten years, or of rape, or shall be adjudged to be an habitual criminal, the court may, in addition to such other punishment or confinement as may be imposed, direct an operation to be performed upon such person, for the prevention of procreation.

Prevention of
procreation.

SEC. 36. *Convicts Protected—Forfeitures Abolished.*

Every person sentenced to imprisonment in any penal institution shall be under the protection of the law, and any unauthorized injury to his person shall be punished in the same manner as if he were not so convicted or sentenced. A conviction of crime shall not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands,

Rights of
convicts.

or in case of suicide or where a person flees from justice, are abolished.

SEC. 37. *Conviction of Public Officer Forfeits Trust.*

Disqualifica-
tion of
public
officers.

The conviction of a public officer of any felony or malfeasance in office shall entail, in addition to such other penalty as may be imposed, the forfeiture of his office, and shall disqualify him from ever afterwards holding any public office in this state.

SEC. 38. *Convict as Witness.*

Convict as
witness.

Every person convicted of a crime shall be a competent witness in any civil or criminal proceeding, but his conviction may be proved for the purpose of affecting the weight of his testimony, either by the record thereof, or a copy of such record duly authenticated by the legal custodian thereof, or by other competent evidence, or by his cross-examination, upon which he shall answer any proper question relevant to that inquiry, and the party cross-examining shall not be concluded by his answer thereto.

SEC. 39. *Incriminating Testimony Not to be Used.*

Incriminating
testimony
not to be
used.

In every case where it is provided in this act that a witness shall not be excused from giving testimony tending to criminate himself, no person shall be excused from testifying or producing any papers or documents on the ground that his testimony may tend to criminate or subject him to a penalty or forfeiture; but he shall not be prosecuted or subjected to a penalty or forfeiture for or on account of any action, matter or thing concerning which he shall so testify, except for perjury or offering false evidence committed in such testimony.

SEC. 40. *Intent to Defraud.*

Intent to
defraud.

Whenever an intent to defraud shall be made an element of an offense, it shall be sufficient if an intent appears to defraud any person, association or body politic or corporate whatsoever.

SEC. 41. *Crimes on Railway Trains, Boats, Etc.*

The route traversed by any railway car, coach, train or other public conveyance, and the water traversed by

any boat shall be criminal districts; and the jurisdiction of all public offenses committed on any such railway car, coach, train, boat or other public conveyance, or at any station or depot upon such route, shall be in any county through which said car, coach, train, boat or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate.

Crimes on public conveyances—jurisdiction.

SEC. 42. *Application to Prior Offenses.*

Nothing contained in any provision of this act shall apply to an offense committed or act done at any time before the day when this act shall take effect. Such an offense shall be punished according to, and such act shall be governed by, the provisions of law existing when it is done or committed, in the same manner as if this act had not been passed.

Application to prior offenses.

SEC. 43. *Application to Existing Civil Rights.*

Nothing in this act shall be deemed to affect any civil right or remedy existing at the time when it shall take effect, by virtue of the common law or of the provision of any statute.

Application to existing civil rights.

SEC. 44. *Civil Remedies Preserved.*

The omission to specify or affirm in this act any liability to any damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, shall not affect any right to recover or enforce the same.

Civil remedies preserved.

SEC. 45. *Proceedings to Impeach, Etc., Preserved.*

The omission to specify or affirm in this act any ground of forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, shall not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition or suspension.

Impeachment.

SEC. 46. *Rule of Construction.*

Construc-
tions.

Every provision of this act shall be construed according to the fair import of its terms.

SEC. 47. *Common Law to Supplement Statute.*

Common law
to supple-
ment
statute.

The provisions of the common law relating to the commission of crime and the punishment thereof, in so far as not inconsistent with the institutions and statutes of this state, shall supplement all penal statutes of this state and all persons offending against the same shall be tried in the superior courts of this state.

SEC. 48. *To Be Construed as Continuation of Former Acts.*

To be con-
strued as
continuation
of former
acts.

The provisions of this act, in so far as they are substantially the same as existing statutes, shall be construed as continuations thereof and not as new enactments.

SEC. 49. *Act as Measure of Law.*

Repeals.

No statute, law or rule is continued in force because it is consistent with the provisions of this act on the same subject; but in all cases provided for by this act, all statutes, laws and rules heretofore in force in this state, whether consistent or not with the provisions of this act, unless expressly continued in force by it, are repealed and abrogated.

SEC. 50. *Repeal Does Not Revive Former Law.*

No revival by
repeal.

The repeal or abrogation by this act of any existing law shall not revive any former law heretofore repealed, nor affect any right already existing or accrued or any action or proceeding already taken, except as in this act provided; nor does it repeal any private statute or statute affecting civil rights or liabilities not expressly repealed.

SEC. 51. *Definition of Terms.*

Definition of
terms.

In construing the provisions of this act, save when otherwise plainly declared or clearly apparent from the context, the following rules shall be observed:

Negligence.

1. Each of the words "neglect," "negligence," "negligent," and "negligently" shall import a want of such attention to the nature or probable consequences of an

act or omission as an ordinarily prudent man usually exercises in his own business.

2. Each of the words "corrupt" and "corruptly" shall import a wrongful desire to acquire or cause some pecuniary or other advantage to himself or another, by the person to whom applicable.

3. "Malice" and "maliciously" shall import an evil intent, wish or design to vex, annoy or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty. Malice.

4. The word "knowingly" imports a knowledge that the facts exist which constitute the act or omission of a crime, and does not require knowledge of its unlawfulness; knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent man upon inquiry.

5. Whenever an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person. Intent.

6. The word "boat" shall include ships, steamers and other structures adapted to navigation or movement from place to place by water. Boats.

7. The word "signature" shall include any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto.

8. The word "writing" shall include printing.

9. The word "property" shall include both real and personal property.

10. The term "real property" shall include every estate, interest and right in lands, tenements and hereditaments, corporeal or incorporeal. Real property.

11. The term "personal property" shall include dogs and all domestic animals and birds, water, gas and electricity, all kinds or descriptions of money, chattels and effects, all instruments or writings completed and ready to be delivered or issued by the maker, whether actually Personal property.

delivered or issued or not, by which any claim, privilege, right, obligation or authority, or any right or title to property real or personal, is, or purports to be, or upon the happening of some future event may be evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, discharged or affected, and every right and interest therein.

12. The word "bond" shall include an undertaking.

Genders.

13. Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

14. The word "person" shall include a corporation or joint stock association; and whenever it is used to designate a party whose property may be the subject of an offense it shall also include the state, or any other state, government or country which may lawfully own property within this state.

15. The term "judge" shall include every judicial officer authorized, alone or with others, to hold or preside over a court of record.

16. Any person shall be deemed an "owner" of any property who has a general or special property in the whole or any part thereof, or lawful possession thereof, either actual or constructive.

Structures.

17. The words "dwelling house" shall include every building or structure which shall have been usually occupied by a person lodging therein at night, and whenever it shall be so constructed as to consist of two or more parts or rooms occupied or intended to be occupied, whether permanently or temporarily, by different tenants separately by usually lodging therein at night, or for any other separate purpose, each part shall be deemed a separate dwelling house of the tenant occupying the same.

18. The word "building" shall include every house, shed, boat, water craft, railway car, tent or booth, whether completed or not, suitable for affording shelter for any human being, or as a place where any property is or shall be kept for use, sale or deposit.

19. The word "night time" shall include the period between sunset and sunrise; the word "daytime" the period between sunrise and sunset.

20. The word "break," when used in connection with the crime of burglary, shall include: Breaking and entering.

(a) Breaking or violently detaching any part, internal or external, of a building;

(b) Opening, for the purpose of entering therein, any outer door of a building or of any room, apartment or set of apartments therein separately used and occupied, or any window, shutter, scuttle or other thing used for covering or closing any opening thereto or therein, or which gives passage from one part thereof to another;

(c) Obtaining entrance into such building or apartment by any threat or artifice, used for that purpose, or by collusion with any person therein;

(d) Entering such building, room or apartment by or through any pipe, chimney or other opening, or by excavating or digging through or under a building or the walls or foundation thereof.

21. The word "enter," when constituting an element or part of a crime, shall include the entrance of the offender, or the insertion of any part of his body, or of any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person, or to detach or remove property.

22. The term "railway" or "railroad" shall include all railways, railroads and street railways, whether operated by steam, electricity or any other motive power. Railways.

23. The words "indicted" and "indictment" shall include "informed against" and "information"; and the words "informed against" and "information" shall include the words "indicted" and "indictment." Indictments.

24. The words "officer" and "public officer" shall include all assistants, deputies, clerks and employes of any public officer and all persons exercising or assuming to exercise any of the powers or functions of a public officer. Officers.

25. The word "juror" shall include a talesman, and extend to jurors in all courts, whether of record or not.

26. The word "prisoner" shall include any person held in custody under process of law, or under lawful arrest.

Prisoners.

27. The word "prison" shall mean any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest.

Prison.

SEC. 52. *Acts Repealed.*

All acts or parts of acts enumerated in the following schedule, and all acts and parts of acts in conflict with the provisions hereof, are hereby repealed.

Repeals.

SCHEDULE OF ACTS REPEALED.

Ballinger's Annotated Codes and Statutes of Washington, sections 3485, 3486, 3766, 4372, 4376, 6724, 6727 to 6736, inclusive; 6773 to 6776, inclusive; 6866, 6908, 6910 to 6916, inclusive; 6925 to 6927, inclusive; 6945; 7035 to 7071, inclusive; 7073 to 7089, inclusive; 7094 to 7101, inclusive; 7103 to 7116, inclusive; 7118 to 7126, inclusive; 7128 to 7132, inclusive; 7136 to 7142, inclusive; 7144, 7145, 7146a, 7147, 7154, 7155, 7156, 7160, 7165 to 7168, inclusive; 7175, 7176, 7185 to 7231, inclusive; 7233 to 7256, inclusive; 7259, 7260, 7261, 7264, 7265, 7266, 7268, 7269, 7275 to 7286, inclusive; 7288, 7293 to 7296, inclusive; 7298 to 7301, inclusive; 7305, 7306, 7310 to 7317, inclusive; 7322, 7323, 7324, 7334 to 7343, inclusive; 7404, 7405, 7435 to 7440, inclusive;

Laws of Washington, 1901, chapters 17, 25, 34, 40, 59, 145, 154;

Laws of Washington, 1903, chapters 5, 13, 14, 45, 51, 52, 55, 56, 112, 123, 128, 131, section 1;

Laws of Washington, 1905, chapters 24, 33, 42, 49, 77, 98, 158, 179;

Laws of Washington, 1907, chapters 35, 39, 103, 128, 148, 155, 169, 170.

CHAPTER 2.

RIGHTS OF ACCUSED.

SEC. 53. *Right to Counsel.*

Counsel.

Whenever a defendant shall be arraigned upon the charge that he has committed any felony, and shall re-

quest the court to appoint counsel to assist in his defense; and shall by his own oath or such other proof as may be required satisfy the court that he is unable, by reason of poverty, to procure counsel, the court shall appoint counsel, not exceeding two, for such defendant, to be paid upon its order by the county in which such proceeding is had, compensation not exceeding ten dollars per day for each counsel, for the number of days such counsel is actually employed in court upon the trial.

SEC. 54. *Witnesses.*

Every person accused of crime shall have the right to meet the witnesses produced against him face to face: Witness.
Provided, That whenever any witness whose deposition shall have been taken pursuant to law by a magistrate, in the presence of the defendant and his counsel, shall be absent, and cannot be found when required to testify upon any trial or hearing, so much of such deposition as the court shall deem admissible and competent shall be admitted and read as evidence in such case.

SEC. 55. *Right to Subpoena.*

Every person charged with the commission of a crime shall have the right upon the trial of such charge to be heard in person or by counsel, and to produce witnesses and proofs in his favor and to have compulsory process to compel the attendance of all witnesses who may be necessary for his proper defense. Subpoena.

SEC. 56. *Presumption of Innocence—Conviction of Lowest Degree, When.*

Every person charged with the commission of a crime shall be presumed innocent until the contrary is proved by competent evidence beyond a reasonable doubt; and when an offense has been proved against him, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest. Presumption of innocence.

SEC. 57. *Conviction, When Had.*

No person informed against or indicted for a crime shall be convicted thereof, unless by admitting the truth of the charge in his plea, by confession in open court, or Conviction.

by the verdict of a jury, accepted and recorded by the court.

SEC. 58. *Bail, When Allowable.*

Bail.

Every person charged with an offense, except that of murder in the first degree where the proof is evident or the presumption great, may be bailed by sufficient sureties, and bail shall justify and have the same rights as in civil cases, except as otherwise provided by law. The amount of bail in each case shall be determined by the court in its discretion and may from time to time be increased or decreased as circumstances may justify.

SEC. 59. *Proceedings Within Thirty Days.*

Indictment.

Whenever a person has been held to answer to any criminal charge, if an indictment be not found or information filed against him within thirty days, the court shall order the prosecution to be dismissed, unless good cause to the contrary be shown.

SEC. 60. *Trial Within Sixty Days.*

Trial.

If a defendant indicted or informed against for an offense, whose trial has not been postponed upon his own application, be not brought to trial within sixty days after the indictment is found or the information filed, the court shall order it to be dismissed, unless good cause to the contrary is shown.

SEC. 61. *Discharge of Defendant and Bail Upon Dismissal.*

Discharge upon dismissal

Whenever the court shall direct any criminal prosecution to be dismissed, the defendant shall, if in custody, be discharged therefrom, or if admitted to bail, his bail shall be exonerated, and if money has been deposited instead of bail it shall be refunded to the person depositing the same.

SEC. 62. *Nolle Prosequi.*

Nolle prosequi.

The court may, either upon its own motion or upon application of the prosecuting attorney, and in furtherance of justice, order any criminal prosecution to be dismissed; but in such case the reason of the dismissal must be set forth in the order, which must be entered upon the record. No prosecuting attorney shall hereafter discon-

tinue or abandon a prosecution except as provided in this section.

SEC. 63. *Dismissal, When a Bar.*

An order dismissing a prosecution under the provisions of sections 59, 60 or 62 of this act shall bar another prosecution for a misdemeanor or gross misdemeanor where the prosecution dismissed charged the same misdemeanor or gross misdemeanor; but in no other case shall such order of dismissal bar another prosecution. Dismissal, a bar.

SEC. 64. *Acquittal, When a Bar.*

No order of dismissal or directed verdict of not guilty on the ground of a variance between the indictment or information and the proof, or on the ground of any defect in such indictment or information, shall bar another prosecution for the same offense. Whenever a defendant shall be acquitted or convicted upon an indictment or information charging a crime consisting of different degrees, he cannot be proceeded against or tried for the same crime in another degree, nor for an attempt to commit such crime, or any degree thereof. Acquittal a bar.

CHAPTER 3.

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE.

TREASON.

SEC. 65. *Defined—Penalty.*

Treason against the people of the state consists in— Treason.

1. Levying war against the people of the state, or
2. Adhering to its enemies, or
3. Giving them aid and comfort.

Treason is punishable by death.

No person shall be convicted for treason unless upon the testimony of two witnesses to the same overt act or by confession in open court.

SEC. 66. *Levying War.*

To constitute levying war against the state an actual act of war must be committed. To conspire to levy war is not enough. When persons arise in insurrection with intent to prevent, in general, by force and intimidation, Levying war.

the execution of a statute of this state, or to force its repeal, they shall be guilty of levying war. But an endeavor, although by numbers and force of arms, to resist the execution of a law in a single instance, and for a private purpose, is not levying war.

SEC. 67. *Misprision of Treason.*

Misprision
of treason.

Every person having knowledge of the commission of treason, who conceals the same, and does not, as soon as may be, disclose such treason to the governor or a judge of the supreme court or a superior court, shall be guilty of misprision of treason and punished by a fine of not more than one thousand dollars, or by imprisonment in the state penitentiary for not more than five years or in a county jail for not more than one year.

CHAPTER 4.

CRIMES BY OR AGAINST PUBLIC OFFICERS.

BRIBERY AND CORRUPTION.

SEC. 68. *Bribery of Public Officer.*

Bribery.

Every person who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to any executive or administrative officer of the state, with intent to influence him with respect to any act, decision, vote, opinion or other proceeding, as such officer; or who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to a member of the legislature, or attempt, directly or indirectly, by menace, deceit, suppression of truth or other corrupt means, to influence such member to give or withhold his vote or to absent himself from the house of which he is a member or from any committee thereof; or who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to a judicial officer, juror, referee, arbitrator, appraiser, assessor or other person authorized by law to hear or determine any question, matter, cause, proceeding or controversy, with intent to influence his action, vote, opinion or decision thereupon; or who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to a person executing any of the functions of a

public officer other than as hereinbefore specified, with intent to influence him with respect to any act, decision, vote or other proceeding in the exercise of his powers or functions, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 69. *Asking or Receiving Bribe.*

Every executive or administrative officer or person elected or appointed to an executive or administrative office who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion or action upon any matter then pending, or which may by law be brought before him in his official capacity, shall be influenced thereby; and every member of either house of the legislature of the state who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner, or upon any particular side of any question or matter upon which he may be required to act in his official capacity; and every judicial officer, and every person who executes any of the functions of a public office not hereinbefore specified, and every person employed by or acting for the state or for any public officer in the business of the state, who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion, judgment, action, decision or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding or in any way neglect or violate any official duty, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

Asking or receiving bribe.

SEC. 70. *Juror, etc., Accepting Bribe.*

Every juror, referee, arbitrator, appraiser, assessor, or other person authorized by law to hear or determine any

Juror accepting bribe.

question, matter, cause, controversy or proceeding, who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his vote, opinion, action, judgment or decision shall be influenced thereby, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by fine of not more than five thousand dollars, or by both.

SEC. 71. *Bribing Witness.*

Bribing
witness.

Every person who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to any witness or person who may be called as a witness, upon an agreement or understanding that the testimony of such witness shall be thereby influenced, or who shall wilfully attempt by any other means to induce any witness or person who may be called as a witness to give false testimony, or to withhold true testimony, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 72. *Witness Accepting Bribe.*

Witness
accepting
bribe.

Every person who is or may be a witness upon a trial, hearing, investigation or other proceeding before any court, tribunal or officer authorized to hear evidence or take testimony, who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing or other proceeding, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 73. *Influencing Juror.*

Influencing
juror.

Every person who shall influence, or attempt to influence, improperly, a juror in a civil or criminal action or any proceeding, or any person chosen or appointed as an arbitrator or referee, in respect to his verdict, judgment, report, award or decision in any cause or matter pending:

or about to be brought before him, in any case or in any manner not hereinbefore provided for, shall be guilty of a gross misdemeanor.

SEC. 74. *Juror, etc., Promising Verdict, etc.*

Every juror and every person chosen or appointed arbitrator or referee, who shall make any promise or agreement to give a verdict, judgment, report, award or decision for or against any party, or who shall wilfully receive any communication, book, paper, instrument or information relating to a cause or matter pending before him, except according to the regular course of proceeding upon the trial or hearing of such cause or matter, shall be guilty of a gross misdemeanor.

Juror,
promising
verdict.

SEC. 75. *Misconduct of Officer Drawing Jury.*

Every person charged by law with the preparation of any jury list or list of names from which any jury is to be drawn, and every person authorized by law to assist at the drawing of a grand or petit jury to attend a court or term of court or to try any cause or issue, who shall—

Misconduct
in drawing
jury.

1. Place in any such list any name at the request or solicitation, direct or indirect, of any person; or

2. Designedly put upon the list of jurors, as having been drawn, any name which was not lawfully drawn for that purpose; or

3. Designedly omit to place upon such list any name which was lawfully drawn; or

4. Designedly sign or certify a list of such jurors as having been drawn which were not lawfully drawn; or

5. Designedly and wrongfully withdraw from the box or other receptacle for the ballots containing the names of such jurors any paper or ballot lawfully placed or belonging there and containing the name of a juror, or omit to place therein any name lawfully drawn or designated, or place therein a paper or ballot containing the name of a person not lawfully drawn and designated as a juror; or

6. In drawing or empaneling such jury, do any act which is unfair, partial or improper in any respect;

Shall be guilty of a gross misdemeanor.

SEC. 76. *Soliciting Jury Duty.*

Soliciting
jury duty.

Every person who shall, directly or indirectly, solicit or request any person charged with the duty of preparing any jury list to put his name, or the name of any other person, on any such list, shall be guilty of a gross misdemeanor.

SEC. 77. *Misconduct of Officer in Charge of Jury.*

Misconduct
in charge
of jury.

Every person to whose charge a jury shall be committed by a court or magistrate, who shall knowingly, without leave of such court or magistrate, permit them or any one of them to receive any communication from any person, to make any communication to any person, to obtain or receive any book, paper or refreshment, or to leave the jury room, shall be guilty of a gross misdemeanor.

SEC. 78. *Offender a Competent Witness.*

Offender as
witness.

Every person offending against any of the provisions of law relating to bribery or corruption shall be a competent witness against another so offending and shall not be excused from giving testimony tending to criminate himself.

SEC. 79. *Interfering With Public Officer.*

Interfering
with officer.

Every person who, by means of any threat, force or violence, shall attempt to deter or prevent any executive or administrative officer from performing any duty imposed upon him by law, or who shall knowingly resist by force or violence any executive or administrative officer in the performance of his duty, shall be guilty of a gross misdemeanor.

SEC. 80. *Offering Reward for Appointment.*

Offering re-
ward for ap-
pointment.

Every person who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward, in consideration that he or another person shall be appointed to a public office or to a clerkship, deputation or other subordinate position in such office, or that he or any other person shall be permitted to exercise, perform or discharge any prerogative or duty or receive any emolument of such office, shall be guilty of a gross misdemeanor.

SEC. 81. *Grafting.*

Every person who shall ask or receive any compensation, gratuity or reward, or any promise thereof, upon the representation that he can, directly or indirectly, or in consideration that he shall, or shall attempt to, directly or indirectly, influence any public officer, whether executive, administrative, judicial or legislative, to refuse, neglect, or defer the performance of any official duty; or who shall ask or receive any compensation, gratuity or reward, or any promise thereof, the right to retain or receive which shall be conditioned that such person shall, directly or indirectly, successfully influence by any means whatever any executive, administrative or legislative officer, in respect to any act, decision, vote, opinion or other proceeding, as such officer; or who shall ask or receive any compensation, gratuity or reward, or any promise thereof, upon the representation that he can, directly or indirectly, or in consideration that he shall, or shall attempt to, directly or indirectly, influence any public officer, whether executive, administrative, judicial or legislative, in respect to any act, decision, vote, opinion or other proceeding, as such officer, unless it be clearly understood and agreed in good faith between the parties thereto, on both sides, that no means or influence shall be employed except explanation and argument upon the merits, shall be guilty of a gross misdemeanor, and, in any prosecution, under the third clause of this section, evidence of the means actually employed to influence such officer shall be admitted as proof of the means originally contemplated by the defendant.

SEC. 82. *Misconduct of Public Officer.*

Every public officer who shall—

1. Ask or receive, directly or indirectly, any compensation, gratuity or reward, or promise thereof, for omitting or deferring the performance of any official duty; or for any official service which has not been actually rendered, except in case of charges for prospective costs or fees demandable in advance in a case allowed by law; or
2. Be beneficially interested, directly or indirectly, in any contract, sale, lease or purchase which may be made

Misconduct
of public
officer.

by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward from any other person beneficially interested therein; or

3. Employ or use any person, money or property under his official control or direction, or in his official custody, for the private benefit or gain of himself or another;

Shall be guilty of a gross misdemeanor, and any contract, sale, lease or purchase mentioned in subdivision 2 hereof shall be void.

SEC. 83. *Grant of Official Powers.*

Grant of
official
powers.

Every public officer who, for any reward, consideration or gratuity paid or agreed to be paid, shall, directly or indirectly, grant to another the right or authority to discharge any function of his office, or permit another to perform any of his duties, shall be guilty of a gross misdemeanor.

SEC. 84. *Intrusion Into and Refusal to Surrender Public Office.*

Intrusion
into office.

Every person who shall falsely personate or represent any public officer, or who shall wilfully intrude himself into a public office to which he has not been duly elected or appointed, or who shall wilfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefor, as required by law, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his lawful successor, shall be guilty of a gross misdemeanor.

SEC. 85. *Disturbing Legislature or Intimidating Member.*

Legislature.

Every person who shall wilfully disturb the legislature of this state, or either house thereof, while in session, or who shall commit any disorderly conduct in the presence or view of either house thereof, tending to interrupt its proceedings or impair the respect due to its authority, or

who wilfully, by intimidation or otherwise, shall prevent any member of the legislature from attending any session of the house of which he shall be a member or any committee thereof, or from giving his vote upon any question which may come before such house or committee, or from performing any other official act, shall be guilty of a gross misdemeanor.

SEC. 86. *Witness Refusing to Attend Legislature or Committee or to Testify.*

Every person duly summoned to attend as a witness before either house of the legislature of this state, or any committee thereof authorized to summon witnesses, who shall refuse or neglect, without lawful excuse, to attend pursuant to such summons, or who shall wilfully refuse to be sworn or to affirm or to answer any material or proper question or to produce, upon reasonable notice, any material or proper books, papers or documents in his possession or under his control, shall be guilty of a gross misdemeanor.

Refusing to attend legislature to testify.

RESCUES AND ESCAPES.

SEC. 87. *Rescuing Prisoner.*

Every person who shall, by force or fraud, rescue from lawful custody, or from an officer or person having him in lawful custody, a prisoner held upon a charge, arrest, commitment, conviction or sentence for felony, shall be guilty of a felony; and every person who shall rescue a prisoner held upon a charge, arrest, commitment, conviction or sentence for a gross misdemeanor or misdemeanor shall be guilty of a misdemeanor.

Rescuing prisoner.

SEC. 88. *Taking Property from an Officer.*

Every person who shall take from the custody of any officer or other person any personal property in his charge under any process of law, or who shall wilfully injure or destroy such property, shall be guilty of a misdemeanor.

Taking property from officer.

SEC. 89. *Escaped Prisoner Recaptured.*

Every person in custody, under sentence of imprisonment for any crime, who shall escape from custody, may be recaptured and imprisoned for a term equal to the unexpired portion of the original term.

Escaped prisoner recaptured.

