

SESSION LAWS

OF THE

STATE OF WASHINGTON

SESSION OF 1891.

COMPILED IN CHAPTERS, WITH MARGINAL NOTES,
BY ALLEN WEIR, SECRETARY OF STATE.

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LAWS OF WASHINGTON.

CHAPTER I.

[H. B. No. 7.]

PAYMENT OF TAXES.

AN ACT extending the time for payment of taxes, remitting penalties, and declaring an emergency.

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

SECTION 1. That the time for the payment of all state and county taxes levied for the year 1890 be and the same is hereby extended to March 1st, 1891, after which date the same shall become delinquent, and all penalties provided by law for the non-payment of such taxes shall attach and the same be collected as provided by law.

SEC. 2. That all penalties on all state and county taxes paid on or before March 1st, 1891, be and are hereby remitted, but said taxes shall draw interest from January 1st, 1891, until paid, at ten per cent. per annum, and the county treasurers of the respective counties in the state are authorized to receive and receipt for such taxes, with interest, but without penalty, up to March 1st, 1891. Remitting penalty.

SEC. 3. That the county treasurers of the various counties who shall have collected any penalties on any such taxes for said year 1890, prior to the passage of this act, keep the amount of such penalties so collected in a separate fund to be refunded to the respective parties having paid the same, and that any person having so paid any such penalty shall present his claim therefor to the board of county commissioners of the county in which the same were paid, and the board shall audit said claim and order a warrant drawn therefor, which warrant the treasurer shall pay out of said fund. Separate funds.

SEC. 4. Whereas, the time to which the payment of taxes is by this act extended would otherwise expire before this act would take effect, an emergency exists; and, therefore,

that this act shall take effect and be in force from and after its passage and approval by the governor.

Approved January 20, 1891.

CHAPTER II.

[H. B. No. 10.]

LEGISLATIVE EXPENSES.

AN ACT making appropriations for the expenses of the second legislature of the State of Washington.

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

SECTION 1. That there be and there is hereby appropriated out of any money in the treasury of the state, not otherwise appropriated, the sum of seventy thousand dollars, or so much thereof as may be necessary, to pay the per diem and mileage of the members and the salaries of the officers and employés of the present session of the legislature of the State of Washington, and the other expenses of this session.

SEC. 2. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved January 20, 1891.

CHAPTER III.

[H. B. No. 87.]

VACANCIES IN THE LEGISLATURE.

AN ACT relating to the filling of vacancies in the legislature of the State of Washington.

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

SECTION 1. Whenever a vacancy occurs in the legislature of the State of Washington during or prior to any session

of the legislature which occurs before any general election of the State of Washington, it shall be the duty of the governor of the state to forthwith issue a writ of election, providing for the filling of such vacancy by an election; said writ shall in substance be as follows:

The State of Washington to the electors of ——— (senatorial or representative) *district, county or counties, of the State of Washington, greeting:* Form of writ.

You are hereby commanded to hold an election to fill the vacancy in the ——— (here state whether in the house or senate) caused by the ——— (here state cause of vacancy), which said election shall be held upon the — day of ———, A. D. 189—.

In witness whereof, I have hereunto set my hand, and caused the seal of the State of Washington to be affixed thereto.

—————, Governor.

Attest:

—————, Secretary of State.

Which said writ shall be at once transmitted to the auditor or auditors of the county or counties wherein said district is situated.

SEC. 2. Such election shall be held in every way as provided by law for general elections in the State of Washington, except as herein otherwise provided.

SEC. 3. It shall be the duty of the auditor or auditors Auditor must give notice. of the county or counties wherein the district is situated wherein said election is to be held, to give notice of such election by posting notices of the same in at least four (4) public places within said district, or if said district be composed of more than one county, then in four public places in either county, and by posting one (1) notice at the front door of the court house of the county or counties wherein said district is situated, in substance following:

To the electors of ——— (senatorial or representative district, as the case may be), *in the county of* ———, *in the State of Washington:* Form of notice.

Notice is hereby given that by virtue of a writ of election issued by his excellency the governor of the State of Washington, an election will be held for the purpose of electing a ——— (representative or senator as the case may be) from the ——— district in the county or counties of ———, in the State of Washington, to fill the vacancy caused by the ——— (state cause of vacancy), upon the — day of ———, 189—, at the various voting places within said district, where the last general election was held, within the usual hours provided by law for holding general elections.

In witness whereof, I have hereunto set my hand, this — day of ———, 189—.

—————, County Auditor of ——— County.

Which said notice shall also be published once in some newspaper published within the county or counties in which said district is situated, if there be a newspaper in said county or counties, and if not, then in some newspaper of general circulation within said district.

Publishing notice.

SEC. 4. Said notice shall be posted at least ten (10) days prior to the day when said election is to be held; and be published in said newspaper at least five (5) days before the day of holding said election. It shall also be the duty of the county auditor or auditors, in addition to posting and giving said notice, as hereinbefore provided for, to give a copy of said notice to the chairman or any member of the county central committee of all the political organizations existing within the county or counties in which said district is situated at least ten (10) days before the day when said election shall be held.

Registration.

SEC. 5. If the registration of voters for the general election, or, where the district is within an incorporated city, for the municipal election next preceding the holding of a special election, shall be deemed to be a registration of voters for the purposes of such special election, and shall be used at such election as the registration of such special election: *Provided*, That any voter not registered, who has become entitled to vote since the last registration, shall be entitled to vote upon proving to the satisfaction of the judges and inspector of the said election that such voter is entitled to vote, and that such voter has become entitled to vote since the last registration was closed.

Nominations.

SEC. 6. All nominations of candidates for the office to be filled by the writ of election hereinbefore provided for, shall be filed with the auditor of the county or counties wherein said district is situated, at least five (5) days before the day appointed for said election.

