

order the payment thereof; and thereupon the county auditor shall issue to such bailiff a warrant on the county treasurer, payable out of the general fund, for the amount so certified.

Approved February 16, 1891.

## CHAPTER XI.

[S. B. No. 32.]

### PROCEDURE IN CRIMINAL ACTIONS.

Sections amended.

AN ACT relating to procedure in criminal actions and proceedings in justices' courts and before magistrates, and amending sections 1890, 1891, 1894, 1893, 1895, 1896, 1902, 1905, 1916, 1917, 1923, 1926, 1927, 1929, 1932 and 1972 [1272] of the Code of Washington of 1881.

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

Jury.

SECTION 1. Section 1890 of the code of Washington of 1881 is amended to read as follows: In all trials for offenses within the jurisdiction of a justice of the peace, the defendant or the state may demand a jury, which shall consist of six, or a less number, agreed by the state and accused, to be impaneled and sworn as in civil cases; or the trial may be by the justice. When the complaint is for a crime or misdemeanor in the exclusive jurisdiction of the superior court, the justice hears the case as a committing magistrate, and no jury shall be allowed.

Duty of Jury.

SEC. 2. Section 1891 of said code of 1881 is amended to read as follows: Such justice or jury, if they find the prisoner guilty, shall assess his punishment; or if, in their opinion, the punishment they are authorized to assess is not adequate to the offense, they may so find, and in such case the justice shall order such defendant to enter recognizance to appear in the superior court of the county, and shall also recognize the witnesses, and proceed as in proceedings by a committing magistrate.

Recognizance.

SEC. 3. Section 1894 of said code of 1881 is amended

to read as follows: In all cases arising under this chapter, Summons. if the offense charged involve injury to a particular person who is within the county, it shall be the duty of the justice of the peace to summon the injured person, and all others whose testimony may be deemed material, as witnesses at the trial, and to enforce their attendance by attachment if necessary.

SEC. 4. Section 1893 of said code of 1881 is amended to read as follows: No justice shall assess a fine, or enter Evidence. a judgment thereon, until a witness or witnesses have been examined to state the circumstances of the transaction.

SEC. 5. Section 1895 of said code of 1881 is amended to read as follows: Continuance may be granted, either on Continuance. application of the defendant or the prosecuting witness, under the same rules as in civil cases; the cost of such continuance shall abide the event of the prosecution in all cases, and the justice shall recognize the defendant and the witnesses to appear from time to time, in the same manner as is provided in other criminal examinations before him.

SEC. 6. Section 1896 of said code of 1881 is amended to read as follows: In all cases of conviction, unless otherwise provided in this chapter, the justice shall enter judgment for the fine and costs against the defendant, and may commit him to jail, to be placed at hard labor until the judgment is satisfied, or the payment thereof be secured, as provided by section fourteen hundred and ninety-seven, and further proceedings therein shall be had as in like cases in the district court; but the defendant shall not be imprisoned for a longer aggregate time than one day for every three dollars of the fine and costs; and a defendant who has been committed shall be discharged at any time upon payment of such part of the fine and costs as remains unpaid, after deducting from the whole amount any previous payment and three dollars for every day he has been imprisoned upon the commitment. Effect of conviction. Limit of imprisonment.

SEC. 7. Section 1902 of said code of 1881 is amended to read as follows: The following or equivalent forms may be used by justices of the peace in criminal proceedings under this act:

Form of warrant.

## FORM OF WARRANT.

THE STATE OF WASHINGTON, ——— COUNTY, SS.

*To the sheriff or any constable of said county:* Whereas, A. B. has this day complained in writing under oath to the undersigned, one of the justices of the peace in and for said county, that on the ——— day of ———, 18—, at ———, in said county [here insert the substance of the complaint, whatever it may be]; therefore, in the name of the State of Washington, you are commanded forthwith to apprehend the said C. D. and bring him before me, to be dealt with according to law.

Given under my hand this ——— day of ——— 18—.

J. P., Justice of the Peace.

Form of search warrant.

## FORM OF SEARCH WARRANT.

THE STATE OF WASHINGTON, ——— COUNTY, SS.

*To the sheriff or any constable of said county:* Whereas, A. B. has this day made complaint on oath to the undersigned, one of the justices of the peace in and for said county, that the following goods and chattels, to wit: [Here describe them], the property of the said A. B., have been within ——— days past, or were on the ——— day of ———, by some person or persons unknown, stolen, taken, and carried away out of the possession of the said A. B., in the county aforesaid; and, also, that the said A. B. verily believes that the said goods or a part thereof are concealed in or about the house of C. D., in said county [describe the premises to be searched]; therefore, in the name of the State of Washington, you are commanded that, with the necessary and proper assistance, you enter into the said house [describe the premises to be searched], and then diligently search for the said goods and chattels; and if the same or any part thereof be found on such search, bring the same, and also the same C. D., forthwith before me, to be disposed of according to law.

Given under my hand this ——— day of ———, 18—.

J. P., Justice of the Peace.

Form of commitment.