SEC. 90. *Prisoner Escaping.*

Prisoner
escaping.

Every prisoner confined in a prison, or being in the lawful custody of an officer or other person, who shall escape or attempt to escape from such prison or custody, by force or fraud, if he is held on a charge, conviction or sentence of a felony, shall be guilty of a felony; if held on a charge, conviction or sentence of a gross misdemeanor or misdemeanor, he shall be guilty of a misdemeanor.

SEC. 91. *Aiding Prisoner to Escape.*

Aiding
escape.

Every person who, with intent to effect or facilitate the escape of a prisoner, whether such escape shall be effected or attempted or not, shall convey or send to a prisoner any information or aid, or convey or send into a prison any disguise, instrument, weapon or other thing, or aid or assist a prisoner in escaping or attempting to escape from the lawful custody of a sheriff or other officer or person, shall be guilty of a felony if such prisoner is held upon a charge, arrest, commitment, conviction or a sentence for a felony, and shall be guilty of a misdemeanor if such prisoner is held upon a charge, arrest, commitment, conviction or sentence for a gross misdemeanor or misdemeanor.

SEC. 92. *Custodian Suffering Escape.*

Suffering
escape.

Every person who shall allow a prisoner lawfully in his custody to escape, or shall connive at or assist such escape, or shall omit any act or duty by reason of which omission such escape is occasioned, contributed to or assisted, shall, if he connive at or assist such escape, be guilty of a felony; and in any other case, of a gross misdemeanor.

SEC. 93. *Ministerial Officer Permitting Escape.*

Permitting
escape.

Every officer who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or promise thereof, to procure, assist, connive at or permit any prisoner in his custody to escape, whether such escape shall be attempted or not, or shall commit any unlawful act tending to hinder justice, shall be guilty of a gross misdemeanor.

SEC. 94. *Concealing Escaped Prisoner.*

Every person who shall conceal, or harbor for the purpose of concealment, a prisoner who has escaped or is escaping from custody, shall be guilty of a felony if the prisoner is held upon a charge or conviction or sentence of felony, and of a misdemeanor if the prisoner is held upon a charge or conviction of a gross misdemeanor or misdemeanor.

Concealing
escaped
prisoner.

PUBLIC RECORDS.

SEC. 95. *Injury to Public Record.*

Every person who shall wilfully and unlawfully remove, alter, mutilate, destroy, conceal or obliterate a record, map, book, paper, document or other thing filed or deposited in a public office, or with any public officer, by authority of law, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both.

Injury to.

SEC. 96. *Injury to and Misappropriation of Record.*

Every officer who shall mutilate, destroy, conceal, erase, obliterate or falsify any record or paper appertaining to his office, or who shall fraudulently appropriate to his own use or to the use of another person, or secrete with intent to appropriate to such use, any money, evidence of debt or other property intrusted to him by virtue of his office, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

Misappropriation of.

SEC. 97. *Offering False Instrument for Filing or Record.*

Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than five thousand dollars, or by both.

False instrument.

SEC. 98. *False Report.*

False report. Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

PERJURY AND OTHER CRIMES.

SEC. 99. *Perjury.—First Degree.*

Perjury, first degree. Every person who, in any action, proceeding, hearing, inquiry or investigation, in which an oath may lawfully be administered, shall swear that he will testify, declare, depose or certify truly, or that any testimony, declaration, deposition, certificate, affidavit or other writing by him subscribed is true, and who in such action, proceeding, hearing, inquiry or investigation shall state or subscribe as true any material matter which he knows to be false, shall be guilty of perjury in the first degree and shall be punished by imprisonment in the state penitentiary for not more than fifteen years.

SEC. 100. *Knowledge of Materiality Not Necessary.*

Knowledge of materiality. It shall be no defense to a prosecution for perjury in the first degree that the defendant did not know the materiality of his false statement or that it did not in fact affect the proceeding in or for which it was made. It shall be sufficient that it was material and might have affected such proceeding.

SEC. 101. *Perjury.—Second Degree.*

Perjury, second degree. Every person who, whether orally or in writing, and whether as a volunteer, or in a proceeding or investigation authorized by law, shall knowingly swear falsely concerning any matter whatsoever, shall be guilty of perjury in the second degree and shall be punished by imprisonment in the state penitentiary for not more than five years, or by imprisonment in the county jail for not more than one year.

SEC. 102. *“Oath” and “Swear” Defined.*

Oath defined. The term “oath” shall include an affirmation and every other mode authorized by law of attesting the truth of

that which is stated. A person who shall state any matter under oath shall be deemed to "swear" thereto.

SEC. 103. *Irregularity in Administering Oath or Incompetency of Witness No Defense.*

It shall be no defense to a prosecution for perjury that an oath was administered or taken in an irregular manner or that the defendant was not competent to give the testimony, deposition, certificate or affidavit of which falsehood is alleged. It shall be sufficient that he actually gave such testimony or made such deposition, certificate or affidavit. Irregularity
no defense.

SEC. 104. *Deposition—When Complete.*

The making of a deposition, certificate or affidavit shall be deemed to be complete when it is subscribed and sworn to or affirmed by the defendant with intent that it be uttered or published as true. Deposition.

SEC. 105. *Statement of What One Does Not Know to Be True.*

Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false. Prevarication.

SEC. 106. *Offering False Evidence.*

Every person who, upon any trial, hearing, inquiry, investigation or other proceeding authorized by law, shall offer or procure to be offered in evidence, as genuine, any book, paper, document, record or other instrument in writing, knowing the same to have been forged or fraudulently altered, shall be punished by imprisonment in the state penitentiary for not more than ten years. False evidence.

SEC. 107. *Committal of Witness—Detention of Documents.*

Whenever it shall appear probable to a judge, justice of the peace, magistrate, or other officer lawfully authorized to conduct any hearing, proceeding or investigation, that a person who has testified before him has committed perjury in any testimony so given, or offered any false evidence, he may, by order or process for that purpose, immediately commit such person to jail or take a recognizance for his appearance to answer such charge. In Committal.

such case he may detain any book, paper, document, record or other instrument produced before him or direct it to be delivered to the prosecuting attorney.

SEC. 108. *Subornation of Perjury.*

Subornation
of perjury.

Every person who shall wilfully procure another to commit perjury, in either degree, or to offer any false evidence, shall be guilty of subornation of perjury and shall be punished in the same manner as if he had himself committed the perjury so procured or offered the false evidence so offered.

SEC. 109. *Attempt to Suborn Perjury.*

Attempt to
suborn
perjury.

Every person who, without giving, offering or promising a bribe, shall incite or attempt to procure another to commit perjury, in either degree, or to offer any false evidence, or to withhold true testimony, though no perjury be committed or false evidence offered or true testimony withheld, shall be guilty of a gross misdemeanor.

SEC. 110. *Destroying Evidence.*

Destroying
evidence.

Every person who, with intent to conceal the commission of any felony, or to protect or conceal the identity of any person committing the same, or with intent to delay or hinder the administration of the law or to prevent the production thereof at any time, in any court or before any officer, tribunal, judge or magistrate, shall wilfully destroy, alter, erase, obliterate or conceal any book, paper, record, writing, instrument or thing, shall be guilty of a gross misdemeanor.

SEC. 111. *Tampering With Witness.*

Tampering
with
witness.

Every person who shall wilfully prevent or attempt to prevent, by persuasion, threats or otherwise, any person from appearing before any court, or officer authorized to subpoena witnesses, as a witness in any action, proceeding or investigation, with intent thereby to obstruct the course of justice, shall be guilty of a gross misdemeanor.

SEC. 112. *Neglect or Refusal to Receive a Person Into Custody.*

Refusal to
receive into
custody.

Every officer who, in violation of any legal duty, shall wilfully neglect or refuse to receive a person into his offi-

cial custody or into a prison under his charge, shall, in a case where no other punishment is specially provided by law, be guilty of a gross misdemeanor.

SEC. 113. *Refusal to Make Arrest or to Aid Officer.*

Every person who, after having been lawfully commanded by any magistrate to arrest another person, shall wilfully neglect or refuse so to do; and every person who, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any lawful process, shall wilfully neglect or refuse to aid such officer, shall be guilty of a misdemeanor.

Refusal to arrest.

SEC. 114. *Resisting Public Officer.*

Every person who, in any case or under any circumstances not otherwise specially provided for, shall wilfully resist, delay or obstruct a public officer in discharging or attempting to discharge any legal duty of his office, shall be guilty of a misdemeanor.

Resisting public officer.

SEC. 115. *Compounding Crimes.*

Every person who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon an agreement or understanding that he will compound or conceal a crime or violation of a statute, or abstain from testifying thereto, delay a prosecution therefor or withhold any evidence thereof, except in a case where a compromise is allowed by law, shall be guilty—

Compounding crimes.

1. Of a felony and punished by imprisonment in the state penitentiary for not more than five years, where the agreement or understanding relates to a felony;

2. Of a misdemeanor, where the agreement or understanding relates to a gross misdemeanor or misdemeanor, or to a violation of statute for which a pecuniary penalty or forfeiture is prescribed.

In any proceeding against a person for compounding a crime, it shall not be necessary to prove that any person has been convicted of the crime or violation of statute in relation to which an agreement or understanding herein prohibited was made.

SEC. 116. *Intimidating Public Officer.*

Intimidating
public officer.

Every person who shall, directly or indirectly, address any threat or intimidation to a public officer or to a juror, referee, arbitrator, appraiser or assessor, or to any other person authorized by law to hear or determine any controversy or matter, with intent to induce him, contrary to his duty to do or make or to omit or delay any act, decision or determination, shall be guilty of a misdemeanor.

SEC. 117. *Malicious Prosecution.*

Malicious
prosecution.

Every person who shall, maliciously and without probable cause therefor, cause or attempt to cause another to be arrested or proceeded against for any crime of which he is innocent—

1. If such crime be a felony, shall be punished by imprisonment in the state penitentiary for not more than five years; and,

2. If such crime be a gross misdemeanor or misdemeanor, shall be guilty of a misdemeanor.

SEC. 118. *Barratry.*

Barratry.

Every person who shall bring on his own behalf, or instigate, incite or encourage another to bring, any false suit at law or in equity in any court of this state, with intent thereby to distress or harass a defendant therein; and every person, being an attorney or counselor at law, who shall personally, or through the agency of another, solicit employment as such attorney, in any suit pending or prospective, or, with intent to obtain such employment, shall, directly or indirectly, loan any money or give or promise to give any money, property or other consideration to the person from whom such employment is sought, shall be guilty of barratry and be punished as for a misdemeanor; and in case the person offending is an attorney, he may, in addition thereto, be disbarred from practicing law in this state.

SEC. 119. *Buying, Demand or Promising Reward by Justice or Constable.*

Misconduct
of justice
or constable.

Every justice of the peace or constable who shall, directly or indirectly, buy or be interested in buying any-

thing in action for the purpose of commencing a suit thereon before a justice of the peace, or who shall give or promise any valuable consideration to any person as an inducement to bring, or as a consideration for having brought, a suit before a justice of the peace, shall be guilty of a misdemeanor.

SEC. 120. *Criminal Contempt.*

Every person who shall commit a contempt of court of any one of the following kinds shall be guilty of a mis- Criminal
contempt.
demeanor:

1. Disorderly, contemptuous or insolent behavior committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due to its authority; or,

2. Behavior of like character in the presence of a referee, while actually engaged in a trial or hearing pursuant to an order of court, or in the presence of a jury while actually sitting in the trial of a cause or upon an inquest or other proceeding authorized by law; or,

3. Breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of a court, jury or referee; or,

4. Wilful disobedience to the lawful process or mandate of a court; or,

5. Resistance, wilfully offered, to its lawful process or mandate; or,

6. Contumacious and unlawful refusal to be sworn as a witness or, after being sworn, to answer any legal and proper interrogatory; or,

7. Publication of a false or grossly inaccurate report of its proceedings; or,

8. Assuming to be an attorney or officer of a court or acting as such without authority.

SEC. 121. *Grand Juror Acting After Challenge Allowed.*

Every grand juror who, with knowledge that a challenge interposed against him by a defendant has been allowed, shall be present at, or take part, or attempt to Grand
juror.

take part, in the consideration of the charge against the defendant who interposed such challenge, or the deliberations of the grand jury thereon, shall be guilty of a misdemeanor.

SEC. 122. *Production of Pretended Heir.*

Pretended
heir.

Every person who shall fraudulently or falsely pretend that any infant child was born of a parent whose child is or would be entitled to inherit real property or to receive any personal property, or who shall falsely represent himself or another to be a person entitled to an interest or share in the estate of a deceased person as executor, administrator, husband, wife, heir, legatee, devisee, next of kin or relative of such deceased person, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 123. *Substitution of Child.*

Substitution
of child.

Every person to whom a child has been confided for nursing, education or any other purpose, who, with intent to deceive a person, guardian or relative of such child, shall substitute or produce to such parent, guardian or relative, another child or person in the place of the child so confided, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 124. *Instituting Suit in Name of Another.*

Suit for
another.

Every person who shall institute or prosecute any action or other proceeding in the name of another, without his consent and contrary to law, shall be guilty of a gross misdemeanor.

SEC. 125. *Unauthorized Communication With Prisoner.*

Unauthorized
communica-
tion with
prisoner.

Every person who, not being authorized by law or by any officer authorized thereto, shall have any verbal communication with any prisoner in any jail, reformatory, penitentiary or other penal institution, or shall bring into or convey out of the same any writing, clothing, food, tobacco or any article whatsoever, shall be guilty of a misdemeanor.

SEC. 126. *Disclosing Transaction of Grand Jury.*

Every judge, grand juror, prosecuting attorney, clerk, stenographer or other officer who, except in the due discharge of his official duty, shall disclose the fact that a presentment has been made or indictment found or ordered against any person, before such person shall be in custody; and every grand juror, clerk or stenographer who, except when lawfully required by a court or officer, shall disclose any evidence adduced before the grand jury, or any proceeding, discussion or vote of the grand jury or any member thereof, shall be guilty of a misdemeanor.

Disclosing transaction of grand jury.

SEC. 127. *Disclosure of Deposition Returned by Grand Jury.*

Every clerk of any court or other officer who shall wilfully permit any deposition, or the transcript of any testimony, returned by a grand jury and filed with such clerk or officer, to be inspected by any person except the court, the deputies or assistants of such clerk, and the prosecuting attorney and his deputies, until after the arrest of the defendant, shall be guilty of a misdemeanor.

Disclosure of deposition.

SEC. 128. *Public Officer Making False Certificate.*

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.

False certificate.

SEC. 129. *Falsely Auditing and Paying Claims.*

Every public officer, or person holding or discharging the duties of any public office or place of trust under the state or in any county, town or city, a part of whose duty it is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town or city, who shall knowingly audit, allow or pay, or, directly or indirectly, consent to or in any way connive at the auditing, allowance or payment of any claim or demand against the state or such county, town or city, which is false or fraudulent or contains any

False claims.

charge, item or claim which is false or fraudulent, shall be guilty of a gross misdemeanor.

SEC. 130. *Conspiracy.*

Whenever two or more persons shall conspire—

Conspiracy.

1. To commit a crime; or
2. Falsely and maliciously to procure another to be arrested or proceeded against for a crime; or
3. Falsely to institute or maintain any action or proceeding; or
4. To cheat or defraud another out of any property by unlawful or fraudulent means; or
5. To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof; or
6. To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or
7. To accomplish any criminal or unlawful purpose, or to accomplish a purpose, not in itself criminal or unlawful, by criminal or unlawful means;

Every such person shall be guilty of a gross misdemeanor.

SEC. 131. *Overt Act Not Necessary.*

Overt act.

In any proceeding for [a] violation of section 130 of this act, it shall [not] be necessary to prove that any overt act was done in pursuance of such unlawful conspiracy or combination.

SEC. 132. *Corporation to Forfeit Franchise.*

Corporation to forfeit franchise.

Every corporation, whether foreign or domestic, which shall violate any provision of section 130 of this act, shall forfeit every right and franchise to do business in this state. The attorney general shall begin and conduct all actions and proceedings necessary to enforce the provisions of this section.

CHAPTER 5.

CRIMES AGAINST THE PERSON.

SUICIDE.

SEC. 133. *Defined.*

Suicide is the intentional taking of one's own life. Defined.

SEC. 134. *Attempting Suicide.*

Every person who, with intent to take his own life, shall commit upon himself any act dangerous to human life, or which, if committed upon or toward another person and followed by death as a consequence, would render the perpetrator chargeable with homicide, shall be punished by imprisonment in the state penitentiary for not more than two years, or by a fine of not more than one thousand dollars. Attempting suicide.

SEC. 135. *Aiding Suicide.*

Every person who, in any manner, shall wilfully advise, encourage, abet or assist another in taking his own life shall be guilty of manslaughter. Aiding suicide.

SEC. 136. *Abetting Attempt at Suicide.*

Every person who, in any manner, shall wilfully advise, encourage, abet or assist another person in attempting to take the latter's life shall be punished by imprisonment in the state penitentiary for not more than ten years. Abetting attempt at suicide.

SEC. 137. *Incapacity of Person Aided No Defense.*

The fact that the person attempting to take his own life was incapable of committing crime shall not be a defense to a prosecution under either of sections 135 or 136 of this act. Incapacity no defense.

HOMICIDE.

SEC. 138. *Defined and Classified.*

Homicide is the killing of a human being by the act, procurement or omission of another and is either (1) murder, (2) manslaughter, (3) excusable homicide or (4) justifiable homicide. Defined and classified.

SEC. 139. *Proof of Death and of Killing by Defendant.*

Proof of death.

No person shall be convicted of murder or manslaughter unless the death of the person alleged to have been killed and the fact of killing by the defendant, as alleged, are each established as independent facts beyond a reasonable doubt.

SEC. 140. *Murder in the First Degree.*

Murder in the first degree.

The killing of a human being, unless it is excusable or justifiable, is murder in the first degree when committed either—

1. With a premeditated design to effect the death of the person killed, or of another; or

2. By an act imminently dangerous to others and evincing a depraved mind, regardless of human life, without a premeditated design to effect the death of any individual; or

3. Without a design to effect death, by a person engaged in the commission of, or in an attempt to commit, or in withdrawing from the scene of, a robbery, rape, burglary, larceny or arson in the first degree; or

4. By maliciously interfering or tampering with or obstructing any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure or appliance pertaining to or connected with any railway, or any engine, motor or car of such railway.

Murder in the first degree shall be punished by death or by imprisonment in the state penitentiary for life, in the discretion of the court.

SEC. 141. *Murder in the Second Degree.*

Murder in the second degree.

The killing of a human being, unless it is excusable or justifiable, is murder in the second degree when—

1. Committed with a design to effect the death of the person killed or of another, but without premeditation; or

2. When perpetrated by a person engaged in the commission of, or in an attempt to commit, or in withdrawing from the scene of, a felony other than those enumerated in section 140 of this act.

Murder in the second degree shall be punished by imprisonment in the state penitentiary for not less than ten years.

SEC. 142. *Killing in Duel.*

Every person who shall fight or participate in, as second or assistant, any duel within this state, in which any person is killed, or who, by previous appointment made within this state, shall fight or participate in, as second or assistant, any duel out of the state, in which any person is killed, shall be guilty of murder in the second degree; and, in the latter case, may be proceeded against in any county in this state.

Killing in
duel.

SEC. 143. *Manslaughter.*

In any case other than those specified in sections 140, 141 and 142 of this act, homicide, not being excusable or justifiable, is manslaughter.

Manslaughter.

Manslaughter is punishable by imprisonment in the state penitentiary for not more than twenty years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

SEC. 144. *Killing Unborn Quick Child.*

The willful killing of an unborn quick child, by any injury committed upon the mother of such child, is manslaughter.

Killing un-
born quick
child.

SEC. 145. *Killing Unborn Quick Child by Administering Drugs.*

Every person who shall provide, supply or administer to a woman, whether pregnant or not, or shall prescribe for or advise or procure a woman to take any medicine, drug or substance, or shall use or employ, or cause to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case the death of the woman or of any quick child of which she is pregnant is thereby produced, shall be guilty of manslaughter.

Producing
miscarriage.

SEC. 146. *Woman Taking Drugs.*

Woman tak-
ing drugs.

Every woman quick with child who shall take or use, or submit to the use of, any drug, medicine or substance, or any instrument or other means, with intent to procure her own miscarriage, unless the same is necessary to preserve her own life or that of the child whereof she is pregnant, and thereby causes the death of such child, shall be guilty of manslaughter.

SEC. 147. *Owner of Vicious Animal.*

Vicious
animal.

If the owner or custodian of any vicious or dangerous animal, knowing its propensities, shall wilfully or negligently allow it to go at large, and such animal while at large shall kill a human being not himself in fault, such owner or custodian shall be guilty of manslaughter.

SEC. 148. *Killing by Overloading Passenger Vessel.*

Overloading
passenger
vessel.

Every person navigating a vessel for gain who shall wilfully or negligently receive so many passengers or such a quantity of other lading on board, that by means thereof such vessel shall sink, be overset or injured, and thereby a human being shall be drowned or otherwise killed, shall be guilty of manslaughter.

SEC. 149. *Reckless Operation of Steamboat or Engine.*

Reckless
operation of
steamboat
or engine.

Every person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness or gross negligence, or for the purpose of excelling another boat in speed, shall create or allow to be created such an undue quantity of steam as to burst the boiler or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned; and every engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or applying steam, who, wilfully or from ignorance or gross negligence, shall create or allow to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident, whereby the death

of a human being is occasioned, shall be guilty of manslaughter.

SEC. 150. *Liability of Intoxicated Physician.*

Every physician or surgeon, or person practicing as such, who, being in a state of intoxication, or under the influence of any narcotic drug, shall prescribe or administer any poison, drug or medicine, or do any other act as a physician, to another person, which, though done without design, shall cause the death of the latter, shall be guilty of manslaughter.

Liability of
intoxicated
physician.

SEC. 151. *Keeping Explosive Unlawfully.*

Every person who shall make or keep gun powder, or any other explosive substance, in a city or village, in any quantity or manner prohibited by law or by ordinance of such municipality, if an explosion thereof shall occur whereby the death of a human being is occasioned, shall be guilty of manslaughter.

Keeping
explosive
unlawfully.

SEC. 152. *Homicide, When Excusable.*

Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, with ordinary caution and without any unlawful intent.

Homicide,
when
excusable.

SEC. 153. *Justifiable Homicide by Public Officer.*

Homicide is justifiable when committed by a public officer, or person acting under his command and in his aid, in the following cases:

Justifiable
homicide by
public officer.

1. In obedience to the judgment of a competent court.
2. When necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty.
3. When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony; or in arresting a person who has committed a felony and is fleeing from justice; or in attempting, by lawful ways or means, to apprehend a person for a felony actually committed; or in lawfully suppressing a riot or preserving the peace.

SEC. 154. *Homicide by Other Person, When Justifiable.*

Homicide is also justifiable when committed either—

Homicide,
when
justifiable.

1. In the lawful defense of the slayer, or his or her husband, wife, parent, child, brother or sister, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or

2. In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling, or other place of abode, in which he is.

MAIMING.

SEC. 155. *Defined—How Punished.*

Defined.

Every person who, with intent to commit a felony, or to injure, disfigure or disable another, shall wilfully inflict upon him an injury which—

1. Seriously disfigures his person by any mutilation thereof; or

2. Destroys or displaces any member or organ of his body; or

3. Seriously diminishes his physical vigor by the injury of any member or organ;

Shall be guilty of maiming and be punished by imprisonment in the state penitentiary for not more than ten years, and the wilful infliction of the injury shall be *prima facie* evidence of the intent.

SEC. 156. *Instrument or Manner of Maiming.*

Manner of
maiming.

To constitute maiming it is immaterial by what means or instrument or in what manner the injury was inflicted.

SEC. 157. *Recovery from Injury, When a Defense.*

Recovery
from injury.

Whenever upon a trial for maiming another person it shall appear that the injury inflicted will not result in any permanent disfiguration of appearance, dimunition of vigor, or other permanent injury, no conviction for maiming shall be had, but the defendant may be convicted of assault in any degree.

KIDNAPING.

SEC. 158. *Defined—How Punished.*

Every person who shall wilfully—

1. Seize, confine, or inveigle another with intent to cause him without authority of law to be secretly confined or imprisoned, or in any way held to service, or with intent to extort or obtain money or reward for his return, release, or disposition, or to lead, take, entice away, or detain, a child under the age of sixteen years with intent to conceal him from his parent, guardian or other person having lawful care or control of him, or to steal any article upon his person; or

2. Abduct, entice, or by force or fraud unlawfully take or carry away another to or from a place without the state, and shall afterwards send, bring or keep such person, or cause him to be kept or secreted within this state;

Shall be guilty of kidnaping, and punished by imprisonment in the state penitentiary for not less than ten years.

SEC. 159. *Selling Services of Person Kidnaped.*

Every person, who within this state or elsewhere, shall sell or in any manner transfer for any term, the services or labor of any person who has been forcibly taken, inveigled, or kidnaped in or from this state, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 160. *Venue—Effect of Consent.*

Any proceeding for kidnaping may be instituted either in the county where the offense was committed or in any county through or in which the person kidnaped or confined was taken or kept while under confinement or restraint. Upon a trial for violation of section 158 or 159 of this act, the consent thereto of the person kidnaped or confined shall not be a defense unless it appears satisfactorily to the jury that such person was above the age of sixteen years and that his consent was not extorted by threats, duress or fraud.

ASSAULT.

SEC. 161. *Assault in First Degree Defined—How Punished.*

First degree defined.

Every person who, with intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another—

1. Shall assault another with a firearm or any deadly weapon or by any force or means likely to produce death; or

2. Shall administer to or cause to be taken by another, poison or any other destructive or noxious thing so as to endanger the life of another person, shall be guilty of assault in the first degree and shall be punished by imprisonment in the state penitentiary for not less than five years.

SEC. 162. *Assault in the Second Degree—How Punished.*

Second degree.