SEC. 7. In addition to the manner in which candidates may be nominated by law for such special election, the candidates for the office named in such writ of election may be nominated by the chief committee of any political organization within the county or counties wherein said district is situated.

SEC. 8. At such special election the judges and inspectors

of election appointed by the county commissioners of the county or counties wherein said district is situated for the last general election preceding such special election, shall be deemed to be the officers of such special election, and the county auditor shall, immediately upon receiving the writ of election from the governor, proceed to notify said officers of the holding of said election.

SEC. 9. Whereas, there is not at present any provision of law by which a vacancy in the legislature of the State of Washington can be speedily filled, an emergency is declared to exist for this statute to take effect immediately; therefore, this act shall take effect and be in force from and after its approval.

Approved January 24, 1891.

CHAPTER IV.

[S. B. No. 22.]

DISTRIBUTION OF CODE, SESSION LAWS AND JOURNALS.

AN ACT providing for the distribution to the members of the legislature of the code of 1881, and the journals and session laws of 1889-90.

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

SECTION 1. That the state auditor and the secretary of state be and hereby are authorized to deliver to each member of the legislature, a copy of the code of 1881 and the session laws of 1889-90, and the journals of the house and senate for 1889-90.

Approved, February 3, 1891.

CHAPTER V.

[H. B. No. 99.]

PROSECUTING ATTORNEYS.

AN ACT in relation to prosecuting attorneys, and declaring an emergency.

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

SECTION 1. That all officers elected as county attorneys at the last general election, be, and they are hereby declared to be, prosecuting attorneys for the counties for which they were respectively elected, and shall be known and designated as such, and perform all the duties prescribed by law as the duties of the prosecuting attorneys.

SEC. 2. Whereas, doubt exists as to the duties of prosecuting officers; therefore, an emergency exists, and this act shall take effect immediately upon its passage and approval.

Approved February 3, 1891.

CHAPTER VI.

[S. B. No. 54.]

MUNICIPAL CORPORATIONS.

AN ACT legalizing the incorporation of municipal corporations of the fourth class, and declaring an emergency.

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

SECTION 1. No act, proceeding or order of any board of county commissioners of any county in this state heretofore made, done or had defining or establishing the corporate limits of any municipal corporation of the fourth class shall be invalid for the reason that such corporation contains an area exceeding one square mile; but all such acts, proceedings and orders are hereby legalized; and any and all orders, proceedings and ordinances of any council of municipal corporations of the fourth class heretofore had

or passed, and all special elections heretofore had and held under and by virtue of such order or ordinance, are hereby declared to be as lawful and of as full force and effect as though such municipal corporation at the time of its incorporation contained an area not exceeding one square mile: *Provided, however,* That the board of county commissioners of the county wherein such corporation is situated shall reduce the territory of such corporation to an area not to exceed one square mile in the manner provided in section two of this act. Reducing area.

SEC. 2. Within sixty (60) days after the passage of this act, the council, or a majority thereof of any municipal corporation of the fourth class containing an area exceeding one square mile, shall present a petition to the board of county commissioners of the county wherein it is situated, setting forth the boundaries of such corporation, the territory they desire excluded and the territory they desire to retain within such limits. Such petition shall be presented at a regular or special meeting of said board and shall be published for a[t] least two weeks before the time at which it is to be presented in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. The said commissioners shall at the time designated in such notice hear said petition and make an order reducing the territory included within the limits of such corporation to an area not exceeding one square mile. A copy of said order shall thereupon be filed with the secretary of state. Mode of procedure.

SEC. 3. Whereas, great embarrassment and inconvenience exists in certain municipal corporations of the fourth class from delay of time in the passage of this act; therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the governor. Emergency.

Approved February 7, 1891.

CHAPTER VII.

[S. B. No. 1.]

SALARIES OF JUSTICES OF THE PEACE AND CONSTABLES.

AN ACT fixing the salaries of justices of the peace and constables, in incorporated cities and towns having more than five thousand inhabitants, providing for the payment thereof, and providing for clerks, office-quarters, books, blanks and stationery for said officers, and declaring an emergency.

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

Classification of salaries.

SECTION 1. The justices of the peace in incorporated cities and towns of the first class shall receive an annual salary of two thousand dollars; justices of the peace in incorporated cities and towns of the second class shall receive an annual salary of eighteen hundred dollars; and justices of the peace in incorporated cities and towns of the third class having more than five thousand inhabitants, as shown by the last state or federal census, shall receive an annual salary of twelve hundred dollars.

Salaries of constables.

SEC. 2. The constables in incorporated cities and towns of the first class shall receive an annual salary of twelve hundred dollars; constables in incorporated cities and towns of the second class shall receive an annual salary of ten hundred dollars; constables in incorporated cities and towns of the third class having more than five thousand inhabitants, as shown by the last state or federal census, shall receive an annual salary of eight hundred dollars.

Fees.

SEC. 3. The justices of the peace and constables shall charge and collect for the use of their respective counties, and pay into the county treasury on the first Monday in each month, and on going out of office, all the fees now or hereafter allowed by law paid or chargeable in all cases, except such fees as are a charge against the county or state, and also on the first Monday in each month, and on going out of office, the said justices of the peace shall pay into the county treasury all moneys they shall have received on account of fines collected for violations of any state law.

Fee book.

SEC. 4. Each of the said justices of the peace and constables shall keep a fee book, open to public inspection during office hours, in which must be entered at once and in detail all fines and fees or compensation of whatever

nature, kind or description, collected or chargeable. On the first Monday of each and every month the said justices of the peace and constables must add up each column in their fee books to the first of each month and set down the totals, and on the expiration of the term of said officer they must deliver to the county auditor all fee books kept by them.