## FORM OF COMMITMENT WHERE JUSTICE ON THE TRIAL SHALL FIND THAT HE HAS NOT JURISDICTION IN THE CASE.

THE STATE OF WASHINGTON, ——— COUNTY, SS.

*To any constable and the keeper of the jail of said county:* Whereas, C. D., of ———, etc., has been brought this day before the undersigned, one of the justices of the peace in and for said county, charged, on the oath of A. B., with having, on the ——— day of ———, 18—, in said county, committed the offense of [here state the offense charged in the warrant], and in the progress of the trial of said charge, it appearing to the said justice that the said C. D. has been guilty of the offense of [here state the new offense found on the trial] committed at the time and place aforesaid; and whereas, the said C. D. has failed to give bail in the sum of ——— dollars, for his appearance to answer at the next term of the district court, as required by me, therefore, in the name of the State of Washington, etc. [as in the last form], to receive the said C. D.

into your custody in the said jail, and him there safely keep until he be discharged by due course of law.

Given under my hand this —— day of ——, 18—.

J. P., Justice of the Peace.

FORM OF WARRANT TO KEEP THE PEACE.

Form of warrant to keep the peace.

THE STATE OF WASHINGTON, COUNTY OF ——, SS.

*To the sheriff or any constable of said county:* Whereas, A. B. has this day complained in writing under oath to the undersigned, one of the justices of the peace in and for said county, that he has just cause to fear and does fear C. D., late of said county, will [here state the threatened injury or violence, as sworn to]; therefore, in the name of the State of Washington, you are commanded to apprehend the said C. D., and bring him forthwith before me, to show cause why he should not give surety to keep the peace and be of good behavior toward all people of this state, and the said A. B. especially, and further to be dealt with according to law.

Given under my hand this —— day of ——, 18—.

J. P., Justice of the Peace.

FORM OF COMMITMENT UPON SENTENCE.

Form of commitment upon sentence.

THE STATE OF WASHINGTON, COUNTY OF ——, SS.

*To any constable and the keeper of the county jail of said county:* Whereas, at a justice's court held at my office in said county for the trial of C. D. for the offense hereinafter stated, the said C. D. was convicted of having on the —— day of ——, 18—, in said county, committed [here state the offense], and upon conviction the said court did adjudge and determine that the said C. D. should be imprisoned in the county jail of said county for —— days, therefore, you, the said constable, are commanded, in the name of the State of Washington, forthwith to convey and deliver the said C. D. to the said keeper; and you, the said keeper, are hereby commanded to receive the said C. D. into your custody in said jail, and him there safely keep until the expiration of said —— days, or until he shall thence be discharged by due course of law.

Dated this —— day of ——, 18—.

J. P., Justice of the Peace.

FORM OF CERTIFICATE OF CONVICTION.

Form of certificate of conviction.

THE STATE OF WASHINGTON, COUNTY OF ——, SS.

At a justice's court held at my office in said county before me, one of the justices of the peace in and for said county, for the trial of C. D., for the offense hereinafter stated, the said C. D. was convicted of having on the —— day of ——, 18—, in said county, committed [here insert the offense], and upon conviction the said court did adjudge and determine that the said C. D. should pay a fine of —— dollars [or be imprisoned, as the case may be], and the said fine has been paid to me.

Given under my hand this —— day of ——, 18—.

J. P., Justice of the Peace.

Form of execution.

FORM OF AN EXECUTION.

THE STATE OF WASHINGTON, COUNTY OF ———, SS.

*To the sheriff or any constable of said county:* Whereas, at a justice's court held at my office in said county for the trial of C. D., for the offense hereinafter stated, the said C. D. was convicted of having on the ——— day of ———, 18—, in said county, committed [here state the offense], and upon conviction the said court did adjudge and determine that the said C. D. should pay a fine of ——— dollars, and ——— dollars costs; and, whereas, the said fine and costs have not been paid, these are, therefore, in the name of the State of Washington, to command you to levy on the goods and chattels, etc. [as in execution in civil cases].

Examination of witnesses.

SEC. 8. Section 1905 of said code of 1881 is amended to read as follows: It shall be the duty of every magistrate examining a person charged with an offense, or with an intention to commit an offense, to examine all the witnesses he shall deem material, and reduce their testimony to writing, a copy of which, whether the accused is discharged, committed, or held to bail, or shall take an appeal, he shall transmit to the clerk of the court having jurisdiction of the offense.

SEC. 9. Section 1916 of said code of 1881 is amended to read as follows: Every recognizance taken pursuant to the foregoing provisions shall be transmitted to the superior court for the county within ten days, and shall be there filed of record by the clerk.

Breach of peace in presence of judge or court.

SEC. 10. Section 1917 of said code of 1881 is amended to read as follows: Every person who shall, in the presence of any magistrate, or before any judge of a court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such judge or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or other proof, to recognize for keeping the peace or being of good behavior for a term not exceeding three months, and in case of refusal may be committed as before directed.

Recognizance.