Every person who, under circumstances not amounting to assault in the first degree—

1. With intent to injure, shall unlawfully administer to or cause to be taken by another, poison or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health; or

2. With intent thereby to enable or assist himself or any other person to commit any crime, shall administer to, or cause to be taken by, another, chloroform, ether, laudanum or any other intoxicating narcotic or anaesthetic; or

3. Shall wilfully inflict grievous bodily harm upon another with or without a weapon; or

4. Shall wilfully assault another with a weapon or other instrument or thing likely to produce bodily harm; or

5. Being armed with a deadly weapon shall wilfully assault another with a whip; or

6. Shall assault another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court officer, or the lawful apprehension or detention of himself or another person; or

7. While hunting any game or other animals or birds, shall shoot another;

Shall be guilty of assault in the second degree and be punished by imprisonment in the state penitentiary for not more than ten years or by a fine of not more than one thousand dollars, or by both.

SEC. 163. *Assault in the Third Degree—How Punished.*

Every person who shall commit an assault or an assault and battery not amounting to assault in either the Third degree. first or second degrees, shall be guilty of assault in the third degree, and shall be punished as for a gross misdemeanor.

SEC. 164. *Force, When Lawful.*

The use, attempt, or offer to use force upon or toward the person of another shall not be unlawful in the following cases: Force, when lawful.

1. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction;

2. Whenever necessarily used by a person arresting one who has committed a felony and delivering him to a public officer competent to receive him into custody;

3. Whenever used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his possession, in case the force is not more than shall be necessary;

4. Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher in the exercise of lawful authority, to restrain or correct his child, ward, apprentice or scholar;

5. Whenever used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been

stopped and the force used is not more than shall be necessary to expel the offender with reasonable regard to his personal safety;

6. Whenever used by any person to prevent an idiot, lunatic or insane person from committing an act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person, or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person.

SEC. 165. *Provoking Assault.*

Provoking
assault.

Every person who shall by word, sign or gesture, willfully provoke, or attempt to provoke, another person to commit an assault or breach of the peace, shall be guilty of misdemeanor.

ROBBERY.

SEC. 166. *Defined.*

Defined.

Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediate or future, to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. If used merely as a means of escape, it does not constitute robbery. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear. Every person who shall commit robbery shall be punished by imprisonment in the state penitentiary for not less than five years.

DUELS.

SEC. 167. *Duel, How Punished.*

Duel, how
punished.

Every person who shall fight a duel or engage in any combat with another with a deadly weapon, by previous

agreement, or upon a previous quarrel, although no death or wound shall ensue, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 168. *Challenger, Abettor, Etc.*

Every person who shall challenge another to fight a duel, or who shall send a written or verbal message purporting or intended to be a challenge to fight a duel, or an invitation to a combat with deadly weapons, or shall accept such a challenge or message, or shall knowingly carry or deliver such challenge or message, or be present at the time appointed for such duel or combat, or when the same is fought, either as second, aide, or surgeon, or who shall advise, or abet, or give any countenance or assistance to such duel or combat upon previous agreement, shall be punished by imprisonment in the state penitentiary for not more than five years.

Challenger,
abettor.

SEC. 169. *Attempt to Induce Challenge, Posting.*

Every person who shall send or use to another any word or sign whatever with intent to provoke or induce such person to give or receive a challenge to fight a duel, or who shall post or advertise another for not fighting a duel or for not sending or accepting a challenge to fight a duel, or who, in writing or in print, shall use reproachful or contemptuous language to or concerning anyone for not sending or accepting a challenge to fight a duel, or for not fighting a duel, shall be guilty of a gross misdemeanor.

Inducing
challenge.

SEC. 170. *Duel Outside State, Venue.*

Every person who shall leave the state with intent to elude any provision of sections 167 or 168 of this act, or to commit any act outside of the state punished by the provisions thereof, if committed in the state, shall be guilty of the same offense and subject to the same punishment as if the act had been committed or was to have been consummated in the state and may be proceeded against and tried in any county therein, but a former conviction or acquittal in another state or county for the same offense shall be a bar to further proceedings against him for such offense.

Duel outside
state, venue.

SEC. 171. *Witnesses.*

Witnesses.

Every person offending against any provision contained in sections 167 to 170, inclusive, of this act, shall be a competent witness against any other offender in the same transaction, and shall not be excused from giving testimony tending to incriminate himself.

LIBEL AND SLANDER.

SEC. 172. *Libel Defined.*

Libel defined.

Every malicious publication by writing, printing, picture, effigy, sign or otherwise than by mere speech, which shall tend:

1. To expose any living person to hatred, contempt, ridicule or obliquy, or to deprive him of the benefit of public confidence or social intercourse; or

2. To expose the memory of one deceased to hatred, contempt, ridicule or obliquy; or

3. To injure any person, corporation or association of persons in his or their business or occupation, shall be a libel. Every person who publishes a libel shall be guilty of a gross misdemeanor.

SEC. 173. *How Justified or Excused—Malice, When Presumed.*

Justification—malice.

Every publication having the tendency or effect mentioned in section 172 of this act shall be deemed malicious unless justified or excused. Such publication is justified whenever the matter charged as libelous charges the commission of a crime, is a true and fair statement, and was published with good motives and for justifiable ends. It is excused when honestly made in belief of its truth and fairness and upon reasonable grounds for such belief, and consists of fair comments upon the conduct of any person in respect of public affairs, made after a fair and impartial investigation.

SEC. 174. *Publication Defined.*

Publication defined.

Any method by which matter charged as libelous may be communicated to another shall be deemed a publication thereof.

SEC. 175. *Liability of Editors and Others.*

Every editor or proprietor of a book, newspaper or serial, and every manager of a co-partnership or corporation by which any book, newspaper or serial is issued, is chargeable with the publication of any matter contained in any such book, newspaper or serial, but in every prosecution for libel the defendant may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes by another who had no authority from him to make such publication, and was retracted by him as soon as known with an equal degree of publicity.

Liability of editors.

SEC. 176. *Report of Proceedings Privileged.*

No prosecution for libel shall be maintained against a reporter, editor, proprietor, or publisher of a newspaper for the publication therein of a fair and true report of any judicial, legislative or other public and official proceeding, or of any statement, speech, argument or debate in the course of the same, without proving actual malice in making the report. The editor or proprietor of a book, newspaper or serial shall be proceeded against in the county where such book, newspaper or serial is published.

Proceedings privileged.

SEC. 177. *Venue Punished [Punishment] Restricted.*

Every other person publishing a libel in this state may be proceeded against in any county where such libelous matter was published or circulated, but a person shall not be proceeded against for the publication of the same libel against the same person in more than one county.

Venue.

SEC. 178. *Privileged Communications.*

Every communication made to a person entitled to or concerned in such communication, by one also concerned in or entitled to make it, or who stood in such relation to the former as to offer a reasonable ground for supposing his motive to be innocent, shall be presumed not to be malicious, and shall be termed a privileged communication.

Privileged communications.

SEC. 179. *Furnishing Libelous Information.*

Every person who shall wilfully state, deliver or transmit by any means whatever, to any manager, editor, pub-

Furnishing libelous information.

lisher, reporter or other employe of a publisher of any newspaper, magazine, publication, periodical or serial, any statement concerning any person or corporation, which, if published therein, would be a libel, shall be guilty of a misdemeanor.

SEC. 180. *Threatening to Punish [Publish] Libel.*

Threatening
libel.

Every person who shall threaten another with the publication of a libel concerning the latter, or his spouse, parent, child, or other member of his family, and every person who offers to prevent the publication of a libel upon another person upon condition of the payment of, or with intent to extort money or other valuable consideration from any person, shall be guilty of a gross misdemeanor.

SEC. 181. *Slander of Woman.*

Slander of
woman.

Every person who, in the presence or hearing of any person other than the female slandered, whether she be present or not, shall maliciously speak of or concerning any female of the age of twelve years or upwards, not a common prostitute, any false or defamatory words or language which shall injure or impair the reputation of any such female for virtue or chastity or which shall expose her to hatred, contempt or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed to be malicious unless justified, and shall be justified when the language charged as slanderous, false or defamatory is true and fair, and was spoken with good motives and for justifiable ends.

SEC. 182. *Testimony Necessary to Convict.*

Testimony
to convict.

No conviction shall be had under the provisions of section 181 of this act, upon the testimony of the woman slandered unsupported by other evidence.

CHAPTER 6.

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE, ABDUCTION, CARNAL ABUSE, ETC.

SEC. 183. *Rape.*

Rape.

Rape is an act of sexual intercourse with a female not the wife of the perpetrator committed against her will and without her consent. Every person who shall perpe-

trate such an act of sexual intercourse with a female of the age of ten years or upwards not his wife:

1. When, through idiocy, imbecility or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent; or

2. When her resistance is forcibly overcome; or

3. When her resistance is prevented by fear of immediate and great bodily harm which she has reasonable cause to believe will be inflicted upon her; or

4. When her resistance is prevented by stupor or weakness of mind produced by an intoxicating narcotic or anaesthetic agent administered by or with the privity of the defendant; or

5. When she is at the time unconscious of the nature of the act, and this is known to the defendant;

Shall be punished by imprisonment in the state penitentiary for not less than five years.

SEC. 184. *Carnal Knowledge of Children.*

Every person who shall carnally know and abuse any female child under the age of eighteen years, not his wife, shall be punished as follows:

Carnal knowledge of children.

1. When such child is under the age of ten years, by imprisonment in the state penitentiary for life;

2. When such child is ten and under fifteen years of age, by imprisonment in the state penitentiary for not less than five years;

3. When such child is fifteen and under eighteen years of age, and of previously chaste character, by imprisonment in the state penitentiary for not more than ten years, or by imprisonment in the county jail for not more than one year.

SEC. 186. *Sexual Intercourse and Carnal Knowledge Defined.*

Any sexual penetration, however slight, is sufficient to complete sexual intercourse or carnal knowledge.

Sexual intercourse and carnal knowledge defined.

SEC. 186. *Compelling a Woman to Marry.*

Every person who, by force, menace, or duress, shall compel a woman against her will to marry him or to marry any other person, or to be defiled, shall be punished by

Compelling a woman to marry.

imprisonment in the state penitentiary for not more than twenty years, or by a fine of not more than one thousand dollars, or by both.

SEC. 187. *Abduction.*

Every person who—

Abduction.

1. Shall take a female under the age of eighteen years for the purpose of prostitution or sexual intercourse, or without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage; or

2. Shall inveigle or entice an unmarried female of previously chaste character into a house of ill-fame or assignation, or elsewhere, for the purpose of prostitution; or

3. Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace or duress, to marry him or another person, or to be defiled; or

4. Being the parent, guardian or other person having legal charge of the person of a female under the age of eighteen years, shall consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse or for any obscene, indecent or immoral purpose;

Shall be guilty of abduction and punished by imprisonment in the state penitentiary for not more than ten years or by a fine of not more than one thousand dollars, or by both.

SEC. 188. *Placing Female in House of Prostitution.*

Every person who—

Placing
female in
house of
prostitution.

1. Shall place a female in the charge or custody of another person for immoral purposes, or in a house of prostitution, with intent that she shall live a life of prostitution, or who shall compel any female to reside with him or with any other person for immoral purposes, or for the purposes of prostitution, or shall compel any such female to reside in a house of prostitution or to live a life of prostitution; or

2. Shall ask or receive any compensation, gratuity or reward, or promise thereof, for or on account of placing in a house of prostitution or elsewhere any female for the

purpose of causing her to cohabit with any male person or persons not her husband; or

3. Shall give, offer, or promise any compensation, gratuity or reward, to procure any female for the purpose of placing her for immoral purposes in any house of prostitution, or elsewhere, against her will; or

4. Being the husband of any woman, or the parent, guardian or other person having legal charge of the person of a female under the age of eighteen years, shall connive at, consent to, or permit her being or remaining in any house of prostitution or leading a life of prostitution; or

5. Shall live with or accept any earnings of a common prostitute, or entice or solicit any person to go to a house of prostitution for any immoral purpose, or to have sexual intercourse with a common prostitute;

Shall be punished by imprisonment in the state penitentiary for not more than five years or by a fine of not more than two thousand dollars.

SEC. 189. *Seduction.*

Every person who shall seduce and have sexual intercourse with any female of previously chaste character, shall be punished by imprisonment in the state penitentiary for not more than five years or by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both fine and imprisonment: *Provided*, That if at any time before judgment upon an information or indictment, a defendant shall marry such female, the court shall order all further proceedings stayed; and if at any time within three years from the date of such marriage the defendant shall wrongfully fail to support or provide for or shall wrongfully desert or abandon such wife, said proceeding shall be revived and continued in the same manner as though no marriage had taken place, and in the trial of such cause the wife shall be competent to testify and may testify against her husband.

SEC. 190. *Indecent Assault.*

Indecent
assault.

Every person who shall take any indecent liberties with, or on the person of any female of chaste character, without her consent, or with or on the person of any female under the age of eighteen years, of chaste character, with or without her consent, shall be guilty of a gross misdemeanor.

SEC. 191. *Corroborating Evidence Necessary.*

Corroborat-
ing evidence.

No conviction shall be had for violation of any of the foregoing provisions of this chapter upon the testimony of the female upon or against whom the crime was committed, unless supported by other evidence.

CRIMES AGAINST CHILDREN, ETC.

SEC. 192. *Abandonment of Wife or Child.*

Abandon-
ment.

Every person who shall wilfully and without lawful excuse desert, or wilfully neglect or refuse to provide for the support and maintenance of, his wife, or child under the age of sixteen years, either said wife or child being in necessitous circumstances, shall be punished by imprisonment in the state penitentiary for not more than three years, or in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment: *Provided*, That, before trial, with the consent of the defendant, or after conviction, the court may, in its discretion, require the defendant to enter into a recognizance in such amount as the court may fix, with or without sureties, conditioned that such defendant will faithfully pay weekly, such sum and for such a time as the court may direct, to or for the benefit of such wife or child, and so long as the defendant shall faithfully comply with the conditions of such recognizance, all proceedings in such action, or upon such judgment, shall be stayed; but if the defendant shall fail to comply with the conditions of such recognizance, or shall fail to comply with any order for his appearance in said court, such proceeding shall be revived and continued as if no stay had taken place.

SEC. 193. *Keepers of Concert Saloons, etc.*

Every person who—

1. Shall admit to or allow to remain in any 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,

Public resorts.

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,

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

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. 194. *Employment of Minors Prohibited.*

Every person who shall employ, or cause to be employed, exhibit or have in his custody for exhibition or employment any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer or other person having the care, custody, or control of any such minor, who shall in any way procure or consent to the employment of such minor—

Employment of minors.

1. In begging, receiving alms, or in any mendicant occupation; or,

2. In any indecent or immoral exhibition or practice;
or,

3. In any practice or exhibition dangerous or injurious to life, limb, health or morals; or,

4. As a messenger for delivering letters, telegrams, packages or bundles, to any known house of prostitution or assignation;

Shall be guilty of a misdemeanor.

SEC. 195. *Employment of Children.*

Employment
of children.

Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed, by another, any male child under the age of fourteen years or any female child under the age of sixteen years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farm or house work, without the written permit thereto of a judge of a superior court of the county wherein such child may live, shall be guilty of a misdemeanor.

ABORTION.

SEC. 196. *Defined.*

Defined.

Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life or that of the child whereof she is pregnant, shall—

1. Prescribe, supply, or administer to a woman, whether pregnant or not, or advise or cause her to take any medicine, drug or substance; or,

2. Use, or cause to be used, any instrument or other means;

Shall be guilty of abortion, and punished by imprisonment in the state penitentiary for not more than five years, or in the county jail for not more than one year.

SEC. 197. *Pregnant Women Attempting Abortion.*

Attempting
abortion.

Every pregnant woman who shall take any medicine, drug or substance, or use or submit to the use of any instrument or other means, with intent thereby to produce

her own miscarriage, unless the same is necessary to preserve her life or that of the child whereof she is pregnant, shall be punished by imprisonment in the state penitentiary for not more than five years or by a fine of not more than one thousand dollars.

SEC. 198. *Selling Drugs, etc.*

Every person who shall manufacture, sell or give away any instrument, drug, medicine, or other substance, knowing or intending that the same may be unlawfully used in procuring the miscarriage of a woman, shall be guilty of a gross misdemeanor. Selling drugs.

SEC. 199. *Evidence.*

In any prosecution for abortion, attempting abortion, or selling drugs unlawfully, no person shall be excused from testifying as a witness on the ground that said testimony would tend to incriminate himself. Evidence.

SEC. 200. *Concealing Birth.*

Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a gross misdemeanor. Concealing birth.

BIGAMY, ADULTERY, ETC.

SEC. 201. *Bigamy Defined—How Punished—Exceptions.*

Every person who, having a husband or wife living, shall marry another person, or continue to cohabit with such second husband or wife in this state, shall be guilty of bigamy and be punished by imprisonment in the state penitentiary for not more than five years: *Provided*, That this section shall not extend to a person— Bigamy defined.

1. Whose former husband or wife has been absent for five years exclusively then last past, without being known to him or her within that time to be living, and believed to be dead; or,

2. Whose former marriage has been pronounced void, annulled or dissolved by a court of competent jurisdiction.

SEC. 202. *Punishment of Consort.*

Punishment
of consort.

Every person who shall knowingly enter into a bigamous marriage with another, or, after such marriage, continue to cohabit with such other, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars.

SEC. 203. *Incest.*

Incest. . .

Whenever any male and female persons, nearer of kin to each other than second cousins, computing by the rules of the civil law, whether of the half or the whole blood, shall have sexual intercourse together, both shall be guilty of incest and punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 204. *Crime Against Nature.*

Crime
against
nature.

Every person who shall carnally know in any manner any animal or bird; or who shall carnally know any male or female person by the anus, or with the mouth or tongue; or who shall voluntarily submit to such carnal knowledge; or who shall attempt sexual intercourse with a dead body, shall be guilty of sodomy and shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 205. *Adultery.*

Adultery.

Whenever any married woman shall have sexual intercourse with a man other than her husband, whether married or not, both shall be guilty of adultery and punished by imprisonment in the state penitentiary for not more than two years or by a fine of not more than one thousand dollars: *Provided*, That no prosecution for violation of this section shall be commenced except on complaint of the husband or wife, nor after one year from the commission of the offense.

SEC. 206. *Lewdness.*

Lewdness.

Every person who shall lewdly and viciously cohabit with another not the husband or wife of such person, and every person who shall be guilty of open or gross lewdness, or make any open and indecent or obscene exposure of

his person, or of the person of another, shall be guilty of a gross misdemeanor.

SEC. 207. *Obscene Literature.*

Every person who—

1. Shall sell, lend, or give away, or have in his possession with intent to sell, lend, give away or show any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph, or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish or otherwise prepare such a book, picture, drawing, paper or other article; or write or print any circular, advertisement or notice of any kind, or give oral information stating when, where, how or of whom such an indecent or obscene article or thing can be purchased or obtained; or,

Obscene
literature.

2. Shall sell, lend, give away or have in his possession with intent to sell, lend, give away or show any book, pamphlet, magazine, newspaper or other printed paper devoted to the publication, or largely made up of criminal news, police reports, accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust or crime; or,

3. Shall exhibit within the view of any minor any of the books, papers or other things hereinbefore enumerated; or,

4. Shall hire, use or employ, or having custody or control of his person shall permit any minor to sell, give away, or in any manner distribute any article hereinbefore mentioned; or,

5. Shall cause to be performed or exhibited, or engage in the performance or exhibition of any obscene, indecent or immoral show, act or performance;

Shall be guilty of a gross misdemeanor.

SEC. 208. *Indecent Articles, etc.*

Every person who shall expose for sale, loan or distribution, any instrument or article, or any drug or medicine, for the prevention of conception, or for causing unlawful abortion; or shall write, print, distribute or exhibit any

Indecent
articles.

card, circular, pamphlet, advertisement or notice of any kind, stating when, where, how, or of whom such article or medicine can be obtained, shall be guilty of a misdemeanor.

SEC. 209. *Prohibited Publications.*

Prohibited
publications.

Every person who shall publish, and every proprietor, manager or editor who shall permit to be published, in any book, newspaper, magazine or other printed publication circulated wholly or in part in this state—

1. Any detailed account of the commission or attempted commission of the crime of rape, carnal knowledge, seduction, adultery, sodomy or any other sexual crime, or of the trial of any person charged therewith; or,

2. Any detailed account of the execution of any person convicted of crime; or,

3. Any detailed statement of any evidence of indecent, obscene or immoral acts offered in any trial or proceeding; or,

4. Any interview with, advertisement for, communication from or account of the actions of any public prostitute, except upon a matter concerning public welfare;

Shall be guilty of a misdemeanor.

SEC. 210. *Advertising Cures.*

Advertising
cures.

Every person who shall publish, and every proprietor, manager or editor who shall permit to be published in any publication whatever, and every person who shall cause to be displayed or distributed in any public manner any card or notice advertising any treatment or cure for any venereal disease or any disease or weakness of the sexual organs caused by sexual vice or abuse, shall be guilty of a misdemeanor.

SEC. 211. *Advertising for Divorce Business.*

Advertising
for divorce
business.

Every person who shall cause to be published in any newspaper, magazine or other publication, or who shall cause or allow to be posted or distributed in any place frequented by the public any card or notice offering to procure or obtain, or to aid in procuring or obtaining any divorce or the dissolution or nullification of any marriage, or offering to appear or act as attorney or counsel in any

suit for divorce, alimony, or the dissolution or nullification of any marriage, either in this state or elsewhere, shall be guilty of a misdemeanor.

LOTTERIES.

SEC. 212. *Defined—A Nuisance—Drawing—How Punished.*

A lottery is a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance, whether it shall be called a lottery, raffle, gift enterprise, or by any other name, and is hereby declared unlawful and a public nuisance. Defined.

Every person who shall contrive, propose or draw a lottery, or shall assist in contriving, proposing or drawing a lottery, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both.

SEC. 213. *Selling Tickets, Advertising.*

Every person who shall sell, give, or in any way whatever furnish or transfer to or for another, a ticket, chance, share or interest, or any paper, certificate or instrument purporting to be or to represent a ticket, chance, share or interest in, or dependent upon the event of, a lottery, to be drawn within or without the state; or who by writing, printing, circular or letter, or in any other way shall advertise or publish the account of a lottery in or out of the state, stating how, when or where the same is to be or has been drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained, shall be guilty of a gross misdemeanor. Selling tickets, advertising.

SEC. 214. *Disposal of Property by Lottery—Keeping Office—Letting Building.*

Every person who shall offer for sale or distribution in any way any real or personal property, or any interest therein, to be determined by lot or chance, dependent upon the drawing of a lottery in or out of the state; or who shall sell, furnish or procure in any manner a chance or Disposal of property by lottery.

share, or any interest in property offered for sale or distribution in violation of this section, or a ticket or other evidence of any such chance, share or interest; or who shall open, set up, or keep for himself or another, an office or place for registering the number of tickets in a lottery in or out of the state, or for making, receiving, or registering any bets or stakes for the drawing or result of such lottery; or who shall advertise or in any way publish any account of an opening, setting up, or keeping of such an office or place; or who shall knowingly let, or permit to be used, any building or portion thereof for any of the purposes specified in this subdivision;

Office.

Shall be guilty of a gross misdemeanor.

SEC. 215. *Insuring Lottery Tickets—Advertising Offers to Insure.*

Every person who shall insure, or receive any consideration for insuring, for or against the drawing of a ticket, share or interest in a lottery, or of a number of such ticket, share or interest; or who shall receive any valuable consideration, upon an agreement to pay money or deliver property in the event that a ticket, share or interest, or a number of such a ticket, share or interest in a lottery shall prove fortunate or unfortunate, or shall be drawn or not drawn in a proper way or in a proper order; or who shall promise or agree or offer to pay money or deliver property, or to do or forbear to do any act for the benefit of any person, with or without consideration, upon any accident or contingency dependent upon the drawing thereof, or of any number or ticket therein, or who, by writing, printing, circular or letter, or in any way, shall advertise or publish an offer, notice or proposition in violation of the provisions of this section;

Lottery tickets.

Shall be guilty of a gross misdemeanor.

SEC. 216. *Lotteries Out of State—Advertisement by Non-Residents.*

The provisions of this subdivision are applicable to lotteries drawn, or to be drawn out of the state, whether authorized or not by the laws of the state or country where they are to be drawn, in the same manner as to those in

Lotteries out of state.

the state, and every provision of law relating to advertising lotteries or offers to insure lottery tickets, shall be applicable, whenever the advertisement was published, or the letter or circular sent or delivered, through or in the state, though the person causing or procuring the same to be published, sent or delivered was out of the state at the time of so doing.

GAMBLING.

SEC. 217. *Conducting Gambling.*

Every person who shall open, conduct, carry on or operate, whether as owner, manager, agent, dealer, clerk, Conducting gambling. or employe, and whether for hire or not, any gambling game or game of chance, played with cards, dice, or any other device, or any scheme or device whereby any money or property or any representative of either, may be bet, wagered or hazarded upon any chance, or any uncertain or contingent event, shall be a common gambler, and shall be punished by imprisonment in the state penitentiary for not more than five years.

SEC. 218. *Gambling.*

Every person who shall bet, wager or hazard any money or property, or any representative of either, upon any Gambling. game, scheme or device, opened, conducted, carried on or operated in violation of the last section shall be guilty of a misdemeanor.

SEC. 219. *Swindling.*

Every person who, by color, or aid of any trick or sleight of hand performance, or by any fraud or fraudulent scheme, cards, dice, or device, shall win for himself Swindling. or for another any money or property, or representative of either, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 220. *Possession of Gambling Devices.*

Every person who shall have in his possession or shall permit to be placed or kept in any building or boat, or part thereof, owned, leased or occupied by him, any table, Gambling devices. slot machine, or any other article, device or apparatus of a kind commonly used for gambling, or operated for the

losing or winning of any money or property, or any representative of either, upon any chance or uncertain or contingent event, shall be guilty of a gross misdemeanor.

SEC. 221. *Pool Selling and Book-Making.*

Pool selling
and book-
making.

Every person, whether acting in his own behalf, or as an agent, servant or employe of another person within or outside of this state, who shall sell any pool, make any book, or receive, record, register, transmit or forward any bet or wager, or any money or property or thing of value designed or intended to be bet, wagered or hazarded, upon the result of any contest or trial of skill, speed or endurance between men or beasts, whether such contest or trial take place within or outside of this state, or upon the result of any lot, chance, casualty, or uncertain or contingent event whatever, shall be punished by imprisonment in the state penitentiary for not more than five years.

SEC. 222. *Allowing Building to Be Used.*

Use of
premises.