SEC. 5. All fees and compensation collected from any source, and all fines collected for violations of any state law, shall be paid to the county treasurer on the first Monday of the following month, and the said justices and constable at the same time shall deliver to such treasurer a statement and copy of the fee book for the month last past, showing by items the sources from which such fees and fines were derived, and shall append thereto an affidavit that they have received no other money for fees or fines, not before paid over to such treasurer. The treasurer shall file and preserve in his office said statements and affidavits, and shall issue to said justices and constables one original and one duplicate receipt therefor, and the said justices and constables shall preserve one in their offices and file the duplicate with the county auditor, whereupon the auditor shall charge the treasurer with the amount shown by the receipt.

Payment of fees into treasury.

Duties of treasurer and auditor.

SEC. 6. All fees by this act directed to be paid into the county treasury, when received shall be put into the salary fund of the county treasury.

SEC. 7. The salaries of the justices of the peace and constables, provided for in this act, shall be paid monthly out of the county treasury, and from the same funds out of which other salaried county officers are paid, and it shall be the duty of the county auditor, on the first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said justices and constables for the amount of salary due him, under the provisions of this act for the preceding month: *Provided*, That the auditor shall not draw his warrant for the salary of any such officer for any month until the latter first shall have filed his duplicate receipt with the auditor, properly signed by the treasurer, showing that he has made the statement and settlement for that month as required by this act.

Payment of salaries.

SEC. 8. The board of county commissioners shall allow each justice in cities of the first class, and may allow each justice in cities of the second class, one clerk, at such salary as they may designate; said clerk to be paid in the same manner and at the same time as the said justices. The board of county commissioners may furnish for the use of each of the justices provided for in this act a suitable office room; and also, they shall furnish to each of the said justices and constables all necessary books, blanks and stationery for conducting the public business of his office; said office room, books, blanks and stationery to be paid for on the warrant of the auditor out of the general fund of the county.

Office rooms.

Expenses of constables.

SEC. 9. In addition to the salary provided to be paid to the constables named in this act, the county commissioners shall pay the actual traveling expenses of said constables while on official duties, to be audited by the board of county commissioners.

Fees, how paid.

SEC. 10. Said justices and constables shall not in any case, except for the state or county and other cases provided by law, perform any official services unless the fees prescribed for such services are paid in advance, and on such payment the said justices and constables must perform the services required, and shall give receipts for all fees collected, whenever requested. For every failure or refusal to perform official duty when the fees are tendered, said justices and constables shall be liable on their official bonds.

SEC. 11. All fees earned by the said justices and constables, under the provisions of law in this state, prior to and up to the date when this act becomes a law, shall be retained by the said officers in lieu of all salary and compensation for their services to that date.

SEC. 12. All laws or parts of laws in conflict with this act are hereby repealed.

Emergency.

SEC. 13. Whereas, the constitution provides that justices of the peace and constables in incorporated cities or towns having more than five thousand inhabitants shall receive a fixed salary in lieu of fees, and no provision having been made therefor, and their [there] being an immediate necessity for such provision, therefore an emergency is de-

clared to exist, and this act shall take effect and be in force from and after its approval by the governor.

Approved February 7, 1891.

CHAPTER VIII.

[H. B. No. 62.]

GRANTING ADDITIONAL POWERS TO CITIES OF THE THIRD CLASS.

AN ACT granting certain additional powers and authority to cities of the third class, relating to assessments, levy and collection of taxes.

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

SECTION 1. That all cities of the third class, as provided for under an act of the legislature, approved March 27, 1890, entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency," which shall have neglected or failed to assess or levy a general tax for municipal purposes for the year 1890, provided in section 126 of said act, shall have power and authority, by and through the city council of such cities, within six months from and after the passage and approval of this act, in which by ordinance to assess and levy such tax for municipal purposes for said year of 1890, and all said cities shall have power within said six months to provide by ordinance the time when such taxes so levied and assessed shall become due and payable; and the said taxes for said year shall become a lien upon the property so assessed, from and after the date of the passage and approval of the ordinance by which the same are levied.

To remedy neglect or failure.

Tax lien.

SEC. 2. Said cities shall also have the power to provide by ordinance for the collection of said taxes so assessed and levied, and for the enforcement of the liens of said taxes in any manner not inconsistent with the laws of this state in like cases.

Method of collection.

Emergency.

SEC. 3. Whereas, no law now in force makes any provision for the assessment, levy and collection of taxes in cities of the third class, where the same have neglected or failed to do so, therefore an emergency exists, and this act shall be in force from and after its approval by the governor.

Approved February 9, 1891.

CHAPTER IX.

[H. B. No. 21.]

STATE BOARD OF HORTICULTURE.

AN ACT to create a state board of horticulture, and appropriate money therefor, and declaring an emergency.

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

SECTION 1. That there is hereby created a state board of horticulture, to consist of seven members, who shall be appointed by the governor, one from the state at large, and one from each of the six horticultural districts, which are hereby created, to wit: *First:* The first district, which shall comprise the counties of Skamania, Clarke, Cowlitz, Klickitat, Lewis, Wahkiakum and Pacific. *Second:* The second district, which shall comprise the counties of Pierce, Thurston, Chehalis, Mason, Kitsap, Jefferson and Clallam. *Third:* The third district, which shall comprise the counties of King, Snohomish, Skagit, Whatcom, Island and San Juan. *Fourth:* The fourth district, which shall comprise the counties of Yakima, Kittitas, Douglas and Okanogan. *Fifth:* The fifth district, which shall comprise the counties of Walla Walla, Franklin, Columbia, Garfield and Asotin. *Sixth:* The sixth district, which shall comprise the counties of Whitman, Adams, Lincoln, Spokane and Stevens.

Residence of
members.