SEC. 11. Section 1923 of said code of 1881 is amended to read as follows: The magistrate before whom such accused person shall be brought, when the offense is bailable, may, at the request of such person, with or without exam-

ination, allow him to enter into recognizance with sufficient sureties, to be approved by the magistrate, conditioned for his appearance in the superior court having jurisdiction of the offense.

SEC. 12. Section 1926 of said code of 1881 is amended to read as follows: If it shall appear that an offense has been committed of which a justice of the peace has jurisdiction, and one which would be sufficiently punished by a fine not exceeding one hundred dollars, if the magistrate having the complaint is a justice of the peace, he shall cause the complaint to be ordered and proceed as in like cases before a justice of the peace; or, if any other magistrate, he shall certify the papers, with a statement of the offense appearing to be proved, to the nearest justice of the peace, and shall, by order, require the defendant and the witnesses to enter into recognizances with sufficient sureties to be approved by the magistrate, for their appearance before such justice at the time and place stated in the order; and such justice shall proceed to the trial of the action as if originally commenced before him.

Mode of procedure.

SEC. 13. Section 1927 of said code of 1881 is amended to read as follows: If it appear that a bailable offense has been committed, the magistrate shall order the defendant to enter into recognizance, with sufficient sureties, for his appearance in the superior court to answer the charge, and if he shall not do so, or the offense be not bailable, he shall commit him to jail. The justice of the peace who committed the person, or the judge of the superior court to which the party is held to answer, may admit to bail in the amount required and approve the sureties. The recognizance shall be conditioned in effect that the defendant will appear in the superior court to answer said charge whenever the same shall be prosecuted, and at all times, until discharged according to law, render himself amenable to the orders and process of the superior court, and, if convicted, render himself in execution of the judgment.

Condition of recognizance.

SEC. 14. Section 1929 of said code of 1881 is amended to read as follows: Where the person arrested is held to bail, or committed to jail, or forfeits his recognizance, the magistrate shall recognize the witnesses for the prosecution

In case of forfeited recognizance

to be and appear in the superior court to which the party is recognized, bailed, or committed, whenever their attendance shall be required.

SEC. 15. Section 1932 of said code of 1881 is amended to read as follows: All witnesses required to recognize with or without sureties shall, if they refuse, be committed to the county jail by the magistrate, there to remain until they comply with such orders or be otherwise discharged according to law: *Provided*, That when the magistrate is satisfied that any witness required to recognize with sureties is unable to comply with such order, he shall immediately take the deposition of such witness and discharge him from custody upon his own recognizance. The testimony of the witness shall be reduced to writing by a justice or some competent person under his direction, and he shall take only the exact words of the witness; the deposition, except the cross-examination, shall be in the narrative form, and upon the cross-examination the questions and answers shall be taken in full. The defendant must be present in person when the deposition is taken, and shall have an opportunity to cross-examine the witnesses; he may make any objections to the admission of any part of the testimony, and all objections shall be noted by the justice; but the justice shall not decide as to the admissibility of the evidence, but shall take all the testimony offered by the witness. The deposition must be carefully read to the witness, and any corrections he may desire to make thereto shall be made in presence of the defendant by adding the same to the deposition as first taken; it must be signed by the witness, certified by the justice, and transmitted to the clerk of the superior court, in the same manner as depositions in civil actions. And if the witness is not present when required to testify in the case, either before the grand jury or upon the trial in the superior court, the deposition shall be submitted to the judge of such superior court, upon the objections noted by the justice, and such judge shall suppress so much of said deposition as he shall find to be inadmissible, and the remainder of the deposition may be read as evidence in the case, either before the grand jury or upon the trial in the court.

Recognizance  
of witnesses.

Deposition.

Authenticating  
testimony.

SEC. 16. It shall be the duty of all magistrates within this state, before whom any person or persons shall be committed or held to bail to answer to any crime, to return their proceedings, duly certified, including a copy of all recognizances taken by them, to the clerk of the superior court within ten days after the final hearing and commitment, or holding to bail, as aforesaid; and any justice of the peace who shall fail or neglect to make such return shall not be entitled to receive any fees or costs in such case.

Return of proceedings.

SEC. 17. Section 1272 of said code of 1881 is amended to read as follows: Upon complaint made on oath to any justice of the peace against any person as being such vagrant within his local jurisdiction, as defined in the last preceding section, he shall issue a warrant for the arrest of such person, and the complaint, warrant, arrest and examination shall be governed by the provisions of this code relating to the examination and commitment for trial of persons charged with offenses, so far as the same may be applicable.

Vagrant.

SEC. 18. The foregoing sections of this act shall be a part of the code of procedure of this state, and shall be embodied therein under appropriate numbers.

Approved February 17, 1891.

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## CHAPTER XII.

[H. B. No. 26.]

### TO PREVENT DRIVING OF STOCK FROM THEIR RANGE.

AN ACT to prevent the driving of stock from their range, and providing penalty for the violation of the same.

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

SECTION 1. That no person shall be permitted to lead, drive, or in any manner remove any horse, mare, colt, jack, jenny, mule, or any head of neat cattle, or hog, sheep, goat,

Offense defined.