Every person being in possession or control of any tent, building, float or vessel, or part thereof, who shall knowingly permit the same, or any part thereof, to be used for gambling, swindling, pool selling, or bookmaking, or for betting, wagering or hazarding money or property, or any representative of either, upon any game, scheme or device, or upon the result of any lot, chance or uncertain or contingent event whatever, shall be guilty of a gross misdemeanor.

SEC. 223. *Bucket Shop Defined.*

Bucket shop
defined.

A bucket shop is hereby defined to be a shed, tent, tenement, booth, building, float or vessel, or any part thereof, wherein may be made contracts respecting the purchase or sale upon margin or credit of any commodities, securities, or property, or option for the purchase thereof, wherein both parties intend that such contract shall or may be terminated, closed and settled; either,

1. Upon the basis of the market prices quoted or made on any board of trade or exchange upon which such commodities, securities or property may be dealt in; or,

2. When the market prices for such commodities, securities or property shall reach a certain figure in any such board of trade or exchange; or,

3. On the basis of the difference in the market prices at which said commodities, securities or property are, or purport to be, bought and sold.

SEC. 224. *Maintaining Bucket Shop—Penalty.*

Every person, whether in his own behalf, or as agent, servant or employe of another person, within or outside of this state, who shall open, conduct or carry on any bucket shop, or make or offer to make any contract described in the last section, or with intent to make such a contract, or assist therein, shall receive, exhibit, or display any statement of market prices of any commodities, securities, or property, shall be punished by imprisonment in the state penitentiary for not more than five years.

Maintaining
bucket shop.

SEC. 225. *Written Statement to Be Furnished—Presumption.*

Every person, whether in his own behalf, or as the servant, agent or employe of another person, within or outside of this state, who shall buy or sell for another, or execute any order for the purchase or sale of any commodities, securities or property, upon margin or credit, whether for immediate or future delivery, shall, upon written demand therefor, furnish such principal or customer with a written statement containing the names of the persons from whom such property was bought, or to whom it has been sold, as the case may be, the time when, the place where, the amount of, and the price at which the same was either bought or sold; and if such person shall refuse or neglect to furnish such statement within forty-eight hours after such written demand, such refusal shall be *prima facie* evidence as against him that such purchase or sale was made in violation of section 224 of this act.

Written
statement.

SEC. 226. *Seizure and Disposition of Gambling Devices.*

It shall be the duty of all peace officers to search for and seize all tables, slot machines, or other article, ma-

Seizure of
gambling
devices.

chine, device or apparatus of the kind commonly used for gambling, or operated for the winning or losing of money or property, or any representative of either, upon any chance or uncertain or contingent event, and all property useful in the operation or maintenance of a bucket shop, and take the same before a magistrate. If in the judgment of such magistrate any of such articles may be useful as evidence in the trial of any case, he may order the same held for such trial or delivered to the prosecuting attorney; otherwise, he shall order the same to be forthwith destroyed. After the final hearing and disposition of any case in which any of said articles may be held or used as evidence, whether such case result in a conviction or acquittal, the magistrate or judge having jurisdiction of such case shall forthwith order all such articles destroyed.

SEC. 227. *Bunco-Steering.*

Bunco-
steering.

Every person who shall entice, or induce another, upon any pretense, to go to any place where any gambling game, scheme or device, or any trick, sleight of hand performance, fraud or fraudulent scheme, cards, dice or device, is being conducted or operated; or while in such place shall entice or induce another to bet, wager or hazard any money or property, or representative of either, upon any such game, scheme, device, trick, sleight of hand performance, fraud or fraudulent scheme, cards, dice, or device, or to execute any obligation for the payment of money, or delivery of property, or to lose, advance, or loan any money or property, or representative of either, shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 228. *Evidence—Testimony of Player.*

Testimony of
player.

No person shall be excused from giving testimony concerning any offense committed by another against any of the provisions of sections 217 or 221, inclusive, of this act, by reason of his having bet or played at the prohibited game or device.

PAWN BROKERS AND SECOND-HAND DEALERS.

SEC. 229. *Duty to Record Transactions.*

It shall be the duty of every pawn broker and second-hand dealer doing business in any city of the first class in this state to maintain in his place of business a book or other permanent record in which shall be legibly written in the English language, at the time of each loan, purchase or sale, a record thereof containing—

Record of transactions.

1. The date of the transaction;
2. The name of the person or employe conducting the same;
3. The name, age, street and house number, and a general description of the dress, complexion, color of hair, and facial appearance of the person with whom the transaction is had;
4. The name and street and house number of the owner of the property bought or received in pledge;
5. The street and house number of the place from which the property bought or received in pledge was last removed;
6. A description of the property bought or received in pledge, which in the case of watches shall contain the name of the maker and the number of both the works and the case, and in the case of jewelry shall contain a description of all letters and marks inscribed thereon: *Provided*, That when the article bought or received is furniture, or the contents of any house or room actually inspected on the premises, a general record of the transaction shall be sufficient;
7. The price paid or the amount loaned;
8. The names and street and house numbers of all persons witnessing the transaction; and
9. The the number of any pawn ticket issued therefor.

SEC. 230. *Inspection of Records and Goods.*

Such record, and all goods received, shall at all times during the ordinary hours of business be open to the inspection of the prosecuting attorney or of any peace officer.

Inspection of records.

SEC. 231. *Report to Chief of Police.*

Daily
reports.

Every pawn broker and second-hand dealer doing business in any city of the first and second class shall, before noon of each day, furnish to the chief of police of such city, on such forms as such chief of police may provide therefor, a full, true and correct transcript of the record of all transactions had on the preceding day, and, having good cause to believe that any property in his possession has been previously lost or stolen, he shall forthwith report such fact to the chief of police, together with the name of the owner, if known, and the date when, and the name of the person from whom the same was received by him.

SEC. 232. *Retention of Property.*

Retention of
property.

No property bought or received in pledge by any pawn broker or second-hand dealer shall be removed from his place of business, except when redeemed by the owner thereof, within four days after the receipt thereof shall have been reported to the chief of police as herein provided.

SEC. 233. *Penalty.*

Penalty.

Every pawn broker or second-hand dealer, and every clerk, agent or employe of such pawn broker or second-hand dealer, who shall—

1. Fail to make an entry of any material matter in his book or record kept as provided for in section 231 of this act; or,
2. Make any false entry therein; or,
3. Falsify, obliterate, destroy or remove from his place of business such book or record; or,
4. Refuse to allow the prosecuting attorney or any peace officer to inspect the same, or any goods in his possession, during the ordinary hours of business; or,
5. Report any material matter falsely to the chief of police; or,
6. Having forms provided therefor, shall fail before noon of each day to furnish the chief of police with a full, true and correct transcript of the record of all transactions had on the previous day, it being the intent of this

section that Saturday's business may be reported on Monday; or,

7. Fail to report forthwith to the chief of police the possession of any property which he may have good cause to believe has been lost or stolen, together with the name of the owner, if known, and the date when, and the name of the person from whom the same was received by him; or,

8. Remove, or allow to be removed from his place of business, except upon redemption by the owner thereof, any property received, within four days after the receipt thereof shall have been reported to the chief of police; or,

9. Receive any property from any person under the age of twenty-one years, any common drunkard, any habitual user of narcotic drugs, any habitual criminal, any person in an intoxicated condition, any known thief or receiver of stolen property, or any known associate of such thief or receiver of stolen property, whether such person be acting in his own behalf or as the agent of another;

Shall be guilty of a misdemeanor.

SEC. 234. *Rates of Interest and Sale of Pledged Property.*

All pawn brokers are authorized to charge and receive interest at the rate of three per cent. a month for money loaned on the security of personal property actually received in pledge, and every person who shall ask or receive a higher rate of interest or discount on any such loan, or on any actual or pretended sale, or redemption of personal property, or who shall sell any property held for redemption within ninety days after the period for redemption shall have expired, shall be guilty of a misdemeanor.

Rates of interest.

SEC. 235. *"Pawn Broker"—Defined.*

Every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property, shall be deemed to be a pawn broker.

"Pawn broker"—defined.

SEC. 236. *"Second-Hand Dealer"—Defined.*

Every person engaged in whole or in part in the business of buying or selling second-hand personal property,

"Second-hand dealer"—defined.

metal junk, or melted metals, shall be deemed to be a second-hand dealer.

RIGHTS OF SEPULTURE.

SEC. 237. *Dissection—When Permitted.*

Dissection.

The right to dissect the dead body of a human being shall be limited to cases specially provided by statute or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only as he may authorize dissection; and cases where the husband, wife or next of kin charged by law with the duty of burial shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized. Every person who shall make, cause or procure to be made any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor.

SEC. 238. *Burial or Cremating.*

Burial or cremating.

Except in cases of dissection provided for in the last section, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death.

SEC. 239. *Opening Grave—Stealing Body—Receiving Same.*

Opening grave.

Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary

to the foregoing provisions, shall be punished by imprisonment in the state penitentiary for not more than three years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited while awaiting burial or cremation, with intent to remove said body or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the body, shall be punished by imprisonment in the state penitentiary for not more than three years, or by a fine of not more than one thousand dollars, or by both.

SEC. 240. *Interfering With Dead Body or Funeral.*

Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge; or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor.

Interfering
with burial.

SEC. 241. *Opening Road Through Cemetery.*

Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement over, through, in, or upon, such part of any inclosure as may be used for the burial of the dead, without authority of law or the consent of the owner thereof, shall be guilty of a misdemeanor.

Road
through
cemetery.

SABBATH BREAKING.

SEC. 242. *Defined.*

Every person who, on the first day of the week, shall promote any noisy or boisterous sport or amusement, disturbing the peace of the day; or who shall conduct or carry on, or perform or employ any labor about any trade

Defined.

or manufacture, except livery stables, garages and works of necessity or charity conducted in an orderly manner so as not to interfere with the repose and religious liberty of the community; or who shall open any drinking saloon, or sell, offer or expose for sale, any personal property, shall be guilty of a misdemeanor: *Provided*, That meals, without intoxicating liquors, may be served on the premises or elsewhere by caterers, and prepared tobacco, milk, fruit, confectionery, newspapers, magazines, medical and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for the good order or health or comfort of a community; but keeping open a barber shop, shaving or cutting hair shall not be deemed a work of necessity or charity, and nothing in this section shall be construed to permit the sale of uncooked meats, groceries, clothing, boots or shoes.

SEC. 243. *Obstructing View of Saloon.*

Obstructing
view of
saloon.

Every person being the owner or manager of or an employe in any drinking saloon who shall obstruct the view of the inside thereof from the outside by means of any screen, shade or other devices on any day shall be guilty of a misdemeanor.

SEC. 244. *Observance of Other Day.*

Observance
of other
day.

It shall be a sufficient defense to a prosecution for performing work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time and that the act complained of was done in such manner as [will] not disturb others in the observance of the Sabbath.

SEC. 245. *Service of Process on the Sabbath Prohibited.*

Service of
process on
Sabbath.

Every person who shall serve any legal process on the Sabbath day, except in case of a breach, or apprehended breach, of the peace, or when sued out for the apprehension of a person charged with a crime, or where such service is expressly authorized by statute, shall be guilty of a misdemeanor.

SEC. 246. *Preventing Religious Act.*

Every person who by threats or violence shall wilfully prevent another person from performing any lawful act enjoined upon or recommended to him by the religion which he professes, shall be guilty of a misdemeanor.

Preventing
religious act.

SEC. 247. *Disturbing Religious Meeting.*

Every person who shall wilfully disturb, interrupt, or disquiet any assemblage of people met for religious worship—

Disturbing
religious
meeting.

1. By noisy, rude or indecent behavior, profane discourse, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting; or,

2. By exhibiting shows or plays, or promoting any racing of animals, or gaming of any description, or engaging in any boisterous or noisy amusement; or,

3. By disturbing in any manner, without authority of law within one mile thereof, free passage along a highway to the place of such meeting, or by maliciously cutting or otherwise injuring or disturbing a harness, conveyance, tent or other property belonging to any person in attendance upon such meeting;

Shall be guilty of a misdemeanor.

CHAPTER 7.

CRIMES AGAINST PUBLIC HEALTH AND SAFETY.

SEC. 248. *Public Nuisance.*

A public nuisance is a crime against the order and economy of the state. Every place

Public
nuisance.

1. Wherein any gambling, swindling game or device, book making, pool selling, or bucket shop or any agency therefor shall be conducted, or any article, apparatus or device useful therefor shall be kept; or,

2. Wherein any fighting between men or animals or birds shall be conducted; or,

3. Wherein any intoxicating liquors are kept for unlawful use, sale or distribution; or,

4. Where vagrants resort; and

Every act unlawfully done and every omission to perform a duty, which act or omission

1. Shall annoy, injure or endanger the safety, health, comfort, or repose of any considerable number of persons; or,

2. Shall offend public decency; or,

3. Shall unlawfully interfere with, befoul, obstruct, or tend to obstruct, or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley or highway; or,

4. Shall in any way render a considerable number of persons insecure in life or the use of property;

Shall be a public nuisance.

SEC. 249. *Unequal Damage.*

Unequal
damage.

An act which affects a considerable number of persons in any of the ways specified in section 248 of this act is not less a public nuisance because the extent of the damage is unequal.

SEC. 250. *Maintaining or Permitting Nuisance.*

Maintaining
nuisance.

Every person who shall commit or maintain a public nuisance, for which no special punishment is prescribed; or who shall wilfully omit or refuse to perform any legal duty relating to the removal of such nuisance; and every person who shall let, or permit to be used, any building or boat, or portion thereof, knowing that it is intended to be, or is being used, for committing or maintaining any such nuisance, shall be guilty of a misdemeanor.

SEC. 251. *Abatement of Nuisance.*

Abatement of
nuisance.

Any court or magistrate before whom there may be pending any proceeding for a violation of section 250 of this act, shall, in addition to any fine or other punishment which it may impose for such violation, order such nuisance abated, and all property unlawfully used in the maintenance thereof destroyed by the sheriff at the cost of the defendant.

SEC. 252. *Keeping Explosives Unlawfully.*

Keeping
explosives
unlawfully.

Every person who shall make or keep any explosive or combustible substance in any city or village, or carry it

through the streets thereof in a quantity, or manner prohibited by law, or by ordinance of such municipality; and every person who, by careless, negligent or unauthorized use or management of any such explosive or combustible substance, shall injure or cause injury to the person or property of another, shall be guilty of a misdemeanor.

SEC. 253. Possession of Uninspected Oils and Effacing Brands from Oil Barrels.

Every person who shall sell, or offer for sale, or have in his possession with intent to sell, or who shall knowingly use for illuminating purposes, any oil, or other petroleum product, which shall not have been tested and approved by the state oil inspector, or who shall sell or dispose of any empty oil barrel, cask or package without thoroughly removing and effacing all inspection brands thereon, shall be guilty of a misdemeanor.

Possession of
uninspected
oils.

SEC. 254. Transporting Explosives.

Every person who shall put up for sale, or who shall deliver to any warehouseman, dock, depot, or common carrier any package, cask or can containing benzine, gasoline, naphtha, nitroglycerine, dynamite, powder or other explosive or combustible substance, without having printed thereon in a conspicuous place in large letters the word "Explosive," shall be guilty of a misdemeanor.

Transporting
explosives.

SELLING POISON WITHOUT LABEL, AND RECORDING THE
SAME.

SEC. 255. Person Omitting to Label Drugs, or Labeling Them Wrongly.

Every person who, in putting up any drug, medicine, or food, or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicines, food or preparation shall put any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug, medicine, food or preparation used in medical practice, or substitute or dispense a different article for or in lieu of any article prescribed, ordered, or demanded, or put up a greater or less

Labeling
drugs.

quantity of any ingredient specified in any such prescription, order or demand than that prescribed, ordered, or demanded, or otherwise deviate from the terms of the prescription, order, or demand by substituting one drug for another, shall be guilty of a misdemeanor: *Provided, however,* That, except in the case of physician's prescriptions, nothing herein contained shall be deemed or construed to prevent or impair or in any manner affect the right of an apothecary, druggist, pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such other article in place or in lieu of an article ordered, required or demanded, with the knowledge and consent of the purchaser.

SEC. 256. *Selling Poison Without Labeling and Recording the Sale.*

Labeling and
recording
poison.

It shall be unlawful for any person to sell at retail or furnish any of the poisons named in the schedules hereinafter set forth, without affixing or causing to be affixed to the bottle, box, vessel or package, a label containing the name of the article and the word "poison" distinctly shown, with the name and place of business of the seller, all printed in red ink, together with the name of such poison printed or written thereon in plain, legible characters, which schedules are as follows, to-wit:

SCHEDULE "A".

Arsenic, cyanide of potassium, hydrocyanic acid, cocaine, morphine, strychnia and all other poisonous vegetable alkaloids and their salts, oil of bitter almonds, containing hydrocyanic acid, opium and its preparations, except paragogic and such others as contain less than two grains of opium to the ounce.

SCHEDULE "B".

Aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote,

croton oil, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, white hellebore or any drug, chemical or preparation which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less. Every person who shall dispose of or sell at retail or furnish any poisons included under schedule A shall, before delivering the same, make or cause to be made an entry in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and the quantity of the poison, the purpose for which it is represented by the purchaser to be required and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least five years after the last entry. He shall not deliver any of said poisons to any minor, intoxicated person, or person known to be of unsound mind, or to any person without satisfying himself that the purchaser is aware of its poisonous character and that the said poison is to be used for a legitimate purpose. The foregoing portions of this section shall not apply to the dispensing of medicines, or poisons, on physicians' prescriptions. Wholesale dealers in drugs, medicines, pharmaceutical preparations or chemicals shall affix or cause to be affixed to every bottle, box, parcel or outer enclosure of an original package containing any of the articles enumerated under said schedule A, a suitable brand in red ink with the word "poison" upon it. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

Dispenser
to be satis-
fied that
purchaser
knows effect
of drug.

SEC. 257. *Regulating the Sale of Narcotic Drugs.*

It shall be unlawful for any person to sell, furnish or dispose of any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine, or any derivative, mixture or preparation of any of them, except upon the signed prescription of a physician duly licensed under the laws of this state, which prescription shall be retained by the person dispensing the same, shall be filled but once, and of which no copy shall be taken by any person. The person dispensing the same shall at the time thereof indorse on the back of such

Narcotics.

Record or
sales.

prescription the name and street and house number of the person to whom dispensed; and the proprietor or manager of the store where dispensed shall keep all such prescriptions in a permanent file, separate from all other prescriptions, in his place of business for the period of two years after the same shall have been dispensed, and shall at any time allow the same to be inspected, and copies thereof to be made by any peace officer, the prosecuting attorney of the county where sold, or any authorized inspector of drugs: *Provided*, That nothing herein contained shall prohibit any manufacturer or licensed druggist from selling or delivering any of the drugs named to a person known to be a licensed physician or licensed druggist, nor prohibit a physician from dispensing the same in good faith to his patients, nor prohibit the sale of patent or proprietary medicines containing opium or morphine, in combination or compound with other active elements wherein the dose of opium is less than one quarter grain, or the dose of morphine is less than one-twentieth grain. Every person who shall violate any of the provisions of this section shall be guilty of a gross misdemeanor.

SEC. 258. *Fraudulent Prescription by Physician.*

Fraudulent
prescription.

Every physician who shall sell or give to or prescribe for any person any opium, morphine, alkaloid (cocaine, or alpha or beta eucaine, or any derivative, mixture or preparation of any of them, or any intoxicating liquor, except to a patient believed in good faith to require the same for medicinal use, and in quantities proportioned to the needs of such patient, shall be guilty of a gross misdemeanor.

SEC. 259. *Presenting Fraudulent Prescription.*

Use or
fraudulent
prescription.

Every person who shall falsely make, forge or alter, or, knowing the same to have been falsely made, forged or altered, shall present to any druggist a physician's prescription with intent by means thereof to procure from such druggist any opium, morphine, alkaloid cocaine, or alpha or beta eucaine, or any derivative, mixture or preparation of any of them, or any intoxicating liquor, shall be guilty of a misdemeanor.

SEC. 260. *Regulating the Sale of Milk and Cream in Cities.*

Every person who, in any city of the first class, shall sell or deliver, or offer for sale, or have in his possession with intent to sell or deliver any milk or cream without having a permit therefor duly issued by the commissioner of health, health officer or inspector of milk in such city, or without having such permit displayed in a conspicuous manner in his place of business, or without having the number of such permit and the name of the owner thereof painted in a conspicuous manner on both outer sides of every wagon or other vehicle used for the sale or delivery of milk or cream, shall be guilty of a misdemeanor.

SEC. 261. *Regulating the Sale of Milk and Cream Generally.*

Every person who shall sell, or deliver, or offer for sale, or have in his possession with intent to sell or deliver—

1. Any unwholesome milk or cream; or,
2. Any milk containing less than 8.75 per cent. of milk solids, exclusive of fat, or less than 3.25 per cent. of fat, except in the manner and under the conditions prescribed for the sale of skimmed milk; or,
3. Any skimmed milk; except under the title "skimmed milk" and in cans or bottles plainly stamped in some prominent and conspicuous manner with the words, "skimmed milk"; and every person who shall sell or serve, or keep for sale or service in any hotel, restaurant or boarding house any skimmed milk without having displayed in a conspicuous manner in every room where so sold or served, placards bearing in large letters the words, "Skimmed Milk Sold Here"; or,
4. Any skimmed milk containing less than 9.3 per cent. of milk solids, exclusive of fat; or,
5. Any cream containing less than eighteen per cent. of fat, shall be guilty of a misdemeanor.

SEC. 262. *"Unwholesome"—Defined.*

Milk or cream shall be deemed unwholesome in the following cases:

1. When any foreign substance has been added there-

Sale of milk.

Purity of milk or cream.

"Unwholesome" milk or cream.

"Unwholesome" milk
or cream.

to or placed therein for the purpose of thickening, coloring or preserving the same; or,

2. When it contains any pathogenic bacteria or germs, pus cells, or blood cells; or,

3. When it contains more than two hundred thousand bacteria or germs of all kinds to the cubic centimetre; or,

4. When any water has been added thereto; or,

5. When any part of it has been drawn from a cow fed on refuse or unwholesome food; or,

6. When any part of it has been drawn from a dirty cow or cow kept in an unclean shed, barn or yard, or has been milked by unclean milkers; or,

7. When any part of it has been contaminated; or,

8. When any part of it has been drawn from an unhealthy cow; or,

9. When any part of it has been exposed to any contagious or infectious disease; or,

10. When any part of it has been drawn from a cow within ten days before or five days after partuition, or in any case before such cow shall be free from fever.

No milk or cream once unwholesome can thereafter be rendered wholesome or salable.

SEC. 263. *"Skimmed Milk"—Defined.*

Defined.

Any milk from which the cream has been removed or which contains less than 3.25 per cent. of butter fat shall be deemed to be "skimmed milk."

SEC. 264. *Wilfully Poisoning Food.*

Poisoning
food.

Every person who shall wilfully mingle poison in any food, drink or medicine intended or prepared for the use of a human being, and every person who shall wilfully poison any spring, well or reservoir of water, shall be punished by imprisonment in the state penitentiary for not less than five years or by a fine of not less than one thousand dollars.

SEC. 265. *Dangerous Weapons—Evidence.*

Dangerous
weapons.

Every person who shall manufacture, sell or dispose of or have in his possession any instrument or weapon of the kind usually known as slung shot, sand club, or metal

knuckles; shall furtively carry, or conceal any dagger, dirk, knife, pistol, or other dangerous weapon; or who shall use any contrivance or device for suppressing the noise of any fire arm, shall be guilty of a gross misdemeanor.

SEC. 266. *Setting Spring Gun.*

Every person who shall set a so-called trap, spring pistol, rifle, or other deadly weapon, shall be punished as follows: Setting
spring gun.

1. If no injury result therefrom to any human being, by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both.

2. If injuries not fatal result therefrom to any human being, by imprisonment in the state penitentiary for not more than twenty years.

3. If the death of a human being results therefrom, by imprisonment in the state penitentiary for not more than twenty years.

SEC. 267. *Obstruction of Extinguishment of Fire.*

Every person who, with intent to prevent or obstruct the extinguishment of any fire, shall cut or remove any bell rope, wire or other apparatus for communicating an alarm of fire, or cut, injure or destroy any engine, hose, or other fire apparatus, or otherwise prevent or obstruct the extinguishment of any fire, shall be punished by imprisonment in the state penitentiary for not more than five years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars. Interference
with fire
apparatus.

SEC. 268. *Obstructing Firemen.*

Every person who at the burning of any building shall be guilty of any disobedience to the lawful orders of a public officer or fireman or of resistance to or interference with the lawful efforts of any fireman, or company of firemen to extinguish the same, or of disorderly conduct likely to interfere with the extinguishment thereof, or who shall forbid, prevent or dissuade others from assisting to extinguish such fire, shall be guilty of a misdemeanor. Obstructing
firemen.

SEC. 269. *Smoking—Where Prohibited.*

Smoking.

Every person who shall light a pipe, cigar or cigarette in, or who shall enter with a lighted pipe, cigar or cigarette, any mill or other building on which is posted in a conspicuous place over and near each principal entrance a notice in plain, legible characters stating that no smoking is allowed in such building, shall be guilty of a misdemeanor.

SEC. 270. *Setting Prohibited Fire.*

Setting prohibited fire.

Every person who, within a county where there is a deputy fire warden, shall burn any wood or brush between the 1st day of June and the 1st day of October in each year, without first obtaining a permit thereto from such deputy fire warden, or who, in setting, guarding or extinguishing any fire in such wood or brush, shall wilfully or negligently fail to observe any precaution prescribed by such deputy fire warden, shall be guilty of a misdemeanor: *Provided*, That nothing herein contained shall prevent any person from burning any logs, stumps, drift or brush heaps in small quantities isolated from other inflammable material under personal supervision and such other safeguards as shall prevent such fires from spreading.

SEC. 271. *Negligent Fires.*

Negligent fires.

Every person who shall wilfully or negligently set, or fail to carefully guard or extinguish any fire, whether on his own land or the land of another, whereby the timber or property of another shall be endangered, or who shall fail to respond to any lawful summons to aid in guarding or extinguishing any fire, shall be guilty of a misdemeanor.

SEC. 272. *Operating Dangerous Engine.*

Operating dangerous engine.