SEC. 2. The members shall reside in the districts for which they are appointed. They shall be selected with

reference to their study of, and practical experience in, horticulture and the industries dependent thereon. They shall hold office for a term of four years, and until their successors are appointed and qualified: *Provided, however,* That three of the board first appointed, to be determined by lot, shall retire at the expiration of two years. All vacancies in the board shall be filled by appointment of the governor, and shall be for the unexpired term.

SEC. 3. The board is authorized to employ a secretary, Secretary of board. prescribe his duties, and shall elect from their number a treasurer, who shall give a bond to the governor of the State of Washington, in the sum of ten thousand dollars (\$10,000) for the faithful performance of his duties. The secretary and treasurer shall hold their appointments at the pleasure of the board. Before entering upon the discharge of his duties, each member of the board shall take Oath of office. and subscribe an oath to support the constitution of the United States and of the State of Washington, and to faithfully discharge the duties of his office, which said oath shall be filed with the secretary of state.

SEC. 4. The board may receive, manage, use and hold Property of board. donations and bequests of money and property for promoting the objects of its formation. It shall meet on the second Monday of April and October of each year, and as much oftener as it may deem expedient for the consultation on and for the adoption of those measures that will best promote the horticultural industries of the state. It may, but without expense to the state, select and appoint competent and qualified persons to lecture in each of the districts named in section one of this act, for the purpose of encouraging and improving practical horticulture, and imparting instructions in the best methods of treating the diseases of fruits and fruit trees, cleansing orchards, and exterminating orchard pests.

SEC. 5. The office of the board shall be located at such Office of board. a place as the majority thereof may determine. It shall be kept open to the public, subject to the rules of the board, every day, excepting Sunday and legal holidays, and shall be in charge of the secretary during the absence of the board.

Regulations.

SEC. 6. For the purpose of preventing the spread of contagious diseases among fruit and fruit trees, and for the prevention, treatment, cure and extirpation of fruit pests and the diseases of fruits and fruit trees, and for the disinfection of grafts, scions, or orchard debris, empty fruit boxes or packages, and other suspected material or transportable articles dangerous to orchards, fruits and fruit trees, said board may suggest regulations for the inspection and disinfection thereof, which regulations shall be circulated in printed form, by the board, among the fruit growers and fruit dealers of the state, and shall be published at least ten days in two daily papers of general circulation in the state, and shall be posted in three conspicuous places in each county in the state, one of which shall be at the county court house thereof.

Inspector.

SEC. 7. The said board shall elect from their own number or appoint from without their number, to hold office at the pleasure of the board, a competent person especially qualified by practical experience in horticulture, who shall be known as "inspector of fruit pests." It shall be the duty of said inspector to visit horticultural districts of the state, to see that all the regulations of said board to prevent the spread of fruit pests and diseases of trees and plants injurious to the horticultural interests of the state, and for the disinfection of fruits, trees, plants, grafts, scions, orchard debris, empty fruit boxes and packages, and other material, be made known to the people of the state. He

Duties.

shall, whenever required, and under the direction of the board, and may also upon his own motion and complaint of interested parties, inspect orchards, nurseries and other places suspected or believed to be infected with fruit pests, or infected with contagious diseases injurious to trees, plants or fruits, and he shall report the facts to said board. The inspector shall, from time to time, and whenever required by said board, report to it such information as he may secure from observation, experience and otherwise, as to the best method of diminishing and eradicating fruit pests and diseases from orchards, and also suggestions in practical horticulture, the adaptation of produce to soil, climate and markets, and such other facts and information as shall be

calculated to improve the horticultural interests of the state.

SEC. 8. Whenever a complaint is made to any member ^{Complaints.} of the board that any person has an orchard, trees, or nursery of trees, or a fruit packing house, store room, sales room, or any other place in this state, infected with any noxious insects, or the eggs or larvæ of any such insects, or that any packages of trees, plants, or fruit are in transit to this state, or are in this state about to be disseminated, which are known or suspected to be from localities that are infected with any disease or pests injurious or that may become injurious to the fruit interests of the state, such member shall inspect, or cause to be inspected, the premises or property to which such complaint relates, and if the same is found to be infected as aforesaid, such member shall notify in writing the person having charge of ^{Notice.} such premises and property to appear before him at such time and place as specified in such notice, to be heard in reference to the infection of said premises or property aforesaid, and if such member, after hearing the person in charge of such premises or property, shall be of the opinion that such premises or property, or any of the same, is infected as aforesaid, he shall notify in writing the person in charge of the same, within a time to be prescribed in such notice, to treat and disinfect said premises or property, in the manner prescribed in such notice, and if the person so notified shall neglect or refuse to treat and disinfect said premises or property, in the manner and within the time prescribed in said notice, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars; and if it appears on the trial, that any orchard, trees, nursery, building, or any other structures, premises or property in charge of the defendant referred to in said notice, or any part of such structures, premises or property, is infested or infected as aforesaid, the court shall declare whatsoever of the same ^{Penalty for neglect or refusal.} is so infected a nuisance, and shall order it to be abated, or may make any other order necessary to prevent its continuance, and it shall be the duty of the board, or some ^{Duties of court.}

member thereof, to execute such order, and the costs and disbursements of the prosecution shall be adjudged against the party convicted as aforesaid.

Duty of secretary.

SEC. 9. It shall be the duty of the secretary to attend all meetings of the board and to procure records of the proceedings and correspondence; to collect books, pamphlets, periodicals and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; to correspond with agricultural and horticultural societies, colleges, and schools of agriculture and horticulture, and other persons and bodies as he may be directed by the board, and prepare, as required by the board, reports for publication; he shall also act as assistant to and obey the directions of the inspector of fruit pests, under the direction of the board, in the exercise of the duties of his office and shall be paid for his services as said secretary and assistant inspector, a salary of not to exceed one hundred dollars per month, and his mileage actually paid out shall be allowed when acting as assistant to the inspector of fruit pests.

Salary.

Compensation of inspector.

SEC. 10. The inspector of fruit pests shall receive as compensation for his services, when actually engaged in the duties of his office, a sum not to exceed five dollars per day, and his mileage actually paid out shall be allowed when so engaged.

Reports.

SEC. 11. The board shall biennially in the month of January report to the legislature a statement of its doings, with a copy of the treasurer's accounts for two years preceding the session thereof, and abstracts of the reports of the inspector of fruit pests, and of the secretary. The members of the board shall receive a compensation for their services, their mileage actually paid out when attending the meetings of the board, and shall be allowed five dollars a day for time actually employed.

Duties of treasurer.

SEC. 12. The treasurer shall receive all moneys belonging to the board and pay out the same only for bills approved by it, and shall render annually a detailed account to the board of all receipts and disbursements.

SEC. 13. There is hereby appropriated for the use of the Appropriation. state board of horticulture, as set forth in this act, out of the moneys in the state treasury not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary, for the year commencing April 1st, 1891; five thousand dollars, or so much thereof as may be necessary, for the year commencing April 1st, 1892; and the state auditor shall draw his warrant upon the state treasurer in favor of the treasurer of said board for said sums, or any part thereof, when they may become available, upon proper demand being made for the same by said board.

SEC. 14. The said board shall report to the legislature, commencing January, 1893, what, if any, legislation is needed in aid of the horticultural and fruit growing interests of the state.

SEC. 15. Inasmuch as there is great danger to the fruit Emergency. and horticultural interests of the state from pests and other causes, and no means exists whereby they can be remedied, therefore an emergency exists, and this act shall take effect from and after its approval by the governor.

Approved February 16, 1891.

CHAPTER X.

[H. B. No. 59.]

BAILIFFS IN SUPERIOR COURTS.

AN ACT to provide for the payment of bailiffs of the superior courts.

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

SECTION 1. That bailiffs of the several superior courts Compensation. of this state, appointed by the respective judges thereof, shall be paid for their services, not to exceed three dollars (\$3) per day, by the county in which the court is held.

SEC. 2. From time to time, the superior judge of the Duty of judge. county shall certify the amount due any such bailiff, and

Sig. 2.

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.

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.

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

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.

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.

or any number of these animals, the same being the property of another person, from the range on which they are permitted to run in common, without the consent of the owner thereof first had and obtained: *Provided*, The owner of any such animals, as aforesaid, finding the same running on the herd grounds or on common range with other animals of the same, may be permitted to drive his own animal or animals, together with such other animals as he cannot conveniently separate from his own, to the nearest and most convenient corral, or other place for separating his own from other animals, if he in such case, immediately with all convenient speed, drive all such animals not belonging to himself back to the herd ground or range from which he brought such animals.

Penalty.

SEC. 2. Any person violating the provisions of the foregoing section shall be guilty of a misdemeanor, and on conviction thereof shall be punishable by a fine of not less than twenty nor exceeding five hundred dollars, or imprisonment not exceeding six months nor less than thirty days, or both such fine and imprisonment, discretionary with the court having jurisdiction of the same.

Approved February 19, 1891.

CHAPTER XIII.

[H. B. No. 104.]

PROVIDING EMPLOYMENT FOR CONVICTS.

AN ACT providing employment for the convicts of the State Penitentiary, and making an appropriation therefor.

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

Appropriation.

SECTION 1. That there be and hereby is appropriated out of any funds in the state treasury not otherwise appropriated, the sum of one hundred thousand dollars (\$100,000), in addition to the money already appropriated therefor, or so much thereof as may be required to com-

plete the purchase of the necessary machinery and fixtures for the manufacture of grain bags and bagging at the state penitentiary, the payment of freights thereon, the cost of the proper setting up thereof, and the erection of the buildings requisite for the proper housing and working of the same, and purchase of material, and employment of all skilled labor required. Purposes.

SEC. 2. In the erection of the buildings hereby authorized to be constructed, the penitentiary commissioners shall be governed by so much of the act of the territorial legislature entitled "An act to provide for the further construction of penitentiary buildings at Walla Walla, for the purchase of necessary plant for the manufacture of grain sacks thereat, for heating and lighting the same, for the maintenance of prisoners therein confined, to cover deficiencies for past expenditures made on account of the same, and appropriating money therefor," approved February 1st, 1888, as relates to the construction of buildings. Duties of penitentiary commissioners.

SEC. 3. The state auditor is hereby directed to audit the accounts of the expenditures by the penitentiary commissioners for the purchase and setting up of machinery, freights, and the erection of the buildings, and purchase of material, and employment of all skilled labor required; and is hereby authorized to issue his warrants therefor upon the state treasurer, who is hereby directed to pay the same. All bills against the state, hereby authorized, shall be approved by the board of penitentiary commissioners, signed by the president and countersigned by the secretary.

Approved February 19, 1891.

CHAPTER XIV.

[H. B. No. 94.]

RELATING TO PENSION PAPERS.

AN ACT making it unlawful for any judge, or county officer, to charge soldiers or seamen, or the widows, orphans, or legal representatives thereof, any fee for services in matters pertaining to pensions or pension dues, and declaring an emergency.

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

Services of
officers free.

SECTION 1. That no judge, or clerk of court, county clerk, county auditor, or any other county officer, shall be allowed to charge any honorably discharged soldier or seaman, or the widow, orphan, or legal representative thereof, any fee for administering any oath, or giving any official certificate for the procuring of any pension, bounty, or back pay, nor for administering any oath or oaths and giving the certificate required upon any voucher for collection of periodical dues from the pension agent, nor any fee for services rendered in perfecting any voucher.