Every person who shall operate or permit to be operated in dangerous proximity to any brush, grass or other inflammable material, any engine or boiler which is not equipped with a modern spark arrester, in good condition, shall be guilty of a misdemeanor.

SEC. 273. *Door of Public Buildings to Swing Outward.*

Doors of public resort.

The doors of all theatres, opera houses, school buildings, churches, public halls, or places used for public en-

tertainments, exhibitions or meetings, which are used exclusively or in part for admission to or egress from the same, or any part thereof, shall be so hung and arranged as to open outwardly, and during any exhibition, entertainment or meeting, shall be kept unlocked and unfastened, and in such condition that in case of danger or necessity, immediate escape from such building shall not be prevented or delayed; and every agent or lessee of any such building who shall rent the same or allow it to be used for any of the aforesaid public purposes without having the doors thereof hung and arranged as hereinbefore provided, shall, for each violation of any provision of this section, be guilty of a misdemeanor.

SEC. 274. *Engineer Who Cannot Read.*

Every person who, as an officer of a corporation or otherwise, shall knowingly employ as an engineer or engine driver, to run a locomotive or train on any railway, any person who cannot read time tables and ordinary handwriting; and every person who, being unable to read time tables and ordinary handwriting, shall act as an engineer or run a locomotive or train on any railway, shall be guilty of a gross misdemeanor.

Illiterate
engineers.

SEC. 275. *Intoxication of Employes.*

Every person who, being employed upon any railway, as engineer, motorman, gripman, conductor, switch tender, fireman, bridge tender, flagman or signalman, or person having charge of stations, starting, regulating or running trains upon a railway, or person employed as captain, engineer or other officer of a vessel propelled by steam, or being the driver of any animal or vehicle upon any public street, shall be intoxicated while engaged in the discharge of any such duties, shall be guilty of a gross misdemeanor.

Intoxication
of employes

SEC. 276. *Failure to Ring Bell.*

Every engineer driving a locomotive on any railway who shall fail to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except

Failure to
ring bell.

in cities), or to continue the ringing of such bell or sounding of such whistle until such locomotive shall have crossed such road or street, shall be guilty of a misdemeanor.

SEC. 277. *Other Violations of Duty.*

Nonfeasance
by trainmen.

Every engineer, motorman, gripman, conductor, brakeman, switch tender, train dispatcher or other officer, agent or servant of any railway company, who shall be guilty of any wilful violation or omission of his duty as such officer, agent or servant, by which human life or safety shall be endangered, for which no punishment is specially prescribed, shall be guilty of a misdemeanor.

SEC. 278. *Obstructing and Delaying Train.*

Delaying
train.

Every person who shall wilfully obstruct, hinder or delay the passage of any car lawfully operated upon any railway, shall be guilty of a misdemeanor.

SEC. 279. *Speed of Automobile.*

Speed of
automobile.

Every person who shall drive or operate, and every owner, lessee or other person in charge thereof who shall permit to be driven or operated, any automobile or motor vehicle on any public road, highway, park or parkway, street or avenue, within this state—

1. Within a thickly settled or business portion of any city or town, at a rate of speed faster than one mile in five minutes; or

2. Over any crossing, cross-walk or street intersection within the limits of any city or town, when any person is upon the same, at a rate of speed faster than one mile in fifteen minutes; or

3. At any other place, at a rate of speed faster than one mile in two and one-half minutes; or

4. Upon any public road, highway, park or parkway, street or avenue, at any unsafe or unreasonable rate of speed, having proper regard to the safety of any other person or persons using the same, shall be guilty of a misdemeanor.

SEC. 280. *Liability of Person Handling Steamboat or Steam Boiler.*

Every person who shall apply, or cause to be applied to a steam boiler a higher pressure of steam than is allowed by law, or by any inspector, officer or person authorized to limit the same; every captain or other person having charge of the machinery or boiler in a steamboat used for the conveyance of passengers on the waters of this state, who, from ignorance or gross neglect, or for the purpose of increasing the speed of such boat, shall create or cause to be created an undue or unsafe pressure of steam; and every engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam, who shall wilfully or from ignorance or gross neglect, create or allow to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident, whereby human life is endangered, shall be guilty of a gross misdemeanor.

Pressure in steam boilers.

SEC. 281. *Endangering Life by Refusal to Labor.*

Every person who shall wilfully and maliciously, either alone or in combination with others, break a contract of service or employment, knowing or having reasonable cause to believe that the consequence of his so doing will be to endanger human life or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, shall be guilty of a misdemeanor.

Nonfeasance by laborer.

SEC. 282. *Disturbance on Highway.*

Every person who shall ride or drive any horse upon a public highway, in a manner likely to endanger the safety or life of another, or on such highway shall create or participate in any noise, disturbance or other demonstration calculated or intended to frighten, intimidate or disturb any person, shall be guilty of a misdemeanor.

Disturbance on highway.

SEC. 283. *Dangerous Exhibitions.*

Every proprietor, lessee or occupant of any place of amusement, or any plat of ground or building, who shall allow it to be used for the exhibition of skill in throwing

Dangerous exhibitions.

any sharp instrument or in shooting any bow gun, pistol or firearm of any description, at or toward any human being, shall be guilty of a misdemeanor.

SEC. 284. *Sale of Cigarettes and Cigarette Materials.*

Cigarettes.

Every person who shall manufacture, sell, give away or distribute, or have in his possession any cigarettes, cigarette papers or cigarette wrappers, shall be guilty of a misdemeanor.

SEC. 285. *Deposit of Unwholesome Substance.*

Unsanitary deposits.

Every person who shall deposit, leave or keep, on or near a highway or route of public travel, on land or water, any unwholesome substance; or who shall establish, maintain or carry on, upon or near a highway or route of public travel, on land or water, any business, trade or manufacture which is noisome or detrimental to the public health; or who shall deposit or cast into any lake, creek or river, wholly or partly in this state, the offal from or the dead body of any animal, shall be guilty of a gross misdemeanor.

SEC. 286. *Allowing Vicious Animal at Large.*

Vicious animal.

Every person having the care or custody of any animal known to possess any vicious or dangerous tendencies, who shall allow the same to escape or run at large in any place or manner liable to endanger the safety of any person, shall be guilty of a misdemeanor; and any person may lawfully kill such animal when reasonably necessary to protect his own or the public safety.

SEC. 287. *Exposing Contagious Disease.*

Exposing contagious disease.

Every person who shall wilfully expose himself to another, or any animal affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his or its necessary removal in a manner not dangerous to the public health; and every person so affected who shall expose any other person thereto without his knowledge, shall be guilty of a misdemeanor.

SEC. 288. *Diseased Animals.*

Diseased animals.

Every owner or person having charge thereof, who shall import or drive into this state, or who shall turn out or

suffer to run at large upon any highway or unenclosed lands, or upon any lands adjoining the enclosed lands kept by any person for pasture; or who shall keep or allow to be kept in any barn with other animals, or water or allow to be watered at any public drinking fountain or watering place, any animal having any contagious or infectious disease; or who shall sell, let or dispose of any such animal knowing it to be so diseased, without first apprising the purchaser or person taking it of the existence of such disease, shall be guilty of a misdemeanor.

SEC. 289. *Diseased Animals—Disposal of Carcasses.*

Every person owning or having in charge any animal that has died or been killed on account of disease, shall immediately bury the carcass thereof at least three feet underground, or cause the same to be consumed by fire. No person shall sell or offer to sell or give away the carcass of any animal which died or was killed on account of disease, or convey the same along any public road or land not his own. Every violation of any provision of this section shall be a misdemeanor.

Dead animals.
Disposal of carcass.

SEC. 290. *Polluting Water Supply.*

Every person who shall deposit or suffer to be deposited in any spring, well, stream, river or lake, the water of which is or may be used for drinking purposes, or on any property owned, leased or otherwise controlled by any municipal corporation, corporation or person as a watershed or drainage basin for a public or private water system, any matter or thing whatever, dangerous or deleterious to health, or any matter or thing which may or could pollute the waters of such spring, well, stream, river, lake or water system, shall be guilty of a gross misdemeanor.

Polluting water supply.

SEC. 291. *Furnishing Impure Water.*

Every owner, agent, manager, operator or other person having charge of any waterworks furnishing water for public or private use, who shall knowingly permit any act or omit any duty or precaution by reason whereof the purity or healthfulness of the water supplied shall become impaired, shall be guilty of a gross misdemeanor.

Furnishing impure water.

SEC. 292. *Practicing Medicine Without a License.*

Licenses of
physicians
and dentists.

Every person who shall practice medicine or surgery or dentistry without having obtained and filed in the office of the county clerk where he resides, a license as required by law, shall be guilty of a gross misdemeanor.

SEC. 293. *Unlicensed Pilotage.*

Unlicensed
pilotage.

Every person not duly licensed thereto, who shall pilot or offer to pilot any vessel into, within or out of the waters of Juan de Fuca Strait or Puget Sound, shall be guilty of a misdemeanor: *Provided*, That nothing herein shall prohibit a master of a vessel acting as his own pilot, nor compel a master or owner of any vessel to take out a pilot license for that purpose.

CHAPTER VIII.

CRIMES AGAINST THE PUBLIC PEACE.

SEC. 294. *Armed Association.*

Armed
association.

It shall not be lawful for any body of men other than the National Guard or troops of the United States, to associate themselves together as a military company with arms, without the consent of the Governor; but members of social and benevolent associations are not prohibited from wearing swords. Every person who shall associate with others in violation of this section shall be guilty of a misdemeanor.

SEC. 295. *Disturbing Meeting.*

Disturbing
meeting.

Every person who, without [authority] of law, shall wilfully disturb any assembly or meeting not unlawful in its character, shall be guilty of a misdemeanor.

SEC. 296. *Riot Defined.*

Rioting.

Whenever three or more persons, having assembled for any purpose, shall disturb the public peace by using force or violence to any other person, or to property, or shall threaten or attempt to commit such disturbance, or to do any unlawful act by the use of force or violence, accompanied with the power of immediate execution of such threat or attempt, they shall be guilty of a riot.

SEC. 297. Riot—Penalty.

Every person who shall be guilty of riot or of participating therein, by being present at, or by instigation, permitting or aiding the same, shall be punished as follows:

1. If the purpose of the assembly or the acts done therein, or intended by the persons engaged, shall be to resist the enforcement of a statute of this state or of the United States, or to obstruct any public officer of this state or the United States in serving or executing any process or other mandate of a court, or in the performance of any other duty, or if at the time of the riot the offender shall carry a firearm or any other dangerous weapon, or shall be disguised, by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars.

2. If the offender shall direct, advise, encourage or solicit other persons present or participating in a riot or assembly to acts of force or violence, by imprisonment in the state penitentiary for not more than two years, or by a fine of not more than one thousand dollars.

3. In every other case, by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars.

SEC. 298. Unlawful Assembly.

Whenever three or more persons shall assemble with Unlawful assembly. intent—

1. To commit any unlawful act by force; or,
2. To carry out any purpose in such manner as to disturb the public peace; or,
3. Being assembled, shall attempt or threaten any act tending toward a breach of the peace, or an injury to persons or property, or any unlawful act—such an assembly is unlawful, and every person participating therein by his presence, aid or instigation, shall be guilty of a gross misdemeanor.

SEC. 299. Remaining After Warning.

Every person who shall remain present at the place of an unlawful meeting after having been warned to disperse by a magistrate or public officer, unless as a public officer

or at the request of such officer he is assisting in dispersing the same, or in protecting persons or property or in arresting offenders, shall be guilty of a misdemeanor.

SEC. 300. *Destruction of Property.*

Whenever any of the persons so unlawfully assembled shall pull down or destroy any dwelling house or other building, or any shop, steamboat or vessel, he shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars.

SEC. 301. *Disguised and Masked Persons.*

Disguised
persons.

Any assemblage of three or more persons, disguised by having their faces painted, discolored, colored or concealed, shall be unlawful; and every person so disguised present thereat, shall be guilty of a gross misdemeanor; but nothing herein shall be construed as prohibiting any peaceful assemblage for a masquerade or fancy dress ball or entertainment.

SEC. 302. *Owner of Premises Allowing Masqueraders.*

Allowing
masquera-
ders.

Every person, being the owner, lessee or occupant of any building, boat, or part thereof, who shall knowingly permit therein any unlawful assemblage of masked persons, shall be guilty of a gross misdemeanor.

SEC. 303. *Combination to Resist Process.*

Combination
to resist
process.

Every person who shall enter into a combination with another to resist the execution of any legal process or other mandate of a court of competent jurisdiction, under circumstances not amounting to a riot, shall be guilty of a gross misdemeanor.

PRIZE FIGHTING.

SEC. 304. *Aiding, Betting or Stake Holding.*

Aiding, bet-
ting or stake
holding.

Every person who shall engage in, instigate, aid, encourage, or do any act to further an encounter or fight with or without weapons, between two or more persons, or a fight commonly called a ring or prize fight, or an encounter commonly called a sparring match, with or

without gloves, or who shall send a challenge or acceptance of a challenge for such an encounter or fight; or who shall carry or deliver such a challenge or acceptance, or shall train or assist any person in training or preparing for such an encounter or fight; or who shall bet, stake or wager money or other property upon the result of such encounter or fight; or hold or undertake to hold any money or other property so staked or wagered, to be delivered to, or for the benefit of the winner thereof, shall be guilty of a gross misdemeanor: *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.

SEC. 305. *Apprehension of Persons About to Fight.*

Whenever it shall be made to appear to any magistrate that there are reasonable grounds to apprehend that an offense specified in section 304 of this act is about to be committed within his jurisdiction, or by any person therein, he shall issue his warrant for the arrest of the person or persons so about to offend, and if upon any such person being brought before him it shall appear that there is reasonable ground to believe that he is about to commit such an offense he shall require him to give bond to the state, approved by him, in a sum not exceeding one thousand dollars, with or without sureties, conditioned that such person shall not within one year thereof commit such an offense. On failure to furnish such bond such person shall be committed to the county jail.

Apprehension of persons.

SEC. 306. *Forcible Entry and Detainer.*

Every person who shall unlawfully use, or encourage or assist another in unlawfully using, any force or violence in entering upon or detaining any lands or other possessions of another; and every person who, having removed or been removed therefrom pursuant to the order or direction of any court, tribunal or officer, shall afterwards return to settle or reside unlawfully upon, or take possession of, such lands or possessions, shall be guilty of a misdemeanor.

Forcible entry and detainer.

SEC. 307. *Aiming or Discharging Firearms.*

Discharging
firearms.

Every person who shall aim any gun, pistol, revolver or other firearm, whether loaded or not, at or towards any human being, or who shall wilfully discharge any firearm, air gun or other weapon, or throw any deadly missile in a public place, or in any place where any person might be endangered thereby, although no injury result, shall be guilty of a misdemeanor.

SEC. 308. *Use of Firearms by Minor.*

Use of fire-
arms by
minor.

No minor under the age of fourteen years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind for hunting or target practice or for other purposes. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.

SEC. 309. *Offenses in Public Conveyances.*

Offenses in
public
conveyances.

Every person who shall wilfully use profane, offensive, or indecent language or engage in any quarrel in any public conveyance, or interfere with or annoy any passenger therein, or, having refused to pay the proper fare, shall fail to leave any such conveyance upon demand, or, with intent to avoid the payment of fare shall ride upon any car or engine not commonly used for the carriage of passengers, shall be guilty of a misdemeanor.

SEC. 310. *Criminal Anarchy Defined.*

Criminal
anarchy.

Criminal anarchy is the doctrine that organized government should be overthrown by force or violence, or by assassination of the executive head or of any of the executive officials of government, or by any unlawful means. The advocating of such doctrine either by word of mouth or writing is a felony.

SEC. 313. [311.] *Advocacy of Criminal Anarchy.*

Every person who—

Advocacy of
criminal
anarchy.

1. By word of mouth or writing shall advocate, advise or teach the duty, necessity or propriety of overthrowing or overturning organized government by force or violence,

or by assassination of the executive head or of any of the executive officials of government, or by any unlawful means; or

2. Shall print, publish, edit, issue or knowingly circulate, sell, distribute or publicly display any book, paper, document, or written or printed matter in any form, containing or advocating, advising or teaching the doctrine that organized government should be overthrown by force, violence or any unlawful means; or,

3. Shall openly, wilfully and deliberately justify by word of mouth or writing the assassination or unlawful killing or assaulting of any executive or other officer of the United States or of any state or of any civilized nation having an organized government because of his official character, or any other crime, with intent to teach, spread or advocate the propriety of the doctrines of criminal anarchy; or

4. Shall organize or help to organize or become a member of or voluntarily assemble with any society, group or assembly of persons formed to teach or advocate such doctrine,

Shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 312. *Publishing Matter Inciting Breach of Peace.*

Every person who shall wilfully print, publish, edit, issue, or knowingly circulate, sell, distribute or display any book, paper, document or written or printed matter, in any form, advocating, encouraging or inciting, or having a tendency to encourage or incite the commission of any crime, breach of the peace or act of violence, or which shall tend to encourage or advocate disrespect for law or for any court or courts of justice, shall be guilty of a gross misdemeanor.

Publishing
matter
inciting
breach of
peace.

SEC. 313. *Liability of Editors and Others.*

Every editor or proprietor of a book, newspaper or serial and every manager of a partnership or incorporated association by which a book, newspaper or serial is issued, is chargeable with the publication of any matter contained

Liability of
editors.

in such book, newspaper or serial. But in every prosecution therefor, the defendant may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes by another who had no authority from him to make the publication, and was retracted by him as soon as known.

SEC. 314. *Assemblages of Anarchists.*

Assemblages
of anarchists.

Whenever two or more persons assemble for the purpose of advocating or teaching the doctrines of criminal anarchy, as defined in section 310 of this act, such an assembly is unlawful, and every person voluntarily participating therein by his presence, aid or instigation, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or both.

SEC. 315. *Permitting Premises to be Used for Assemblages of Anarchists.*

Use of
premises by
anarchists.

Every owner, agent, superintendent, janitor, caretaker or occupant of any place, building or room, who shall wilfully and knowingly permit therein any assemblage of persons prohibited by section 314 of this act, or who, after notification that the premises are so used, shall permit such use to be continued, shall be guilty of a gross misdemeanor.

SEC. 316. *Witness' Privilege.*

Evidence.

No person shall be excused from giving evidence upon an investigation or prosecution for any of the offenses specified in sections 311 or 314 of this act, upon the ground that the evidence might tend to criminate himself.

CHAPTER IX.

CRIMES AGAINST PROPERTY.

CRIMES AGAINST STATE PROPERTY.

SEC. 317. *Misappropriation and Falsification of Accounts by Public Officer.*

Embezzle-
ment and
falsification
by public
officer.

Every public officer, and every other person receiving money on behalf or for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the

people are directly or indirectly interested, or for or on account of any county, city, town or any school, diking, drainage or irrigation district, who—

1. Shall appropriate to his own use or the use of any person not entitled thereto, without authority of law, any money so received by him as such officer or otherwise; or

2. Shall knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him; or

3. Shall fraudulently alter, falsify, conceal, destroy or obliterate any such account; or

4. Shall wilfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town or such school, diking, drainage or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him as such officer when it is a duty imposed upon him by law to pay over and account for the same, shall be punished by imprisonment in the state penitentiary for not more than fifteen years.

SEC. 318. *Other Violations by Officers.*

Every officer or other person mentioned in section 317 of this act, who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor.

Other
violations
by officers.

SEC. 319. *Misappropriation, etc., by Treasurer.*

Every state, county, city or town treasurer who shall wilfully misappropriate any moneys, funds or securities received by or deposited with him as such treasurer, or who shall be guilty of any other malfeasance or wilful neglect of duty in his office, shall be punished by imprisonment in the state penitentiary for not more than five years or by a fine of not more than five thousand dollars.

Misappropriation
by
treasurer.

ARSON.

SEC. 320. *First Degree.*

Every person who shall wilfully—

1. Burn or set on fire in the night-time the dwelling First degree.

house of another, or any building in which there shall be at the time a human being; or

2. Set any fire manifestly dangerous to any human life, shall be guilty of arson in the first degree and be punished by imprisonment in the state penitentiary for not less than five years.

SEC. 321. *Second Degree.*

Second
degree.

Every person who, under circumstances not amounting to arson in the first degree, shall wilfully burn or set on fire any building, or any structure or erection appurtenant to or adjoining any building, or any wharf, dock, threshing machine, threshing engine, bridge or trestle, or any hay, grain, crop or timber, whether cut or standing, or any lumber, shingle or other timber products, shall be guilty of arson in the second degree, and shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars.

SEC. 322. *Contiguous Fires.*

Contiguous
fires.

Whenever any building or structure which may be the subject of arson in either the first or second degree shall be so situated as to be manifestly endangered by any fire and shall subsequently be set on fire thereby, any person participating in setting such fire shall be deemed to have participated in setting such building or structure on fire.

SEC. 323. *"Set on Fire" Defined.*

"Firing"
defined.

A building, structure or any property mentioned in section 321 hereof shall be deemed "set on fire," whenever any part thereof or anything therein shall be scorched, charred or burned.

SEC. 324. *Ownership of Building.*

Ownership
of building.

To constitute arson it shall not be necessary that another person than the defendant should have had ownership in the building or structure set on fire.

SEC. 325. *Preparation Is Attempt.*

Preparation
is attempt.

Any wilful preparation made by any person with a view to setting fire to any building or structure shall be deemed

to be an attempt to commit the crime of arson, and shall be punished as such.

BURGLARY.

SEC. 326. *First Degree.*

Every person who, with intent to commit some crime therein, shall enter in the night time, the dwelling house of another in which there shall be at the time a human being— First degree.

1. Being armed with a dangerous weapon; or
2. Arming himself therein with such a weapon; or
3. Being assisted by a confederate actually present; or
4. Who, while engaged in the night-time in effecting such entrance, or in committing any crime in such building or in escaping therefrom, shall assault any person; or
5. Who, with intent to commit some crime therein, shall break and enter any bank, postoffice, railway express or railway mail car, shall be guilty of burglary in the first degree and shall be punished by imprisonment in the state penitentiary for not less than five years.

SEC. 327. *Second Degree.*

Every person who, with intent to commit some crime therein shall, under circumstances not amounting to burglary in the first degree, enter the dwelling house of another or break and enter, or, having committed a crime therein, shall break out of, any building or part thereof, or a room or other structure wherein any property is kept for use, sale or deposit, shall be guilty of burglary in the second degree and shall be punished by imprisonment in the state penitentiary for not more than fifteen years. Second degree.

SEC. 328. *Presumption of Intent.*

Every person who shall unlawfully break and enter or unlawfully enter any building or structure enumerated in sections 326 and 327 of this act shall be deemed to have broken and entered or entered the same with intent to commit a crime therein, unless such unlawful breaking and entering or unlawful entry shall be explained by testimony satisfactory to the jury to have been made without criminal intent. Presumption of intent.

SEC. 329. *Crime in Building—Punished Separately.*

Crime while
burglarizing.

Every person who, in the commission of a burglary shall commit any other crime, shall be punished therefor as well as for the burglary, and may be prosecuted for each crime separately.

SEC. 330. *Making or Having Burglar Tools.*

Burglar tools.

Every person who shall make or mend or cause to be made or mended, or have in his possession in the day or night-time, any engine, machine, tool, false key, pick lock, bit, nippers or implement adapted, designed or commonly used for the commission of burglary, larceny or other crime, under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a crime, or knowing that the same is intended to be so used, shall be guilty of a gross misdemeanor. The possession thereof except by a mechanic, artificer or tradesman at and in his established shop or place of business, open to public view, shall be *prima facie* evidence that such possession was had with intent to use or employ or allow the same to be used or employed in the commission of a crime.

FORGERY.

SEC. 331. *First Degree.*

First degree.

Every person who, with intent to defraud, shall forge any writing or instrument by which any claim, privilege, right, obligation or authority, or any right or title to property, real or personal, is or purports to be, or upon the happening of some future event may be, evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, discharged or affected, or any request for the payment of money or delivery of property or any assurance of money or property, or any writing or instrument for the identification of any person, or any public record or paper on file in any public office, or any certified or authenticated copy of such record or paper, or any entry in any public or private record of account, or any judgment, decree, order, mandate, return, writ or process of any court, tribunal, judge, justice of the peace,

commissioner or magistrate, or the official return or report of, or a license issued by, any public officer, or any pleading, demurrer, motion, affidavit, appearance, notice, cost-bill, statement of facts, bill of exceptions or proposed statement of facts or bill of exceptions in any action or proceeding whether pending or not, or the draft of any bill or resolution that has been presented to either house of the legislature of this state, whether engrossed or not, or the great seal of this state, the seal of any public officer, court, notary public or corporation, or any public seal authorized or recognized by the laws of this or any other state or government, or any impression of any such seal; or shall forge or counterfeit any coin or money of any state or government, or any bank or treasury bill, any note or postage or revenue stamp; or who, without authority shall make or engrave any plate in the form or similitude of any writing, instrument, seal, coin, money, stamp or thing which may be the subject of forgery, shall be guilty of forgery in the first degree, and shall be punished by imprisonment in the state penitentiary for not more than twenty years.

SEC. 332. *False Certificate to Certain Instruments.*

Every officer authorized to take a proof or acknowledgment of an instrument which by law may be recorded, who shall wilfully certify falsely that the execution of such instrument was acknowledged by any party thereto, or that the execution thereof was proved, shall be guilty of forgery in the first degree.

False certificate by official.

SEC. 333. *Second Degree.*

Every person who, with intent to injure or defraud shall—

1. Make any false entry in any public or private record or account; or

Second degree.

2. Fail to make a true entry of any material matter in any public or private record or account; or

3. Forge any letter or written communication or copy or purported copy thereof, or send or deliver, or connive at the sending or delivery of any false or fictitious telegraph message or copy or purported copy thereof, where-

by or wherein the sentiments, opinions, conduct, character, purpose, property, interests or rights of any person shall be misrepresented or may be injuriously affected, or, knowing any such letter, communication or message or any copy or purported copy thereof to be false, shall utter or publish the same or any copy or purported copy thereof as true, shall be guilty of forgery in the second degree, and shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than five thousand dollars.

SEC. 334. *Falsely Indicating Person as Corporate Officer.*

Signing for
corporation.

The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government and bearing the pretended signature of any person therein falsely indicated as an agent or officer of such corporation, association, state or government, is forgery in the same degree as if that person were in truth such officer or agent of such corporation, association, state or government.

SEC. 335. *Uttering Forged Instruments, Coins, Etc., Forgery.*

Uttering
forged
articles.

Every person who, knowing the same to be forged or altered, and with intent to defraud, shall utter, offer, dispose of or put off as true, or have in his possession with intent so to utter, offer, dispose of or put off any forged writing, instrument or other thing, the false making, forging or altering of which is punishable as forgery, shall be guilty of forgery in the same degree as if he had forged the same.

SEC. 336. *True Writing Signed by Wrong-Doer's Name.*

Forgery by
true
writings.

Whenever the false making or uttering of any instrument or writing is forgery in any degree, every person who, with intent to defraud shall offer, dispose of or put off such an instrument or writing subscribed or endorsed in his own name or that of any other person, whether such signature be genuine or fictitious, under the pretense that

such subscription or endorsement is the act of another person of the same name, or that of a person not in existence, shall be forgery in the same degree.

SEC. 337. *Misconduct in Signing a Petition.*

Every person who shall wilfully sign the name of another person or of a fictitious person, or for any consideration, gratuity or reward shall sign his own name to or withdraw his name from any referendum or other petition circulated in pursuance of any law of this state or any municipal ordinance; or in signing his name to such petition shall wilfully subscribe to any false statement concerning his age, citizenship, residence or other qualifications to sign the same; or knowing that any such petition contains any such false or wrongful signature or statement, shall file the same, or put the same off with intent that it should be filed, as a true and genuine petition, shall be guilty of a misdemeanor.

Misconduct
in signing.

SEC. 338. *Definitions.*

Within the provisions of this subdivision relating to forgery, a "written instrument," or a "writing," shall include an instrument partly written and partly printed or wholly printed with a written signature thereto, or any signature or writing purporting to be a signature of or intended to bind an individual, partnership, corporation or association or an officer thereof.

Definitions.

The words "forge," "forgery," "forged," and "forging," shall include false making, "counterfeiting" and the alteration, erasure or obliteration of a genuine instrument in whole or in part, the false making or counterfeiting of the signature of a party or witness, real or fictitious, and the placing or connecting together with intent to defraud, of different parts or the whole of several genuine instruments.

A plate is in the "form and similitude," of the genuine instrument forged, if the finished parts of the engraving thereupon shall resemble or conform to the similar parts of the genuine instrument.

COUNTERFEITING—FRAUDULENT PRACTICES.

SEC. 339. *Possession of Counterfeit Coin.*Possession
of counter-
feit coin.

Every person who shall have in his possession a counterfeit of any gold or silver coin, whether of the United States or any foreign country or government, knowing the same to be counterfeit, with intent to sell, utter, use, circulate or export the same as true or as false, or to cause the same to be so uttered or used, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than five thousand dollars, or by both.

SEC. 340. *Advertising Counterfeit Money.*Advertising
counterfeit
money.

Every person who, with intent to defraud, shall print, circulate or distribute a letter, circular, card, pamphlet, hand bill or any other written or printed matter offering or purporting to offer for sale, exchange or as a gift, counterfeit coin or paper money, or giving or purporting to give information where counterfeit coin or paper money can be procured, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than five thousand dollars.

SEC. 341. *False Certificate of Registration of Animals—False Representation as to Breed.*

Animals.

False
pedigrees.

Every person who, by color or aid of any false pretense, representation, token or writing shall obtain from any club, association, society or company for the improvement of the breed of cattle, horses, sheep, swine, fowls or other domestic animals or birds, a certificate of registration of any animal or bird in a herd-book, or other register of any such association, society or company, or a transfer of any such registration, and every person who shall knowingly represent an animal or bird for breeding purposes to be of a greater degree of any particular strain of blood than such animal actually possesses, shall be guilty of a gross misdemeanor.

SEC. 342. *Removing Lawful Brands.*Removing
brands.

Every person who shall wilfully deface, obliterate, remove or alter any mark or brand placed by or with the

authority of the owner thereof on any shingle bolt, log or stick of timber, or on any horse, mare, gelding, mule, cow, steer, bull, sheep, goat or hog, shall be punished by imprisonment in the state penitentiary for not more than five years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

SEC. 343. *Imitating Lawful Brand.*

Every person who, in any county, shall place upon any property, any brand or mark in the likeness or similitude of another brand or mark filed with the county auditor of such county by the owner thereof as a brand or mark for the designation or identification of a like kind of property, shall—

Imitating
brand.

1. If done with intent to confuse or commingle such property with, or to appropriate to his own use, the property of such other owner, be guilty of a felony, and be punished by imprisonment in the state penitentiary for not more than five years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment; or

2. If done without such intent, shall be guilty of a misdemeanor.

SEC. 344. *Counterfeiting Trademark, Brand, Etc.*

Every person who shall use or display or have in his possession with intent to use or display, the genuine label, trademark, term, design, device, or form of advertisement of any person, corporation, association or union, lawfully filed for record in the office of the secretary of state, or the exclusive right to use which is guaranteed to any person, corporation, association or union, by the laws of the United States, without the written authority of such person, corporation, association or union, or who shall wilfully forge or counterfeit or use or display or have in his possession with intent to use or display any representation, likeness, similitude, copy or imitation of any genuine label, trademark, term, design, device, or form of adver-

Counterfeit-
ing trade-
mark, brand,
etc.

tisement, so filed or protected, or any die, plate, stamp or other device for manufacturing the same, shall be guilty of a gross misdemeanor.

SEC. 345. *Displaying Goods With False Trademark.*

Displaying
false trade-
mark.

Every person who shall knowingly sell, display or advertise, or have in his possession with intent to sell, any goods, wares, merchandise, mixture, preparation or compound having affixed thereto any label, trademark, term, design, device, or form of advertisement lawfully filed for record in the office of the secretary of state by any person, corporation, association or union, or the exclusive right to the use of which is guaranteed to such person, corporation, association or union under the laws of the United States, which label, trademark, term, design, device or form of advertisement shall have been used or affixed thereto without the written authority of such person, corporation, association or union, or having affixed thereto any forged or counterfeit representation, likeness, similitude, copy or imitation thereof, shall be guilty of a misdemeanor.

SEC. 346. *When Deemed Affixed.*

When
Deemed
Affixed.

A label, trademark, term, design, device or form of advertisement shall be deemed to be affixed to any goods, wares, merchandise, mixture, preparation or compound whenever it is in any manner placed in or upon either the article itself, or the box, bale, barrel, bottle, case, cask or other vessel or package, or the cover, wrapper, stopper, brand, label or other thing in, by or with which the goods are packed, enclosed or otherwise prepared for sale or distribution.

SEC. 347. *Fraudulent Registration of Trademark.*

Fraudulent
registration
of trademark.

Every person who shall for himself, or on behalf of any other person, corporation, association or union, procure the filing of any label, trademark, term, design, device or form of advertisement, with the secretary of state by any fraudulent means, shall be guilty of a misdemeanor.

SEC. 348. *Form and Similitude Defined.*

Form and
Similitude.

A plate, label, trademark, term, design, device or form of advertisement is in the form and similitude of the genu-

ine instrument imitated if the finished parts of the engraving thereupon shall resemble or conform to the similar parts of the genuine instrument.

SEC. 349. *Larceny.*

Every person who, with intent to deprive or defraud the owner thereof— *Larceny.*

1. Shall take, lead or drive away the property of another; or

2. Shall obtain from the owner or another the possession of or title to any property by color or aid of any order for the payment or delivery of property or money or any check or draft, knowing that the maker or drawer of such order, check or draft was not authorized or entitled to make or draw the same, or by color or aid of any fraudulent or false representation, personation or pretense or by any false token or writing or by any trick, device, bunco game or fortune telling; or

3. Having any property in his possession, custody or control, as bailee, factor, pledgee, servant, attorney, agent, employe, trustee, executor, administrator, guardian or officer of any person, estate, association or corporation, or as a public officer, or a person authorized by agreement or by competent authority to take or hold such possession, custody or control, or as a finder thereof, shall secret, withhold or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto; or

4. Having received any property by reason of a mistake, shall with knowledge of such mistake secrete, withhold or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto; and

5. Every person who, knowing the same to have been so appropriated, shall bring into this state, or buy, sell, receive or aid in concealing or withholding any property wrongfully appropriated, whether within or outside of this state, in such manner as to constitute larceny under the provisions of this act—

Steals such property and shall be guilty of larceny.

SEC. 350. *Commission or Part Ownership No Defense.*

Commission
or part
ownership.

It shall be no defense to a prosecution for larceny that the accused was entitled to a commission out of the money or property appropriated, as compensation for collecting or receiving the same for or on behalf of the owner thereof, or that the money or property appropriated was partly the property of another and partly the property of the accused; but it shall not be larceny for any bailee, factor, pledgee, servant, attorney, agent, employee, or trustee, executor, administrator, guardian, officer or other person to retain his reasonable collection fee or charges.

SEC. 351. *Sale of Mortgaged Property—When Larceny.*

Sale of
mortgaged
property.

Every person who shall sell or mortgage any personal property which is at the time mortgaged or upon which any lien has been or may lawfully be filed, without informing the purchaser or mortgagee thereof, before the payment of the purchase price or money loaned, of the several amounts of all such mortgages and liens, shall be deemed to have made a false representation within the meaning of section 349, subdivision 2, of this act.

SEC. 352. *Contractor Failing to Pay for Labor or Material.*

Contractor
not avoiding
liens.

Every person having entered into a contract to supply any labor or materials for the value or price of which any lien might lawfully be filed upon the property of another, who shall receive the full price or consideration thereof, or the amount of any account stated thereon, shall be deemed within the meaning of section 349, subdivision 3, of this act, to receive the same as the agent of the party with whom such contract was made, his successor or assign, for the purpose of paying all claims for labor and materials supplied.

SEC. 353. *Grand Larceny—Penalty.*

Grand
larceny.

Every person who shall steal or unlawfully obtain, appropriate, bring into this state, buy, sell, receive, conceal

or withhold in any manner specified in section 349 of this act—

1. Property of any value by taking the same from the person of another or from the body of a corpse; or

2. Property of any value by taking the same from any building that is on fire or by taking the same after it has been removed from a building in consequence of an alarm of fire; or

3. A record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or officers; or

4. From any range or pasture, any horse, mare, gelding, foal or filly, ass or mule, one or more head of neat cattle or any sheep; or

5. Property of the value of more than twenty-five dollars, in any manner whatever,

Shall be guilty of grand larceny and be punished by imprisonment in the state penitentiary for not more than fifteen years.

Every other larceny shall be petit larceny and shall be a gross misdemeanor.

SEC. 354. *Value—How Ascertained.*

The value of all instruments not having a market value, whether issued or delivered or not, by which any claim, privilege, right, obligation or authority or any right or title to property, real or personal, is, or purports to be, or upon the happening of some future event may be evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, discharged or affected, shall be deemed to be the amount of money due thereon or secured to be paid thereby and unpaid, or which in any contingency might be collected thereon or thereby, or the value of the property transferred or affected or the title to which is shown thereby, or the sum which might be recovered for the want thereof, as the case may be. In every other case not otherwise regulated by statute, "value" shall be deemed to mean market value.

Ascertaining
value.

SEC. 355. *Stealing Railway Tickets.*

Stealing
railway
tickets.

If any person in the employ of a railway or steamboat company shall fraudulently neglect to cancel or to return to the proper officer or agent of such company, any ticket, coupon or pass, with intent to permit the same to be used in fraud of any railway or steamboat company, or if any person shall steal or fraudulently stamp, print, sign, sell or put into circulation any such ticket, coupon or pass, he shall be guilty of larceny.

SEC. 356. *Claim of Title—When Ground of Defense.*

Claim of
title.

In any prosecution for larceny it shall be a sufficient defense that the property was appropriated openly and avowedly under a claim of title preferred in good faith, even though the claim be untenable.

SEC. 357. *Restoration of Stolen Property—Duty of Officers.*

Restoring
stolen
property—
officers.

The officer arresting any person charged as principal or accessory in any robbery or larceny shall use reasonable diligence to secure the property alleged to have been stolen, and after seizure shall be answerable therefor while it remains in his hands, and shall annex a schedule thereof to his return of the warrant.

Whenever the prosecuting attorney shall require such property for use as evidence upon the examination or trial, such officer, upon his demand, shall deliver it to him and take his receipt therefor, after which such prosecuting attorney shall be answerable for the same.

EXTORTION OR OPPRESSION.

SEC. 358. *Extortion.*

Extortion.

Every person, who, under circumstances not amounting to robbery, shall extort or gain any money, property or advantage, or shall induce or compel another to make, subscribe, execute, alter or destroy any valuable security or instrument or writing affecting or intended to affect any cause of action or defense, or any property, by means of force or any threat, either—

1. To accuse any person of a crime; or

2. To do any injury to any person or to any property; or
3. To publish or connive at publishing any libel; or
4. To expose or impute to any person any deformity or disgrace; or
5. To expose any secret,

Shall be guilty of extortion and shall be punished by imprisonment in the state penitentiary for not more than five years.

SEC. 359. *Oppression Under Color of Office.*

Every officer, or person pretending to be such, who unlawfully and maliciously, under pretense or color of official authority shall—

Oppression
under color
of office.

1. Arrest another or detain him against his will; or
2. Seize or levy upon another's property; or
3. Dispossess another of any lands or tenements; or
4. Do any act whereby another person shall be injured in his person, property or rights, commits oppression, shall be guilty of a gross misdemeanor.

5. No officer or person having the custody and control of the body or liberty of any person under arrest, shall refuse permission to such arrested person to communicate with his friends or with an attorney, nor subject any person under arrest to any form of personal violence, intimidation, indignity or threats for the purpose of extorting from such person incriminating statements or a confession. Any person violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 360. *Extortion by Public Officer.*

Every public officer who shall ask or receive, or agree to receive a fee or other compensation for his official service, either—

Extortion
by public
officer.

1. In excess of the fee or compensation allowed to him by statute therefor; or
2. Where no fee or compensation is allowed to him by statute therefor, commits extortion, and is guilty of a misdemeanor.

SEC. 361. *Blackmail.*

Blackmail.

Every person who, with intent thereby to extort or gain any money or other property or to compel or induce another to make, subscribe, execute, alter or destroy any valuable security or instrument or writing affecting or intended to affect any cause of action or defense, or any property, or to influence the action of any public officer, or to do or abet or procure any illegal or wrongful act, shall threaten directly or indirectly—

1. To accuse any person of a crime; or
2. To do any injury to any person or to any property; or
3. To publish or connive at publishing any libel; or
4. To expose or impute to any person any deformity or disgrace; or
5. To expose any secret,

Shall be punished by imprisonment in the state penitentiary for not more than five years or by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

SEC. 362. *Coercion.*

Coercion.

Every person who, with intent to compel another to do or abstain from doing an act which such other person has a right to do, or abstain from doing, shall wrongfully and unlawfully—

1. Use violence or inflict injury upon such other person or any of his family, or upon his property, or threaten such violence or injury; or
2. Deprive such person of any tool, implement or clothing, or hinder him in the use thereof; or
3. Attempt to intimidate such person by threats or force,

Shall be guilty of a misdemeanor.

FRAUDS.

SEC. 363. *Falsely Personating Another.*

Every person who shall falsely personate another, and in such assumed character shall—

Falsely
personating
another.

1. Marry or pretend to marry or sustain the marriage relation towards another; or

2. Become bail or surety for a party in an action or special proceeding, civil or criminal, before a court or officer authorized to take such bail or surety; or

3. Confess a judgment; or

4. Subscribe, verify, publish, acknowledge or approve a written instrument which by law may be recorded, with intent that the same may be delivered or issued as true; or

5. Appear for arraignment, trial or judgment in any criminal proceeding; or

6. Do any other act in the course of any action or proceeding, wherein, if it were done by the person falsely personated such person might in any event become liable to an action or special proceeding, civil or criminal, or to pay a sum of money, or to incur a charge, forfeiture, or penalty, or whereby any benefit might accrue to the offender or to any other person,

Shall be punished by imprisonment in the state penitentiary for not more than ten years.

SEC. 364. *Personating an Officer.*

Every person who shall falsely personate a public officer, civil or military, or a policeman, or a private individual having special authority by law to perform an act affecting the rights or interests of another, or who, without authority shall assume any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character shall do any act purporting to be official, whereby another is injured or defrauded, shall be guilty of a gross misdemeanor.

Personating
an officer.

SEC. 365. *Use of False Permit, License or Diploma.*

Every person who shall conduct any business or perform any act under color of, or file for record with any public

False permit,
license or
diploma.

officer, any false or fraudulent permit, license, diploma or writing, or any permit, license, diploma or writing not lawfully belonging to such person, or who shall obtain any permit, license, diploma or writing by color or aid of any false representation, pretense, personation, token or writing, shall be guilty of a gross misdemeanor.

SEC. 366. *Concealing Foreign Matter in Merchandise.*

Concealing
foreign
matter in
merchandise.

Every person who, with intent to defraud, shall place or conceal any foreign substance in any barrel, bag, bale, box or other package containing any article of merchandise, shall be guilty of a gross misdemeanor.

SEC. 367. *Obtaining Signature by False Pretense.*

Obtaining
signature by
false
pretense.

Every person who, with intent to cheat or defraud another, shall designedly by color or aid of any false token or writing or other false pretense, representation or presentation, obtain the signature of any person to a written instrument, shall be punished by imprisonment in the state penitentiary for not more than five years or in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

SEC. 368. *False Representation Concerning Credit.*

False
representa-
tion concern-
ing credit.

Every person who, with intent thereby to obtain credit or financial rating, shall wilfully make any false statement in writing of his assets or liabilities to any person with whom he may be either actually or prospectively engaged in any business transaction or to any commercial agency or other person engaged in the business of collecting or disseminating information concerning financial or commercial ratings, shall be guilty of a misdemeanor.

SEC. 369. *False Representation Concerning Title.*

False
representa-
tion concern-
ing title.

Every person who shall maliciously or fraudulently execute or file for record any instrument, or put forward any claim, by which the right or title of another to any real property is, or purports to be transferred, encumbered or clouded, shall be guilty of a gross misdemeanor.

SEC. 370. *Publishing False Statement to Affect Market Price.*

Every person who, with intent to affect the market price of any security or property shall put off, circulate or publish any false or misleading writing, statement or intelligence, shall be guilty of a gross misdemeanor. False circular.

SEC. 371. *Obtaining Employment by False Letter or Certificate.*

Every person who shall obtain employment or appointment to any office or place of trust, by color or aid of any false or forged letter or certificate of recommendation, shall be guilty of a misdemeanor. False letter.

SEC. 372. *Fraud by Employment Agent.*

Every employment agent or broker who, with intent to influence the action of any person thereby, shall misstate or misrepresent verbally, or in any writing or advertisement, any material matter relating to the demand for labor, the conditions under which any labor or service is to be performed, the duration thereof or the wages to be paid therefor, shall be guilty of a misdemeanor. Fraud by employment agent.

SEC. 373. *Frauds on Inn-Keeper.*

Every person who shall obtain any food, lodging or accommodation at any hotel, restaurant, boarding house or lodging house without paying therefor, with intent to defraud the proprietor or manager thereof, or who shall obtain credit at a hotel, restaurant, boarding house or lodging house by color or aid of any false pretense, representation, token or writing, or who after obtaining board, lodging or accommodation at a hotel, restaurant, boarding house or lodging house, shall abscond or surreptitiously remove his baggage therefrom without paying for such food, lodging or accommodation, shall be guilty of a misdemeanor. Frauds on inn-keeper.

SEC. 374. *Improper Use of Insignia.*

Every person who shall wilfully wear the badge, button, insignia or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall Improper use of insignia.

use any such badge, button, insignia or rosette to obtain aid or assistance, or any other benefit or advantage, unless he shall be entitled to so wear or use the same under the constitution, by-laws, rules and regulations of such order or society, shall be guilty of a misdemeanor.

SEC. 375. *Fraudulently Presenting Claim to Public Officer.*

False claim. Every person who, with the intent to defraud, shall knowingly present for audit, allowance or payment to any officer or board of the state or of any county, city, town or school district, authorized to audit, allow or pay bills, claims or charges, any false or fraudulent claim, account, writing or voucher or any bill, account or demand containing false or fraudulent charges, items or claims, shall be guilty of a gross misdemeanor.

SEC. 376. *Fraud by Bailee of Animal.*

Fraud by bailee of animal. Every person who shall obtain from another the possession or use of any horse or other draft animal or any vehicle or automobile, without paying therefor, with intent to defraud the owner thereof, or who shall obtain the possession or use thereof by color or aid of any false or fraudulent representation, pretense, token or writing, or shall obtain credit for such use by color or aid of any false or fraudulent representation, pretense, token or writing; or who having hired property, shall recklessly, wilfully, wantonly or by gross negligence injure or destroy or cause, suffer, allow or permit the same, or any part thereof, to be injured or destroyed; or who, having hired any horse or other draft animal upon an understanding or agreement that the same shall be ridden or driven a specified distance or to a specified place, shall wilfully and fraudulently ride or drive or cause, permit or allow the same to be ridden or driven a longer distance, or to a different place, shall be guilty of a misdemeanor.

SEC. 377. *Destruction or Removal of Mortgaged Property.*

Destruction of mortgaged property. Every person being in possession thereof, who shall remove, conceal or destroy or connive at or consent to the

removal, concealment or destruction of any personal property or any part thereof, upon which a mortgage, lien, conditional sales contract or lease exists, in such a manner as to hinder, delay or defraud the holder of such mortgage, lien or conditional sales contracts or such lessor, or who, with intent to hinder, delay or defraud the holder of such mortgage, lien or conditional sales contract, or such lessor, shall sell, remove, conceal or destroy or connive at or consent to the removal, concealment or destruction of such property, shall be guilty of a gross misdemeanor.

In any prosecution under this section any allegation containing a description of the mortgage, lien, conditional sales contract or lease by reference to the date thereof and names of the parties thereto, shall be sufficiently definite and certain.

SEC. 378. *Mock Auctions.*

Every person who shall obtain any money or property from another or shall obtain the signature of another to any writing the false making of which would be forgery, by color or aid of any false or fraudulent sale of property or pretended sale of property by auction, or by any of the practices known as mock auction, shall be punished by imprisonment in the state penitentiary for not more than five years or in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

Mock auctions.

Every person who shall buy or sell or pretend to buy or sell any goods, wares or merchandise, exposed to sale by auction, if an actual sale, purchase and change of ownership therein does not thereupon take place, shall be guilty of a misdemeanor.

SEC. 379. *Fraudulent Removal of Property.*

Every person who, with intent to defraud a prior or subsequent purchaser thereof, or prevent any of his property being made liable for the payment of any of his debts, or levied upon by an execution or warrant of attachment, shall remove any of his property, or secrete, assign, convey or otherwise dispose of the same, or with intent to

Fraudulent removal of property.

defraud a creditor shall remove, secrete, assign, convey or otherwise dispose of any of his books or accounts, vouchers or writings in any way relating to his business affairs, or destroy, obliterate, alter or erase any of such books of account, accounts, vouchers or writing or any entry, memorandum or minute therein contained, shall be guilty of a gross misdemeanor.

SEC. 380. *Knowingly Receiving Fraudulent Conveyance.*

Receiving
fraudulent
conveyance.

Every person who shall receive any property or conveyance thereof from another, knowing that the same is transferred or delivered to him in violation of, or with the intent to violate section 379 of this act, shall be guilty of a misdemeanor.

SEC. 381. *Fraud in Assignment for Benefit of Creditors.*

Assignment
for benefit
of creditors.

Every person who, having made, or being about to make, a general assignment of his property to pay his debts, shall by color or aid of any false or fraudulent representation, pretense, token or writing induce any creditor to participate in the benefits of such assignments, or to give any release or discharge of his claim or any part thereof, or shall connive at the payment in whole or in part of any false, fraudulent or fictitious claim, shall be guilty of a gross misdemeanor.

FRAUDELENT INJURY OF VESSEL.

SEC. 382. *Wilful Destruction of Vessel.*

Destruction
of vessel.

Every person who shall wreck, burn, sink, scuttle or otherwise injure or destroy a vessel or its cargo, or wilfully permit the same to be done, with the intent to prejudice or defraud an insurer or any other person, or who shall fit out a vessel, or shall load any cargo on board thereof with intent to permit or cause the same to be wrecked, sunk or otherwise injured or destroyed, and thereby defraud or prejudice an insurer or other person, shall be punished by imprisonment in the state penitentiary for not more than twenty years.

SEC. 383. *Making False Manifest, Invoice, Etc.*

Every person who shall prepare, make or subscribe a false or fraudulent manifest, invoice, bill of lading, ship's register, or protest, with intent to defraud another, shall be punished by imprisonment in the state penitentiary for not more than five years or by a fine of not more than one thousand dollars, or by both.

False manifest.

SEC. 384. *Fraudulent Destruction of Insured Property.*

Every person who, with intent to defraud or prejudice the insurer thereof, shall wilfully injure or destroy any property not specified or included hereinbefore in this subdivision, which is insured at the time against loss or damage by fire or other causality, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

Destruction of insured property.

FALSE WEIGHTS AND MEASURES.

SEC. 385. *Using False Weights and Measures.*

Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly misrepresenting the quantity thereof bought or sold; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it or permit it to be used in violation of the foregoing provisions of this section, shall be guilty of a gross misdemeanor.

Using false weights and measures.

FRAUD IN THE MANAGEMENT OF CORPORATIONS.

SEC. 386. *Fraud in Stock Subscription.*

Every person who shall sign the name of a fictitious person to any subscription for or any agreement to take stock in any corporation existing or proposed, and every

Fraud in stock subscription.

person who shall sign to any such subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or upon any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, shall be guilty of a gross misdemeanor.

SEC. 387. *Fraudulent Issue of Stock, Scrip, Etc.*

Fraudulent
issue of
stock.