Offense defined.

SEC. 2. That any such officer who may require and accept fees for such services shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than ten dollars nor more than fifty dollars.

Penalty.

SEC. 3. That all laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 4. Whereas, the present law requires the officers aforesaid to charge and collect all fees prescribed by law, without exempting the persons named in section 1 of this act; therefore, an emergency is declared, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved February 20, 1891.

CHAPTER XV.

[H. B. No. 108.]

TO PROTECT SEA GULLS.

AN ACT for the protection of sea gulls.

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

SECTION 1. It shall be unlawful for any person in this state, or upon or about any of the waters or shores of this state, to take, injure or kill, or endeavor to take, injure or kill, any sea gull of any kind or species. Offense defined.

SEC. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than five nor more than twenty-five dollars, and in default of payment of the fine imposed shall be imprisoned in the county jail for the period of one day for each two dollars of the fine so imposed. Penalty.

SEC. 3. Police justices or other magistrates of incorporated cities or towns, and justices of the peace (not excluding the jurisdiction of other courts), shall have jurisdiction over all proceedings under this act. Jurisdiction.

Approved February 21, 1891.

CHAPTER XVI.

[H. B. No. 134.]

TRADE MARKS.

AN ACT in relation to trade marks.

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

SECTION 1. Any person may adopt, for the exclusive use of said person, any mark, vignette, monogram, or other device, with any label attached thereto, not already in the rightful use of any other person in this state, to be known as a trade mark. Exclusive right.

How obtained.

SEC. 2. Such trade mark shall be adopted by such person, or the agent of any such person desiring to adopt such trade mark, by filing in the office of the secretary of state of the State of Washington a description and fac simile of such trade mark, with a statement of the character of the goods, wares and merchandise, article or articles, to which said trade mark is to be applied, and the name, residence and place of business of the persons adopting such trade mark.

Register.

SEC. 3. It shall be the duty of the secretary of state to keep a book, to be known as the register of trade marks, which said book shall contain a description and fac simile of such trade mark, with a statement of the character of goods, wares and merchandise, article or articles to which the same is to be applied, and the name, residence and place of business of the person adopting such trade mark; and for the filing and recording of the same the secretary of state shall collect, before the same is filed and recorded, from the person offering the same to be filed, the sum of two dollars (\$2.00).

Fee.

SEC. 4. Such person shall be deemed to be the owner of such trade mark after the same has been filed and recorded in the office of the secretary of state as aforesaid.

Penalty.

SEC. 5. Any person using the trade mark so adopted by any other person, or any imitation of such trade mark, or who counterfeits the same, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than five hundred dollars (\$500).

SEC. 6. Whenever the word person is used in the foregoing act, it shall be deemed and construed to include a copartnership or corporation.

Approved February 21, 1891.

CHAPTER XVII.

[S. B. No. 77.]

RULE OF DECISION.

AN ACT declaring the rule of decision in the State of Washington, amending section 1 of the Code of 1881.

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

SECTION 1. Section 1 of the code of Washington of 1881 is amended to read as follows: The common law, so far as it is not inconsistent with the constitution and laws of the United States, or of the State of Washington, nor incompatible with the institutions and condition of society in this state, shall be the rule of decision in all the courts of this state.

Approved February 24, 1891.

CHAPTER XVIII.

[S. B. No. 60.]

CEDING JURISDICTION TO THE UNITED STATES.

AN ACT to cede the jurisdiction of the State of Washington to the United States of America over land needed for the improvement of rivers and harbors, and for the purchase and condemnation thereof.

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

SECTION 1. That the consent of the State of Washington be and the same is hereby given to the acquisition by purchase or by condemnation, under the laws of this state relating to the appropriation of private property to public uses, by the United States of America, or under the authority of the same, of any tract, piece or parcel of land, from any individual or individuals, bodies politic or corporate, within the boundaries or limits of this state, for the sites of locks, dams, piers, breakwaters, keepers' dwellings, and other necessary structures and purposes required in the improvement of the rivers and harbors of this state or

Purposes
defined.

Method of conveyance.

bordering thereon, or for the sites of forts, magazines, arsenals, docks, navy yards, naval stations, or other needful buildings authorized by any act of congress, and all deeds, conveyances of title papers for the same shall be recorded, as in other cases, upon the land records of the county in which the land so acquired may lie; and in like manner may be recorded a sufficient description by metes and bounds, courses and distances, of any tract or tracts, legal divisions or subdivisions of any public land belonging to the United States which may be set apart by the general government for any or either of the purposes before mentioned by an order, patent or other official document or papers describing such land; the consent herein and hereby given being in accordance with the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of congress in such cases made and provided, and the jurisdiction of this state is hereby ceded to the United States of America over all such land or lands as may have been or may be hereafter acquired by purchase or by condemnation, or set apart by the general government for any or either of the purposes before mentioned: *Provided*, That this state shall retain a concurrent jurisdiction with the United States in and over all tracts so acquired or set apart as aforesaid, so far as that all civil and criminal process that may issue under the authority of this state against any person or persons charged with crimes committed, or for any cause of action or suit accruing without the bounds of any such tract, may be executed therein in the same manner and with like effect as though this assent and cession had not been granted.

Concurrent jurisdiction.

SEC. 2. The tracts, pieces or parcels of land so acquired or set apart, together with the tenements and appurtenances for the purposes before mentioned, shall be held exempt from taxation by the State of Washington.

Approved February 24, 1891.

CHAPTER XIX.

[S. B. No. 83.]

RELATING TO EVIDENCE.

AN ACT in relation to evidence in actions and judicial proceedings, and amending sections 390, 393, 406, 407, 408, 423 and 425 of the Code of Washington of 1881.