Every officer, agent or other person in the service of a joint stock company or corporation, domestic or foreign, who, wilfully and knowingly with intent to defraud, shall—

1. Sell, pledge or issue or cause to be sold, pledged or issued, or sign or execute or cause to be signed or executed, with intent to sell, pledge or issue, or cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of ownership of any share or shares of such company or corporation, or any conveyance or encumbrance of real or personal property, contract, bond, or evidence of debt, or writing purporting to be a conveyance or encumbrance of real or personal property, contract, bond or evidence of debt of such company or corporation, without being first duly authorized by such company or corporation, or contrary to the charter or laws under which such company or corporation exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidence of debt; or,

2. Reissue, sell, pledge or dispose of, or cause to be reissued, sold, pledged or disposed of, any surrendered or canceled certificate or other evidence of the transfer of ownership of any such share or shares:

Shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

SEC. 388. *Insolvent Bank Receiving Deposit.*

Insolvent
bank receiv-
ing deposit.

Every owner, officer, stockholder, agent or employe of any person, firm, corporation or association engaged, wholly or in part, in the business of banking or receiving

money or negotiable paper or securities on deposit or in trust, who shall accept or receive, with or without interest, any deposit, or who shall consent thereto or connive thereat, when he knows or has good reason to believe that such person, firm, corporation or association is unsafe or insolvent, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than ten thousand dollars.

SEC. 389. *Corporation Doing Business Without License.*

Every corporation, whether domestic or foreign, and every person representing or pretending to represent such corporation as an officer, agent or employe thereof, who shall transact, solicit or advertise for any business in this state, before such corporation shall have obtained from the officer lawfully authorized to issue the same, a certificate that such corporation is authorized to transact business in this state, shall be guilty of a gross misdemeanor.

Corporation doing business without license.

SEC. 390. *False Report of Corporation.*

Every director, officer or agent of any corporation or joint stock association, and every person engaged in organizing or promoting any enterprise, who shall knowingly make or publish or concur in making or publishing any written prospectus, report, exhibit or statement of its affairs or pecuniary condition, containing any material statement that is false or exaggerated, shall be punished by imprisonment in the state penitentiary for not more than ten years, or by a fine of not more than five thousand dollars.

False report of corporation.

SEC. 391. *Warehouseman or Carrier Refusing to Issue Receipt.*

Every person or corporation, and every officer, agent and employe thereof, receiving any goods, wares or merchandise, for sale or on commission, for storage, carriage or forwarding, who, having an opportunity to inspect the same, shall fail or refuse to deliver to the owner thereof a receipt duly signed, bearing the date of issuance, describing the goods, wares or merchandise received and the quantity, quality and condition thereof, and specifying the

Receipt by carrier.

terms and conditions upon which they are received, shall be guilty of a misdemeanor.

SEC. 392. *Fictitious Bill of Lading and Receipt.*

Fictitious bill
of lading.

Every person or corporation engaged wholly or in part in the business of a common carrier or warehouseman, and every officer, agent or employe thereof, who shall issue any bill of lading, receipt or other voucher by which it shall appear that any goods, wares or merchandise have been received by such carrier or warehouseman, unless the same have been so received and shall be at the time actually under his control, or who shall issue any bill of lading, receipt or voucher containing any false statement concerning any material matter, shall be guilty of a gross misdemeanor. But no person shall be convicted under this section for the reason that the contents of any barrel, box, case, cask or other closed vessel or package mentioned in the bill of lading, receipt or voucher did not correspond with the description thereof in such instrument, if such description corresponds substantially with the mark on the outside of such barrel, box, case, cask, vessel or package, unless it appears that the defendant knew that such marks were untrue.

SEC. 393. *Warehouseman Fraudulently Mixing Goods.*

Warehouse-
man mixing
goods.

Every person mentioned in section 392 of this act, who shall fraudulently mix or tamper with any goods, wares or merchandise under his control, shall be guilty of a gross misdemeanor.

SEC. 394. *Duplicate Receipt.*

Duplicate
receipt.

Every person mentioned in section 392 of this act, who shall issue any second or duplicate receipt or voucher of the kind specified in said section, while a former receipt or voucher for the goods, wares or merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "Duplicate," in a plain and legible manner, shall be guilty of a misdemeanor.

SEC. 395. *Bill of Lading or Receipt Must be Canceled on Redelivery of Property.*

Each person mentioned in section 392 of this act who shall deliver to another any goods, wares or merchandise for which a bill of lading, receipt or voucher has been issued, unless such bill of lading, receipt or voucher is surrendered and canceled or a lawful and sufficient bond or undertaking is given therefor at the time of such delivery, or unless, in case of a partial delivery, a memorandum thereof is endorsed upon such bill of lading, receipt or voucher, shall be guilty of a misdemeanor.

Cancellation
of bill of
lading.

SEC. 396. *Regulating Sale of Passage Tickets.*

It shall be the duty of every person or corporation engaged wholly or in part in the business of carrying passengers for hire, to provide every agent authorized to sell its passage tickets in this state, with a certificate of his authority, attested by its seal and the signature of its manager, secretary or general passenger agent, which shall contain a designation of the place of business at which such authority shall be exercised.

Sale of
tickets by
carrier.

Every person and every corporation or association, and every officer, agent or employe thereof who shall sell, exchange or transfer, or have in his possession with intent to sell, exchange or transfer, or maintain, conduct or operate any office or place of business for the sale, exchange or transfer of any passage ticket or pass or part thereof, or any other evidence of a right to travel upon any railroad or boat, whether the same be owned or operated within or without the limits of this state, in any place except his place of business, or within such place of business without having rightfully in his possession and posted in a conspicuous place therein the certificate of authority hereinabove provided for, shall be guilty of a misdemeanor.

SEC. 397. *Redemption of Unused Passage Ticket.*

Every person or corporation engaged wholly or in part in the business of carrying passengers for hire in this state, and every authorized ticket agent thereof, to whom there shall be presented by the holder thereof, within one

Redemption
of ticket.

year after its expiration, any passage ticket or part thereof, or other evidence of right to travel, wholly or in part upon the railroad or boat of such person or corporation, which shall be wholly or partially unused, who shall fail to redeem the same within three days after presentation, upon the following terms, to-wit:

1. When wholly unused, for the price paid therefor; and

2. When partially unused, for the price paid therefor, less the regular toll or charge for the passage had;

Shall be punished by a fine of not more than five hundred dollars, and in addition thereto shall forfeit to the holder of such ticket or part thereof or other evidence of a right to travel, three times the redeemable value thereof.

MALICIOUS MISCHIEF—INJURY TO PROPERTY.

SEC. 398. *Injury to Railway.*

Injury to railway.

Every person who, in such manner as might, if not discovered, endanger the safety of any engine, motor, car or train, or any person thereon, shall in any manner interfere or tamper with or obstruct any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure or appliance pertaining to or connected with any railway, or any train, engine, motor, or car on such railway; and every person who shall discharge any firearm or throw any dangerous missile at any train, engine, motor or car on any railway, shall be punished by imprisonment in the state penitentiary for not more than twenty-five years.

SEC. 399. *Attempt to Commit Train Robbery.*

Attempt to commit train robbery.

Every person who, with intent to commit any robbery, burglary or larceny, shall go upon or board any train, motor, car or engine; mask, extinguish or alter any light or other signal; exhibit or compel any other person to exhibit any false light or signal; or stop any such train, car or engine or slacken the speed thereof or compel or attempt to compel any other person in charge or control thereof to stop such train, car or engine or slacken the speed thereof, shall be punished by imprisonment in the state penitentiary for not less than five years.

SEC. 400. *Endangering Life and Property by Explosives.*

Every person who shall maliciously place any explosive substance or material in, upon, under, against or near any building, car, vessel, railroad track or structure, in such manner or under such circumstances as to destroy or injure the same if exploded, shall be guilty of a felony, and if the circumstances and surroundings are such that the safety of any person might be endangered by the explosion thereof, shall be punished by imprisonment in the state penitentiary for not more than twenty years; and in every other case by imprisonment in the state penitentiary for not more than five years.

Endangering
by explosives.

SEC. 401. *Damaging Building, Etc., by Explosion.*

Every person who shall maliciously, by the explosion of gun powder or any other explosive substance or material, destroy or damage any building, car, vessel, railroad track or structure, shall be punished as follows:

Damage by
explosion.

1. If thereby the life or safety of a human being is endangered, by imprisonment in the state penitentiary for not more than twenty years.

2. In every other case by imprisonment in the state penitentiary for not more than five years.

SEC. 402. *False Signals for Vessels, Etc.*

Every person who, in such manner as might, if not discovered, endanger a vessel, railway engine, motor, train or car, shall show, mask, extinguish, alter or remove any light or signal, or exhibit any false light or signal, shall be punished by imprisonment in the state penitentiary for not more than ten years.

False signals
for vessels.

SEC. 403. *Injury to United States Light.*

Every person who shall wilfully break, injure, deface or destroy any light house station, post, platform, step, lamp or other structure pertaining to such light house station, or shall extinguish or tamper with any light erected by the United States upon or along the navigable waters of this state to aid in the navigation thereof, in case no

Injury to
United States
light.

punishment is provided therefor by the laws of the United States, shall be punished as follows:

1. Whenever such act may endanger the safety of any vessel navigating such waters, or jeopardize the safety of any person or property in or upon such vessel, by imprisonment in the state penitentiary for not more than ten years.

2. In all other cases by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars, or by both.

SEC. 404. *Injuring Public Utilities.*

Every person who shall wilfully or maliciously remove, damage or destroy:

Injuring
public
utilities.

1. A highway or a private way laid out by authority of law, or a bridge upon such public or private road, or wilfully or maliciously cause to be placed thereon any substance or thing dangerous to any person or animal traveling thereon or which might injure or puncture the tire of any vehicle; or,

2. A pile or other material fixed in the ground and used for securing any bank or dam of any river or other water, or any dike, dock, quay, jetty or lock; or,

3. A buoy or beacon lawfully placed in any waters within this state; or,

4. A tree, rock, post or other monument erected or marked for the purpose of designating a point on the boundary of the state, of a county, city, town or of a farm, tract or lot of land, or any mark or inscription thereon; or,

5. A mile board, mile stone or guide post erected upon a highway, or any inscription thereon; or,

6. A telegraph, telephone or electric transmission line or any part thereof, or any appurtenance thereto, or apparatus connected with the operation thereof; or,

7. A fence, gate, cattle guard, bridge, water tank, mile post, car, engine, motor or other useful structure on the line of any railway; or,

8. A pipe or main for conducting gas, water or oil, or any works erected for the purpose of supplying build-

ings therewith, or any appurtenance or appendage thereto; or,

9. A sewer or drain, or a pipe or main connected therewith or forming a part thereof; or,

10. A ditch or flume lawfully erected for carrying water or draining land; or,

11. Any engine, hose, hose-cart, truck, ladder, extinguisher or other apparatus used by any fire company or fire department, or any rope, wire, bell, signal, instrument or apparatus for the communication of alarms of fire or police calls; or,

12. Any public building, or building used for educational, scientific, charitable or religious purpose, or any useful or ornamental thing therein; or,

13. Any work of literature or art or copy thereof, object of curiosity or scientific interest, statue, picture or engraving, displayed, kept or erected in any public building, street, park or other public place or in any collection, exhibition, museum, fair, gallery or library, or in any building devoted to educational, scientific, charitable or religious purposes; or,

14. A monument erected in any cemetery, street, park or other public place; or,

15. A sign or notice erected or posted by any officer under lawful authority, or by the owner or occupant of the premises where posted; or,

16. A legal notice or other legal paper posted in compliance with the requirement of any statute of this state, or under the direction or order of a court; and,

Every person—

17. Who shall moor any vessel, scow, barge, raft or boom to any bridge or to any buoy or beacon lawfully in any waters within this state; or,

18. Who shall intercept, read or in any manner interrupt or delay the sending of a message over any telegraph or telephone line; or,

19. Who shall erect or maintain any unlawful structure in any stream or river;

Shall be guilty of a misdemeanor.

SEC. 405. *Unlawful Interference With Gas, Electric, Steam or Water Appliance.*

Interference with public utility appliances.

Every person who, with intent to injure or defraud, shall—

1. Break or deface the seal of any gas, electric, steam or water meter; or,

2. Obstruct, alter, injure or prevent the action of any meter or other instrument used to measure or register the quantity of gas, electricity, steam or water supplied to a consumer thereof; or,

3. Make any connections by means of a wire, pipe, conduit or otherwise with any wire, main or pipe used for the delivery of gas, electricity, steam or water to a consumer thereof, in such manner as to take gas, electricity, steam or water from said wire, main or pipe without its passage through the meter or other instrument provided for registering the amount or quantity consumed; or use any gas, electricity, steam or water so obtained; or,

4. Make any connection or re-connection with such wire, main or pipe, or turn on or off, or in any manner interfere with any valve, stop-cock or other appliances connected therewith; or,

5. Prevent by the erection of any device or construction, or by any other means, free access to any meter or other instrument for registering or measuring the amount of gas, electricity, steam or water consumed, or interfere with, obstruct or prevent, by any means, the reading or inspection of such meter or instrument, by the person, company or corporation owning the same; or,

6. Take or use any water from any irrigation flume, ditch or lateral, without the consent of the owner thereof, or open, close or interfere with any gate connected therewith;

Shall be guilty of a misdemeanor.

SEC. 406. *Interfering With Dam, Reservoir, Etc.*

Interfering with dam or reservoir.

Every person who shall wilfully or maliciously displace, remove, injure or destroy any pier, boom, or dam lawfully erected or maintained upon, in or across any water in this state, or any dam or reservoir lawfully maintained

for impounding water; or hoist any gate in or about such dam or reservoir, shall be guilty of a gross misdemeanor.

SEC. 407. *Injury to Property.*

Every person who shall wilfully—

Injury to property.

1. Cut down, destroy or injure any wood, timber, grain, grass or crop, standing or growing, or which has been cut down and is lying upon the lands of another, or of the state; or,

Timber, etc.

2. Cut down, girdle or otherwise injure a fruit, shade or ornamental tree standing on the land of another or of the state, or in any road or street; or,

3. Dig, take or carry away without lawful authority or consent, from any lot or land in any city, or town, or from any lands included within the limits of a street or avenue in such city or town, any earth, soil or stone; or,

Soil.

4. Enter without the consent of the owner or occupant, any orchard, garden or vineyard, with intent to take, injure or destroy anything there grown or growing; or,

Orchard.

5. Cut down, destroy or in any way injure any shrub, tree, vine or garden produce grown or growing within any such orchard, garden or vineyard, or any framework or erection therein; or,

Shrubs.

6. Damage or deface any building or part thereof, or throw any stone or other missile at any building or part thereof; or,

Buildings.

7. Destroy or damage, with intent to prevent or delay the use thereof, any engine, machine, tool or implement intended for use in trade or husbandry; or,

Machinery.

8. Untie, unfasten or liberate, without authority, the horse or team of another; or lead, ride or drive away, without authority, the horse, team, automobile or other vehicle of another from the place where left by the owner or person in charge thereof; or,

Vehicles.

9. Kill, maim or disfigure any animal belonging to another, or expose any poisons or noxious substance with intent that it should be taken by such animal; or,

Animal.

10. Take, carry away, interfere with or disturb any oysters or other shell fish of another in any river, bay, or other water of this state, or remove, pull up or destroy

Shell fish.

any stake or buoy used for designating any oyster bed ; or,

Shacks.

11. Intrude or place any hovel, shanty or building upon or within the limits of any lot or piece of land within any city or town, without the consent of the owner, or within the boundaries of any street in such city or town ; or,

Wild animals.

12. Kill, wound or trap any animal or bird within the limits of any cemetery, park or pleasure ground, or remove therefrom or destroy the young of any such animal or the egg of any such bird ; or,

Vessels.

13. Injure, destroy or tamper with any rope, line, cable or chain with which any vessel, scow, boom, beacon or buoy shall be anchored or moored, or the steering gear, bell gear, engine, machinery, lights or other equipment of any vessel ; or,

Signs.

14. Place upon or affix to any real property or any rock, tree, wall, fence or other structure thereupon, without the consent of the owner thereof, any word, character or device designed to advertise any article, business, profession, exhibition, matter or event ; or,

Animals on right of way.

15. Suffer any animal to go upon the enclosed right-of-way of any railway company, or leave open any gate or bars so that an animal might stray upon such right-of-way ;

Shall be guilty of a misdemeanor.

SEC. 408. *Tampering With Papers.*

Tampering with papers.

Every person who shall wilfully or maliciously destroy, alter, erase, obliterate or conceal any letter, telegraph message, book or record of account, or any writing or instrument by which any claim, privilege, right, obligation or authority, or any right or title to property, real or personal, is, or purports to be, or upon the happening of some future event may be, evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, discharged or affected, shall be guilty of a gross misdemeanor.

SEC. 409. *Falsifying Accounts.*

Falsifying accounts.

Every person who shall wilfully or maliciously make any false entry, or fail to make an entry of any material mat-

ter, in any book or record of account, shall be guilty of a gross misdemeanor.

SEC. 410. *Divulging Telegram.*

Every person who shall wrongfully obtain or attempt to obtain, any knowledge of a telegraphic message, by connivance with the clerk, operator, messenger or other employe of a telegraph company, and every clerk, operator, messenger or other employe of such company who shall wilfully divulge to any but the person for whom it was intended, any telegraphic message or dispatch entrusted to him for transmission or delivery, or the nature or contents thereof, or shall wilfully refuse, neglect or delay duly to transmit or deliver the same, shall be guilty of a misdemeanor.

Divulging telegram.

SEC. 411. *Opening Sealed Letter.*

Every person who shall wilfully open or read, or cause to be opened or read, any sealed message, letter or telegram intended for another person, or publish the whole or any portion of such a message, letter or telegram, knowing it to have been opened or read without authority, shall be guilty of a misdemeanor.

Opening sealed letter.

SEC. 412. *Trespass on Railway Track.*

Every person who, without permission from the person or corporation owning or operating the same, shall enter, or take any animal or vehicle upon any railway, bridge or trestle, or ride, operate or propel a handcar, velocipede, track bicycle or tricycle on or along the track of any railway, shall be guilty of a misdemeanor.

Trespass on railway track.

SEC. 413. *Trespass Upon Land of Another, Warning.*

Every person who shall go upon the land of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act, or shall wilfully go or remain upon any land after having been warned by the owner or occupant thereof not to trespass thereon, shall be guilty of a misdemeanor.

Trespass upon land.

Every owner or other occupant of any land shall be deemed to have given a sufficient warning against trespassing, within the meaning of this section, who shall

post in a conspicuous manner on each side thereof, upon or near the boundary, at intervals of not more than seven hundred feet, signs legibly printed or painted in the English language, warning persons not to trespass.

An entryman on land under the laws of the United States shall be deemed an owner within the meaning of this section.

SEC. 414. *Injury to Baggage.*

Injury to
baggage.

Every person employed by any person or corporation engaged wholly or in part in the business of carrying passengers or baggage for hire, and every express agent, stage driver, drayman, expressman or hackman who shall wilfully or carelessly break, injure or destroy any trunk, valise, box, package or other baggage, shall be guilty of a misdemeanor.

SEC. 415. *Injury to Other Property.*

Injury to
property.

Every person who shall wilfully or maliciously destroy or injure any real or personal property of another, for the destruction or injury of which no special punishment is otherwise specially prescribed, shall—

1. If the value of the property destroyed, or the diminution in value by the injury, shall be less than twenty dollars, be guilty of a misdemeanor.

2. If the value of the property destroyed, or the diminution in value by the injury, shall be twenty dollars or more, be guilty of a gross misdemeanor.

CHAPTER 10.

MISCELLANEOUS CRIMES.

SEC. 416. *Drunkenness.*

Drunkenness.

Every person who shall become intoxicated by voluntarily drinking intoxicating liquors, and who, while intoxicated shall loiter about any place where intoxicating liquors are sold or kept for sale, or create any disturbance or use any profane or indecent language in any public place, street or meeting, or commit any assault or breach of the peace, shall be guilty of a misdemeanor.

SEC. 417. *Common Drunkard.*

Every person who shall be three times convicted of a violation of section 416 of this act, or of any municipal ordinance defining and punishing drunkenness or any crime of which drunkenness shall be an element, or who shall squander his property in drink, or who, as a result of the use of intoxicating liquors shall abuse or fail properly to support or care for his wife or any minor child lawfully in his custody, shall be a common drunkard, and shall be adjudged so to be by any magistrate before whom he may be brought on a charge of committing any crime of which drunkenness is an element, in addition to any other punishment inflicted therefor.

Common
drunkard.

SEC. 418. *Opium Joints.*

Every person who shall open, conduct or maintain, as owner or employe, any place where opium, morphine, alkaloid-cocaine or alpha or beta eucaine or any derivative, mixture or preparation of any of them, shall be in any manner used by persons resorting thereto for the purpose; and every person who shall visit or resort to such place for the purpose of using in any manner any of said drugs, shall be guilty of a gross misdemeanor.

Opium
joints.

SEC. 419. *Solemnizing Unlawful Marriage.*

Every person who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot, insane person, habitual criminal or common drunkard, or a marriage to which, within his knowledge, any legal impediment exists, shall be guilty of a gross misdemeanor.

Solemnizing
unlawful
marriage.

SEC. 420. *Obstructing Public Officer.*

Every person who, after due notice, shall refuse or neglect to make or furnish any statement, report or information lawfully required of him by any public officer, or who, in such statement, report or information shall make any wilfully untrue, misleading or exaggerated statement, or who shall wilfully hinder, delay or obstruct any public officer in the discharge of his official powers or duties, shall be guilty of a misdemeanor.

Obstructing
public
officer.

SEC. 421. *Acting Without Lawful Authority.*

Acting
without
authority.

Every person who shall in any case not otherwise specially provided for, do any act, for the doing of which a license or other authority is required by law, without having such license or other authority as required by law, shall be guilty of a misdemeanor.

SEC. 422. *Collecting for Benefit Without Authority.*

Collecting for
benefit.

Every person who shall sell a ticket to any ball, benefit or entertainment, or ask or receive any subscription or promise thereof, for the benefit or pretended benefit of any person, association or order, without being duly authorized thereto by the person, association or order for whose benefit or pretended benefit the same is done, shall be guilty of a misdemeanor.

SEC. 423. *Desecration of Flag.*

Desecration
of flag.

Every person who, for exhibition or display, shall cause to be placed upon or affixed to any flag, standard, color or ensign of the United States, or upon a flag, standard, color or ensign purporting to be such, any inscription, design, device, symbol, name, advertisement, words, characters, picture, mark or notice whatever; or who shall display or exhibit any such flag, standard, color or ensign to which any such inscription, design, device, symbol, name, advertisement, words, characters, photograph, mark or notice whatever; or who shall publicly mutilate, trample upon, deface, jeer at or defy any such flag, standard, color or ensign, shall be guilty of a misdemeanor.

SEC. 424. *Bribery of Labor Representative.*

Bribery of
labor repre-
sentative.

Every person who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to any duly constituted representative of a labor organization, with intent to influence him in respect to any of his acts, decisions or other duties as such representative, or to induce him to prevent or cause a strike by the employes of any person or corporation, shall be guilty of a gross misdemeanor.

SEC. 425. *Labor Representative Receiving Bribe.*

Every person who, being the duly constituted representative of a labor organization, shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon any agreement or understanding that any of his acts, decisions or other duties as such representative, or any act to prevent or cause a strike of the employes of any person or corporation shall be influenced thereby, shall be guilty of a gross misdemeanor.

Labor representative receiving bribe.

SEC. 426. *Corrupt Influencing of Agent.*

Every person who shall give, offer or promise, directly or indirectly, any compensation, gratuity or reward to any agent, employe or servant of any person or corporation, with intent to influence his action in relation to his principal's, employer's or master's business, shall be guilty of a gross misdemeanor.

Influencing of agent.

SEC. 427. *Grafting by Employe.*

Every agent, employe or servant of any person or corporation who shall ask or receive, directly or indirectly, any compensation, gratuity or reward, or any promise thereof, upon any agreement or understanding that he shall act in any particular manner in connection with his principal's, employer's or master's business; or who, being authorized to purchase or contract for materials, supplies or other articles or to employ servants or labor for his principal, employer or master, shall ask or receive, directly or indirectly, for himself or another, a commission, discount, bonus or promise thereof from any person with whom he may deal in relation to such matters, shall be guilty of a gross misdemeanor.

Grafting by employe.

SEC. 428. *Use of the Words "Sterling Silver," Etc.*

Every person who shall make, sell or offer to sell or dispose of, or have in his possession with intent to sell or dispose of any metal article marked, stamped or branded with the words "sterling," "sterling silver," or "solid sil-

"Sterling silver."

ver," unless nine hundred twenty-five one-thousandths of the component parts of the metal of which such article and all parts thereof is manufactured is pure silver, shall be guilty of a gross misdemeanor.

SEC. 429. *Use of Words "Coin Silver," Etc.*

"Coin silver." Every person who shall make, sell or offer to sell or dispose of, or have in his possession with intent to dispose of any metal article marked, stamped or branded with the words "coin," or "coin silver," unless nine hundred one-thousandths of the component parts of the metal of which such article and all parts thereof is manufactured, is pure silver, shall be guilty of a gross misdemeanor.

SEC. 430. *Use of the Word "Sterling," on Mounting.*

"Sterling." Every person who shall make, sell, offer to sell or dispose of, or have in his possession with intent to sell or dispose of, any article comprised of leather, shell, ivory, celluloid, pearl, glass, porcelain, pottery, steel or wood, to which is applied or attached a metal mounting marked, stamped or branded with the words "sterling," or "sterling silver," unless nine hundred twenty-five one-thousandths of the component parts of the metal of which such metal mounting is manufactured is pure silver, shall be guilty of a gross misdemeanor.

SEC. 431. *Use of the Words "Coin Silver," on Mounting.*

"Coin silver" on mountings. Every person who shall make, sell, offer to sell or dispose of, or have in his possession with intent to sell or dispose of, any article comprised of leather, shell, ivory, celluloid, pearl, glass, porcelain, pottery, steel or wood, to which is applied or attached a metal mounting marked, stamped or branded with the words "coin" or "coin silver," unless nine hundred one-thousandths of the component parts of the metal of which such metal mounting is manufactured is pure silver, shall be guilty of a gross misdemeanor.

SEC. 432. *Unlawfully Marking Article Made of Gold.*

Unlawfully marking article of gold. Every person who shall make, sell, offer to sell or dispose of, or have in his possession with intent to sell or

dispose of, any article constructed wholly or in part of gold, or of an alloy of gold, and marked, stamped or branded in such manner as to indicate that the gold or alloy of gold in such article is of a greater degree or carat of fineness, by more than one carat, than the actual carat or fineness of such gold or alloy of gold, shall be guilty of a gross misdemeanor.

SEC. 433. *"Marked, Stamped or Branded," Defined.*

An article shall be deemed to be "marked, stamped or branded" whenever such article, or any box, package, cover or wrapper in which the same is enclosed, encased or prepared for sale or delivery, or any card, label or placard with which the same may be exhibited or displayed, is so marked, stamped or branded. Terms defined.

SEC. 434. *Protecting Civil Public Rights.*

Every person who shall deny to any other person because of race, creed or color, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, shall be guilty of a misdemeanor. Denying civil rights.

SEC. 435. *Master of Vessel Bringing Foreign Convict.*

Every person who, being the master or commander of any vessel or boat arriving from a foreign country, shall knowingly bring into this state a person who has been or is a foreign convict of any offense, which, if committed in this state would be punishable under the laws thereof, shall be guilty of a misdemeanor. Bringing in foreign convict.

SEC. 436. *Vagrancy.*

Every—

1. Person who asks or receives any compensation, gratuity or reward for practising fortune telling, palmistry or clairvoyance; or, Vagrancy.
2. Person who keeps a place where lost or stolen property is concealed; or,
3. Person practicing or soliciting prostitution or keeping a house of prostitution; or,
4. Common drunkards found in any place where intox-

icating liquors are sold or kept for sale, or in an intoxicated condition; or,

5. Common gambler found in any place where gambling is conducted or where gambling paraphernalia or devices are kept; or,

6. Healthy person who solicits alms; or,

7. Lewd, disorderly or dissolute person; or,

8. Person who wanders about the streets at late or unusual hours of the night without any visible or lawful business; or,

9. Person who lodges in any barn, shed, shop, outhouse, vessel, car, saloon or other place not kept for lodging purposes, without the permission of the owner or person entitled to the possession thereof; or,

10. Person who lives or works in a house of prostitution or solicits for any prostitute or house of prostitution; or,

11. Person who solicits business for an attorney around any court, jail, morgue or hospital, or elsewhere; or,

12. Habitual user of opium, morphine, alkaloid-cocaine or alpha or beta eucaine, or any derivation, mixture or preparation of any of them; or,

13. Person having no visible means of support, who does not seek employment, nor work when employment is offered to him; or,

14. Person who by his own confession thereto or prior conviction thereof is known to have been guilty of larceny, burglary, robbery or any crime of which fraud or an intent to defraud is an element, who shall be found in any drinking saloon or cellar, or any public dance hall or music hall where intoxicating liquors are sold, or be found intoxicated, or who, except upon lawful business, shall go about any dark street or alley or any residence section of any city or town in the night-time, or loiter about any steamboat landing, passenger depot, banking institution or crowded street, shop or thoroughfare, or any public meeting or gathering, or place where people gather in crowds—

Is a vagrant, and shall be punished by imprisonment in

the county jail for not more than six months, or by a fine of not more than five hundred dollars.

SEC. 437. *Admitting Convict to Saloon, and Selling Liquor to Drunkard.*

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 female person, 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 adjudged to be a common drunkard, or to any person in an intoxicated condition, shall be guilty of a misdemeanor.

Convicts and drunkards.

SEC. 438. *Performing or Selling Undedicated Play.*

Every person who, without the consent of the owner thereof, shall cause to be publicly performed any dramatic composition, or dramatic musical composition commonly called an opera, or any substantial part thereof, which has been copyrighted under the laws of the United States, or shall knowingly participate in the performance or representation of any substantial part thereof, or knowingly sell a substantial copy of any substantial part thereof, shall be guilty of a misdemeanor.

Violating copyright.

SEC. 439. Every employe of a public house or public service corporation who shall solicit or receive any gratuity from any guest shall be guilty of a misdemeanor.

SEC. 440. Every person giving any such gratuity mentioned in section 439 shall be guilty of a misdemeanor.

SEC. 441. *Prohibiting Drinking in Public Conveyances.*

Every person who shall drink any intoxicating liquor in any public conveyance, except in a compartment or place where sold or served under the authority of a license lawfully issued, shall be guilty of a misdemeanor.

Drinking in public conveyances.

SEC. 442. *Common Carrier Not to Permit Drinking in Public Conveyance.*

Common carrier to prohibit drinking in conveyance.

Every person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employe of such person, who shall knowingly permit any person to drink any intoxicating liquor in any public conveyance, except in the compartment where such liquor is sold or served under the authority of a license lawfully issued, shall be guilty of a misdemeanor.

Misrepresenting liquors.

SEC. 443. Every person who, as principal, agent or otherwise, shall sell or offer for sale any spirituous or distilled intoxicating liquor known as whiskey (except Scotch or Irish whiskey), any part of which has not been aged for a period of four years in wooden barrels or casks, or who shall, as principal, agent or otherwise, sell or offer for sale any malt liquor that has not been aged for a period of more than sixty (60) days, or which contains more than eight (8)% alcohol by weight shall be guilty of a gross misdemeanor.

Low wines or spirits.

SEC. 444. Every person who, by mixing, compounding or distilling low wines or ardent spirits, or who, by adding thereto any flavoring or other substance, shall produce, or who shall sell or offer for sale or have in his possession with intent to sell, any liquor known as whiskey, gin or brandy so produced, shall be guilty of a gross misdemeanor.

Passed by the Senate March 1, 1909.

Passed by the House March 4, 1909.

Approved March 22, 1909.

MEMORIALS AND RESOLUTIONS.

HOUSE JOINT MEMORIAL No. 1.

To the Honorable Senate and House of Representatives of the United States of America:

Your memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, would most respectfully represent:

That the imperative needs and just demands of the Pacific Northwestern states, in the matter of river and harbor improvements, urgently require continued recognition at the hands of the National Congress:

That the failure of Congress, at its present session, to pass a full river and harbors bill would compel suspension of pending public works and indefinitely delay important and necessary improvements already approved by government authority, and thereby greatly retard development, limit progress and endanger prosperity in a great and growing section of our country;

THEREFORE, Your memorialists, in the name of one million people in the State of Washington, and in common interest with sister states, would most urgently petition and pray, that before the adjournment of the present Congress, a Rivers and Harbors bill be considered and passed, which shall include adequate appropriations for improvements which shall make our great river systems more available and expand the development of the deep water harbors of the Pacific Northwest, to the end that our commercial progress shall not be limited and the realization of our great resources delayed by insufficient or obstructed navigation facilities.

The Secretary of State is hereby directed to transmit a copy of this memorial, by telegraph, to Honorable Wesley L. Jones (Representative in Congress from this state and member of the House of Representatives' Rivers and Har-

bors Committee), for presentation to each of the Senators and Representatives in Congress from the State of Washington, and by them to the representative bodies of the National Congress.

Passed by the House January 15, 1909.

Passed by the Senate January 15, 1909.

HOUSE JOINT MEMORIAL No. 2.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the members of the Eleventh Legislative session assembled of the State of Washington, hereby respectfully call attention to the fact that there are large areas of irrigable land in central Washington and more especially in southern Douglas county whose value and productiveness would be many times increased if irrigation for these lands could be secured.

The large body of land lying between Moses lake on the east and the Columbia river on the west, partially covered by what is known as the Big Bend irrigation project heretofore considered by the Reclamation Department, comprising from four hundred thousand to five hundred thousand acres is comparatively level and if irrigated would bring greater returns to the state than any project of this nature that has ever been undertaken in the northwest, and

WHEREAS, The homesteaders living on this tract have spent from two to six years in dry land farming and have spent thousands of dollars in experiments and improvements and in many instances not even expenses have accrued therefrom, and

WHEREAS, These homesteaders have spent their resources in an honest endeavor to live, and many of them find it incumbent to leave the community in order to earn a livelihood, and

WHEREAS, Heavy expense has been incurred in building and equipping school buildings and the decreasing popula-

tion will make it impossible to continue these schools, and

WHEREAS, It has been demonstrated that where water has been applied by the way of irrigation on a small scale that this land has been found to be very productive.

Therefore, be it resolved, That this comparatively level and fertile tract of land comprising almost half a million acres should have the attention of the Reclamation Department at once in order that surveys may be made immediately for the purpose of determining the most feasible points from which the water may be brought and the estimated expense of irrigating said tract.

THEREFORE, We, your memorialists, most earnestly and respectfully pray, that an act of Congress be passed appropriating a sum of money for the purpose of making said surveys and estimating cost of placing water for irrigation purposes on this said tract of irrigable land.

Passed by the House January 27th, 1909.

Passed by the Senate February 5, 1909.

HOUSE JOINT MEMORIAL No. 3.

*To the Honorable Senate and House of Representatives
of the United States of America:*

Your memorialists, the Legislature of the State of Washington, respectfully submit that:

The apple boxes now in use by the growers and dealers of the Northwest have been the standard for the past fifteen years, and that

It has been demonstrated that the box now in use is best adapted to the size of the apples grown in the Northwest, and that

Our people, through the medium of the present package, have built up the reputation of having the finest commercial pack on the market, thereby enabling them to procure the highest prices in the markets of America, Europe and Australia, and that

The fruit growers of the Northwest are almost the ex-

clusive users of the box package, most other fruit growing sections using the barrel package, and that

The fruit marketed by the growers of the Northwest as first class is one hundred per cent free from worms, and that

WHEREAS, The Parker bill now under consideration by the National Congress, provides that our standard package shall be enlarged, to the detriment of our growers, and without possible advantage to fruit districts dispensing barreled apples, and

WHEREAS, The said Parker bill proposes to standardize ninety per cent good fruit as first class, greatly to the disadvantage of our growers, who pack fruit one hundred per cent free from worms,

Therefore, we, your memorialists, most earnestly pray that senators and members of the House of Representatives in Congress defeat the passage of said Parker bill, or so amend the same as to recognize the box our growers are using as the standard, and to provide that all fruit marked first-class shall be one hundred per cent free from worms.

Passed by the House January 27, 1909.

Passed by the Senate February 4, 1909.

HOUSE JOINT MEMORIAL No. 5.

*To the Honorable Senate and House of Representatives
of the United States:*

Your memorialists, the members of the Eleventh Legislative session assembled in the State of Washington, respectfully present that Quiniault lake is one of the most beautiful and attractive in the State of Washington and in the entire Northwest; that it is within easily accessible distance of the future metropolis which civic energy and natural advantages are rapidly creating on the shores of Grays harbor; that the shores of said lake are all included

in the Olympic forest reserve and the Quinault Indian reservation:

WHEREFORE, And in order that this lake and a portion of its shores, together with the adjacent forest and landscape, may forever remain in their virgin beauty and grandeur, a resort of pleasure and pride to posterity and a memorial to those resolute pioneers who have pushed the western frontier to the shores of the Pacific, your memorialists do respectfully petition that that portion of the Olympic forest reserve indicated in the accompanying map, which is herewith made a part of this memorial, be created a national park under whatever name shall seem to your honorable bodies most fitting, said proposed park being more particularly described as follows:

That portion of the Olympic forest reserve which comprises sections 19, 20, 29, and 30, T. 23 N., R. 9 W., Chehalis county, Washington, containing one thousand three hundred and twenty-two and fifty-five hundredths acres, more or less.

The Secretary of State is hereby directed to immediately transmit a certified copy of this memorial to His Excellency, the President of the United States of America, and to each of the Senators and Representatives in Congress from the State of Washington.

Passed by the House January 27, 1909.

Passed by the Senate February 5, 1909.

HOUSE JOINT MEMORIAL No. 6.

To the Honorable Senate and House of Representatives in Congress Assembled:

WHEREAS, State Road No. 5 has been located in the State of Washington, which road, when completed, will afford communication between Chehalis, in Lewis county, and North Yakima, in Yakima county, in said state; and

WHEREAS, In Yakima county said road has been completed to the east line of the forest reserve, and a large

portion of said road has been built in Lewis county, west of said reserve; and

WHEREAS, Said road as laid out and constructed passes through the Rainier forest reserve as follows:

Beginning on the east boundary of the Rainier forest reserve on the west boundary of township 12 north, range 7 east, Willamette meridian, Washington, near the bank of the Cowlitz river and running thence up the Cowlitz river and its tributaries to the Carlton Pass in the summit of the Cascade mountains; thence down Bumping river and the Natches river to the east boundary of said forest reserve on the east boundary of township 16 north, range 14 east, Willamette meridian, Washington; and,

WHEREAS, Said road so passing through said reserve will be of great benefit and convenience in the inspection and preservation of the forests, and will also relieve the government from the expense of constructing roads or trails through said reserve;

THEREFORE, Your memorialists, the members of the Eleventh Legislative session assembled of the State of Washington, hereby most respectfully urge that said road be constructed through said forest reserve at the expense of the Government of the United States.

And your memorialists will ever pray.

Passed by the House February 25, 1909.

Passed by the Senate March 2, 1909.

HOUSE JOINT MEMORIAL No. 7.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the Senate and House of Representatives of the State of Washington, respectfully petition, that,

WHEREAS, The American elk, formerly so plentiful in the United States and other sections of North America, is rapidly diminishing in numbers and will become entirely

extinct within a few years unless the National Government takes some immediate steps for the preservation of the species, and

WHEREAS, At the present time no suitable reserve has been established by the National Government for such purpose; and now therefore be it

Resolved by the House and Senate of the State of Washington, That the Congress of the United States pass such legislation as is now before it, creating a reserve for the American elk in the State of Wyoming, and making a suitable appropriation for that purpose; and

Be it further resolved, That a copy of this resolution be forthwith transmitted to each senator and congressman from the State of Washington for their use in endeavoring to secure the passage of such legislation.

Passed by the House February 26, 1909.

Passed by the Senate March 2, 1909.

HOUSE CONCURRENT RESOLUTION No. 9.

WHEREAS, Rainier Chapter of the Daughters of the American Revolution has undertaken during the last three years the work of planning and completing a statue of George Washington, as a gift to the State University of Washington, the said statue to be of bronze, heroic in size, to cost, including the pedestal of granite, the sum of twenty thousand dollars (\$20,000), the work being done by the well known sculptor, Lorando Taft, of Chicago; and

WHEREAS, Through contributions by the school children of the state and by members of patriotic societies and others have produced a total of five thousand five hundred dollars (\$5,500) toward the fund, and it is now apparent that the completion of the said fund through these sources will be delayed for an indefinite time; and

WHEREAS, There has developed an urgent desire that the completion of the statue be hastened and that it be placed upon a temporary pedestal at the main entrance

of the Alaska-Yukon-Pacific Exposition, that all visitors may, upon their first entrance to the grounds, be greeted by this figure of the great American character in whose honor this commonwealth was named; and

WHEREAS, It is obvious that the people of the entire state are interested in such a patriotic endeavor; therefore be it

Resolved by the House, the Senate concurring, That the State Commission of the Alaska-Yukon-Pacific Exposition is hereby authorized to use from the funds heretofore placed at its disposal a sum sufficient to pay the balance that may be due upon the cost of the statue of Washington when completed, to use the statue as part of, or ornament to, the state building or, in the Commission's discretion, to place the statue upon a temporary pedestal at the main entrance of the exposition grounds, and at the conclusion of the exposition to place the statue upon a permanent pedestal of granite, it being understood that the sum needed for all this work shall not exceed the total sum of twenty thousand dollars (\$20,000), less the subscriptions heretofore collected, or that may be collected up to the time of completing the work by the said Rainier Chapter of the Daughters of the American Revolution.

Passed by the House February 24, 1909.

Passed by the Senate February 26, 1909.

HOUSE CONCURRENT RESOLUTION No. 13.

Resolved by the House, the Senate concurring, That the song "Washington, Beloved," the words by Edmond S. Meany and the music by Reginald De Koven, be and the same is hereby declared the state anthem of Washington.

Passed by the House March 8, 1909.

Passed by the Senate March 11, 1909.

Approved March 18, 1909.

HOUSE JOINT RESOLUTION No. 1.

WHEREAS, There have been for many years controversies and disputes between the State of Oregon and Washington and the citizens and public officers thereof which have arisen through the claims of each state to equality in rights and jurisdiction over the Columbia river, and through the lack of uniform laws relating to matters of common interest and equal importance to each state, and

WHEREAS, Said states are and should be at all times sister states working harmoniously for the upbuilding of the entire Northwest, and

WHEREAS, All or many of said controversies would be obliterated by an agreement or compact of said States of Oregon and Washington, covering all points upon which they are or may be at variance and such compact if entered into by both states and ratified by Congress would insure uniform laws for a definite period;

Therefore be it resolved by the Legislature of the State of Washington:

That a commission be and the same is hereby created, to consist of seven members, two of whom shall be appointed by the President of the Senate from the members thereof, and two of whom shall be appointed by the Speaker of the House of Representatives from the members thereof and three of whom shall be appointed by the Governor; that such commission be empowered to negotiate with a similar commission representing the State of Oregon, and to formulate an agreement or compact adjusting all or any part of the controversy and disputes between said states; that said contract or agreement (in case said commission shall succeed in negotiating the same) shall be submitted to the Legislature of each of the said states for ratification or rejection, and if ratified by the legislatures of the States of Oregon and Washington, respectively, and the consent of

Congress be obtained thereto, shall be binding upon said states for the period therein specified.

Be it further resolved, That the President of the Senate transmit copies of this resolution to the Senate and House of Representatives of the State of Oregon.

Passed the House January 28, 1909.

Passed the Senate January 29, 1909.

Approved by the Governor March 3, 1909.

SENATE JOINT MEMORIAL No. 1.

Against the removal of the duty on forest products.

WHEREAS, The lumber industry is the leading one in the state of Washington, giving employment to over one hundred thousand men, to whom are paid annually in wages the sum of seventy-five million dollars, and has for many years been the mainstay of the Pacific Northwest; and

WHEREAS, Owners of Canadian timber lands and others are advocating the removal of the duty on lumber and forest products, with the view of transferring the lumber industry of this country to Canada; and

WHEREAS, The State of Washington had a bitter experience under the free trade Wilson bill a decade ago, and realizing the effect of a similar measure on wages and general business; therefore be it

Resolved, That the Legislature of the State of Washington, in session assembled, do most earnestly urge upon the ways and means committee and Congress to retain the existing duty on forestry products; and be it

Further resolved, That these resolutions be wired to the chairman of the ways and means committee, now in session, and to our representatives in Congress, and that copies be forwarded to the President of the Senate and the Speaker of the House.

Passed by the Senate January 11, 1909.

Passed by the House January 11, 1909.

SENATE JOINT MEMORIAL No. 2.

To the Honorable the Senate and House of Representatives of the United States:

Your memorialists, the Senate and House of Representatives of the State of Washington, most respectfully represent:

That, whereas Alaska has no government of its own, and must look to the Federal Legislature for all public aid and assistance, and it is of the highest importance that wagon roads be constructed in Alaska, to facilitate the transportation of freight and supplies to the various interior mining districts where transportation charges now run into hundred and even thousands of dollars per ton;

And whereas, the State of Washington being nearest in point of distance, to Alaska, has more intimate relation of commerce than any other state, and directly receives the great harvest of gold flowing from that great district, whence it finds its way throughout the Union, to the great enrichment of the whole United States;

Therefore, your memorialists do pray the Congress of the United States that the sum of one million dollars be forthwith appropriated to be used under the direction of the board of road commissioners of Alaska, who have done most valuable work with the limited means at their disposal, for trunk roads in Alaska, which will be speedily followed by railroad construction, to the permanent development of a vast mineral region.

Passed by the Senate January 11, 1909.

Passed by the House January 11, 1909.

SENATE JOINT MEMORIAL No. 3.

To His Excellency Theodore Roosevelt, President of the United States of America; to the Honorable Secretary of War; and to the Honorable Senators and Representatives from the State of Washington:

Your memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled (eleventh regular session) respectfully petition as follows:

That lots 2 and 3 in section 12, township 35 north of range 3 west of the Willamette meridian, and lots 4 and 5 in section 11, township 35 north of range 3 west of the Willamette meridian, now held by the War Department as a portion of a military reserve on San Juan Island, State of Washington, be donated to the State University of the State of Washington, for a site on which to erect buildings for a biological school to be used in conjunction with said university.

Passed by the Senate January 11, 1909.

Passed by the House January 19, 1909.

SENATE JOINT MEMORIAL No. 4.

To the Honorable Senate and House of Representatives in Congress assembled:

WHEREAS, The raising of wheat and other grain crops is one of the principal industries of the states along the Pacific Coast, and one of the principal resources of their wealth; and

WHEREAS, Owing to the shipping conditions existing upon the Pacific Coast, it is necessary that all wheat and other grain should be sacked by the grower in jute bags; and

WHEREAS, The expense of such bags is a very heavy item in the cost of growing, harvesting and disposing of

wheat and grain products, the farmers of Washington alone paying out annually almost \$1,500,000 for such bags; and

WHEREAS, There is at the present time a duty imposed upon grain bags which adds materially to the cost of the same to the farmer, greatly increasing the burden upon him and upon the consumer, over what it would be if grain bags were admitted free of duty; and

WHEREAS, There is in the United States about one factory engaged in the manufacture of jute bags for grain products, and that is a small concern which cannot manufacture a tithe of the grain bags required for handling the crops of the State of Washington alone;

Now, therefore, be it resolved, by the Senate of the State of Washington, the House concurring, That it would be of inestimable benefit to the farmers of the Pacific Coast states, and particularly of the State of Washington, that the duty upon grain bags be removed; that the removal of the duty upon jute and grain bags would not be of detriment to any established or large industry, and the sole effect of the removal of the duty would be to lessen the already heavy burden upon the farmer in the marketing of his grain, and tend to reduce the cost of wheat and other grains to the producer; and therefore that such duty should be removed at the earliest possible moment.

Resolved further, That a copy of this resolution be forthwith transmitted to the Senators from the State of Washington, and to each Congressman from the State of Washington, also to each member of the ways and means committee of the House of Representatives, for their use in endeavoring to secure the removal of the duty referred to.

Passed by the Senate January 13, 1909.

Passed by the House January 18, 1909.

SENATE JOINT MEMORIAL No. 6.

To the Honorable, the Secretary of the Interior:

We, your memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled (eleventh regular session), most respectfully represent and pray as follows:

WHEREAS, Section 11 of an act of Congress, entitled an act to authorize the sale and disposition of surplus or unallotted land of the diminished Colville Indian reservation in the State of Washington, and for other purposes, approved March 22, 1906, provides for the establishment of government townsites on said reservation; and

WHEREAS, There is a public necessity for a government townsite being established within the following described tract of land, to-wit: Commencing at the northeast corner section 3, township 30, north of range 25, east of the Willamette meridian; thence west on the north township line of said township to the point of intersection of said north township line with the left bank of the Okanogan river at a point on the line of ordinary high water mark on said Okanogan river; thence following the line of ordinary high-water mark down the left bank of Okanogan river to the confluence of the Okanogan and Columbia rivers; thence up the right bank of the Columbia river on the line of ordinary high-water mark, to the point of intersection of said line of ordinary high-water mark with the east boundary line of section 15 in said township and range; thence north following section lines to the place of beginning; and

WHEREAS, The first white settlement within the present boundaries of the State of Washington was established on the said described land; and

WHEREAS, The report of Captain Symonds, who surveyed the Columbia river on behalf of the United States

many years ago, commented on said locality as being the natural site for a city; and

WHEREAS, Said land, or a portion thereof, is suitable in all respects for the location of a government townsite,

THEREFORE, We most earnestly and respectfully pray that an order of withdrawal from all forms of disposition be made immediately and that as soon as possible such portions thereof as the Honorable Secretary of the Interior shall find necessary and proper for the establishment of a government townsite be disposed of under the government townsite laws of the United States of America.

The Secretary of State is hereby directed to immediately send certified copies of this memorial to the President of the United States, to the Honorable Secretary of the Interior and to each of the Senators and Congressmen from the State of Washington.

Passed by the Senate February 10, 1909.

Passed by the House February 10, 1909.

SENATE JOINT MEMORIAL No. 7.

WHEREAS, Disastrous floods have for many years periodically occurred in the valleys of the White, Stuck and Puyallup rivers in the State of Washington, washing away and otherwise destroying large tracts of fertile and valuable land, and causing in many ways very great damage; and

WHEREAS, In the year of 1907 an engineering board, composed of engineers specially qualified by ability and experience to cope with problems of that character, presided over by Major H. M. Chittenden of the Corps of Engineers, U. S. Army, fully investigated and considered the causes of said floods and the means to be taken to guard against their further occurrence, and said Engineering Board recommended as proper and efficient protective measures the erection of a drift barrier in the White river, the permanent diversion of the White river into the Stuck and

Puyallup, and the improvement of the channels of the two last named rivers where necessary to enable them to carry off such flood waters;

Therefore, be it resolved by the Senate of the State of Washington, the House concurring, That the Congress of the United States be and is hereby urged to take such action as will lead to the carrying out of the plan recommended by said Engineering Board, both by making suitable appropriations for that part of said work falling within the jurisdiction of the Federal Government and by consenting that the recommendations made as aforesaid may be followed in any works authorized or permitted by the laws of this state which may be undertaken affecting the waters of said rivers, and the United States Senators from this state are hereby instructed and the Representatives requested to use their endeavors to that end.

Passed by the Senate February 10, 1909.

Passed by the House February 10, 1909.

SENATE JOINT RESOLUTION No. 6.

Be it resolved by the Eleventh Legislature of the State of Washington, That the President and Board of Regents of the University of Washington and the Washington State College, be authorized, and they are hereby authorized and directed, to use their best efforts to secure and accept for the University of Washington and for the Washington State College, respectively, the benefits of the retiring fund of the Carnegie Foundation for the Advancement of Teaching.

Resolved further, That this resolution shall take effect and be in force from and after its passage and approval by the Governor.

Passed by the Senate February 26, 1909.

Passed by the House February 27, 1909.

Approved by the Governor February 27, 1909.

AUTHENTICATION.

OFFICE OF THE SECRETARY OF STATE.
STATE OF WASHINGTON,

I, SAM H. NICHOLS, 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 eleventh biennial session, from January 11th to March 11th, 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 15th day of April, A. D. 1909.

SAM H. NICHOLS,
Secretary of State.

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