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

SECTION 1. Section 390 of the code of Washington of 1881 is amended to read as follows: No person offered as a witness shall be excluded from giving evidence by reason of conviction of crime, but such conviction may be shown to affect his credibility: *Provided*, That any person who shall have been convicted of the crime of perjury shall not be a competent witness in any case, unless such conviction shall have been reversed, or unless he shall have received a pardon. Competency.

SEC. 2. Section 393 of said code of 1881 is amended to read as follows: No person shall be obliged to attend as a witness before any court of record, judge, justice of the peace, commissioner, referee, or other officer, in any civil action or proceeding out of the county in which he resides, unless his residence be within twenty miles of such court, judge, justice of the peace, commissioner, referee, or other officer; and no person shall be obliged to attend as a witness in any civil action or proceeding in a justice's court, unless his residence be within twenty miles of such court, whether within the county or not. Nor shall any person be compelled to attend as a witness in any civil action or proceeding, unless the fees be paid or tendered him which are allowed by law for one day's attendance as a witness and for traveling to and returning from the place where he is required to attend: *Provided*, Such fees be demanded by him at the time of service of the subpoena. Non-compulsory limit.

SEC. 3. The following section is enacted to follow section 400 of the said code of 1881, as that section shall be numbered in the code of procedure of this state: Such attachment may be directed to the sheriff or any constable of any county in which the witness may be found, and shall be executed in the same manner as a warrant; and Attachment.

the fees of the officer for issuing and serving the same shall be paid by the person against whom the same was issued, unless he shows reasonable cause, to the satisfaction of the justice, for his omission to attend; in which case the party requiring such attachment shall pay all such costs.

Rights of parties.

SEC. 4. Section 406 of said code of 1881 is amended to read as follows: A party to an action or proceeding having filed interrogatories to be answered by the adverse party, as prescribed by the last two sections, shall not thereby be precluded from examining such adverse party as a witness at the trial, nor from taking his deposition to be read at the trial.

Rebuttal.

SEC. 5. Section 407 of said code of 1881 is amended to read as follows: The testimony of a party, upon examination at the trial, or by deposition, or upon interrogatories filed, may be rebutted by adverse testimony.

Contempt.

SEC. 6. Section 408 of said code of 1881 is amended to read as follows: If a party refuse to attend and testify at the trial, or to give his deposition, or to answer any interrogatories filed, his complaint, answer or reply may be stricken out and judgment taken against him, and he may also, in the discretion of the court, be proceeded against as in other cases for a contempt: *Provided*, That the preceding sections shall not be construed so as to compel any person to answer any question where such answer may tend to criminate himself.

Depositions.

SEC. 7. Either party may have the deposition of a witness taken in this state before any judge of the superior court, justice of the peace, clerk of the supreme or superior court, mayor of a city, or notary public, by serving on the adverse party or his attorney previous notice of the time and place of examination. The notice shall be served such time before the time when the deposition is to be taken as to allow the adverse party sufficient time by the usual route of travel to attend, and three days for preparation, exclusive of the day of service, and the examination may, if so stated in the notice, be adjourned from day to day. The notice shall specify the action or proceeding, the name of the court or tribunal in which the deposition

Notice.

Requirements for notice.

another of the causes specified by section fifteen hundred and ninety-eight then exists, or that the witness is dead, or cannot safely attend at the trial on account of sickness, age or other bodily infirmity.

SEC. 15. When any action shall have been appealed from one court to another and is to be tried anew in the appellate court, all depositions lawfully taken to be used in the court from which the appeal was taken may be used in the appellate court in the same manner, and subject to such exceptions for informality or irregularity, and none other, as were taken in writing to such depositions in the court below; and when an action is removed from one court to another by change of venue all depositions previously taken in the action must be certified to the court to which the action is removed, and may be used in that court in the same manner and subject to the same exceptions as if originally taken for use therein.

Depositions in appeals.

SEC. 16. Copies of all records and documents on record or on file in the offices of the various departments of the United States and of this state, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, shall be admitted in evidence in the courts of this state.

Competency of records.

SEC. 17. Section 423 of said code of 1881 is amended to read as follows: When any person shall be desirous to perpetuate the testimony of any witness he shall make a statement in writing, setting forth briefly and substantially his title, claim or interest in or to the subject concerning which he desires to perpetuate the evidence, and the names of all the persons interested or supposed to be interested therein and also the name of the witness proposed to be examined, which statement shall be under oath and filed in the superior court. If the subject of the proposed deposition relate to real property within this state the statement shall be filed in the county where the lands or any part thereof lie; in other cases in the county where the parties interested or some of them reside. Upon such statement an application may be made to such court or judge thereof to allow the examination of such witness.

To perpetuate testimony.

SEC. 18. Section 425 of said code of 1881 is amended

Discretion of
court.

to read as follows: If upon hearing of the parties, or of the applicant alone should no adverse party appear, the court or judge shall be satisfied that there is sufficient cause for taking the deposition, an order shall be made allowing the examination of the witness; and such court or judge may direct a commission to issue therefor in like manner as a commission to take the testimony of witnesses in action or proceedings pending in such court.

SEC. 19. The foregoing sections of this act shall be arranged under appropriate numbers in the code of procedure of this state and shall be a part thereof.

Approved February 24, 1891.

CHAPTER XX.

[S. B. No. 58.]

TO FIX TIME OF MEETING OF THE LEGISLATURE.

AN ACT to fix the time for the meeting of the legislature.

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

SECTION 1. The third legislature of the State of Washington shall meet on the second Monday of January, A. D. 1893, and sessions of the legislature shall be held biennially thereafter, commencing on the second Monday of January.

Approved February 24, 1891.

CHAPTER XXI.

[S. B. No. 2.]

DECLARING LABOR DAY A LEGAL HOLIDAY.

AN ACT declaring labor day a legal holiday.

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

SECTION 1. That the first Monday of September of each year is hereby declared to be a legal holiday in the State of Washington, to be known as labor day.

Approved February 24, 1891.

CHAPTER XXII.

[S. B. No. 76.]

PROCEEDINGS SUPPLEMENTARY TO EXECUTION.

AN ACT relating to proceedings supplementary to execution, amending 384 of the Code of Washington of 1881, as amended by an act entitled "An act to amend section 384 of the Code of Washington Territory and to secure to the people of the territory the right of trial by jury," approved January 15, 1886.

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

SECTION 1. Section 384 of the code of Washington of 1881, as amended by an act entitled "An act to amend section 384 of the code of Washington territory and to secure to the people of the territory the right of trial by jury," approved January 15, 1886, is amended to read as follows: Witnesses may be compelled to appear and testify before the judge or referee upon any proceeding under this chapter as upon the trial of an issue of fact; and if the judgment debtor deny that he has property which he unjustly refuses to apply towards the satisfaction of the judgment, then and in such case the judgment debtor may demand a trial by jury, and upon such demand being made the proceeding shall stand as an action for trial in the court

Compulsory attendance of witnesses.

Judgment debtor may demand a jury.

from which the execution issued, and be tried by a jury as other civil actions are tried.

Approved February 24, 1891.

CHAPTER XXIII.

[S. B. No. 78.]

CONSTRUCTION OF STATUTES.

AN ACT concerning the construction of statutes.

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

SECTION 1. The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state: The provisions of this code shall be liberally construed, and shall not be limited by any rule of strict construction. The provisions of a statute, so far as they are substantially the same as those of a statute existing at the time of their enactment, must be construed as continuations thereof. The term "person" may be construed to include the United States, this state, or any state or territory, or any public or private corporation, as well as an individual. Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing the masculine gender may be extended to females also. That the word "month" or "months" whenever the same occurs in the statutes of this state now in force, or in statutes hereinafter enacted, or in any contract made in this state, shall be taken and construed to mean "calendar months."

The term
"person."

Singular and
plural.

The term
"month."

Approved February 24, 1891.

CHAPTER XXIV.

[S. B. No. 75.]

WRITS OF MANDATE AND PROHIBITION.

AN ACT relating to writs of mandate and prohibition, amending section 689 of the Code of Washington of 1881.

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

SECTION 1. Section 689 of the code of Washington of 1881 is amended as follows: Writs of mandate and prohibition may issue from the supreme and superior courts of the state, but such writs shall issue from the supreme court only when necessary for the exercise of its functions and powers. In the superior court the writ may be made returnable either in court or before the judge at chambers, and may be tried before the court or judge.

In supreme court.

In superior court.

Approved February 24, 1891.

CHAPTER XXV.

[S. B. No. 73.]

RELATING TO REFEREES.

AN ACT relating to referees.

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

SECTION 1. A referee is a person appointed by the court or judicial officer with power—1. To try an issue of law or of fact in a civil action or proceeding and report thereon. 2. To ascertain any other fact in a civil action or proceeding when necessary for the information of the court, and report the fact or to take and report the evidence in an action. 3. To execute an order, judgment or decree or to exercise any other power or perform any other duty expressly authorized by law.

For what purposes.

Approved February 24, 1891.

CHAPTER XXVI.

[S. B. No. 79.]

DIVORCE.

AN ACT in relation to applications for divorce, amendatory of sections 2000, 2001, 2005, 2006, 2007, 2008, 2009, 2010 and 1012 of the Code of Washington of 1881.

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

SECTION 1. Section 2000 of the code of Washington of 1881 is amended to read as follows: Divorces may be granted by the superior court on application of the party injured, for the following causes: 1. When the consent to the marriage of the party applying for the divorce was obtained by force or fraud, and there has been no subsequent voluntary cohabitation. 2. For adultery on the part of the wife or of the husband, when unforgiven, and application is made within one year after it shall come to the knowledge of the party applying for the divorce. 3. Impotency. 4. Abandonment for one year. 5. Cruel treatment of either party by the other, or personal indignities rendering life burdensome. 6. Habitual drunkenness of either party, or the neglect or refusal of the husband to make suitable provisions for his family. 7. The imprisonment of either party in the penitentiary, if complaint is filed during the term of such imprisonment; and a divorce may be granted upon application of either party for any other cause deemed by the court sufficient, and the court shall be satisfied that the parties can no longer live together. 8. In case of incurable chronic mania or dementia of either party, having existed for ten years or more, the court may, in its discretion, grant a divorce.

Force or fraud.

Adultery.

Other causes.

Drunkenness or neglect to provide.

Imprisonment.

Insanity.

SEC. 2. Section 2001 of said code of 1881 is amended to read as follows: When there is any doubt as to the facts rendering a marriage void, either party may apply for and on proof obtain a decree of nullity of marriage.

SEC. 3. Section 2005 of said code of 1881 is amended to read as follows: Both parties shall be considered as applying for a divorce when the complaints of both are filed in the same action, and when the defendant, by his or her cross-complaint, also applies for a divorce.

Cross complaint.

SEC. 4. Section two thousand and six of said code of 1881 is amended to read as follows: Pending the action for divorce the court or judge thereof may make, and by attachment enforce, such orders for the disposition of the persons, property and children of the parties as may be deemed right and proper, and such orders relative to the expenses of such action as will insure to the wife an efficient preparation of her case, and a fair and impartial trial thereof; and on decreeing or refusing to decree a divorce, the court may, in its discretion, require the husband to pay all reasonable expenses of the wife in the prosecution or defense of the action when such divorce has been granted or refused, and give judgment therefor.

Disposition of
property and
children.

SEC. 5. Section two thousand and seven of said code of 1881 is amended to read as follows: In granting a divorce the court shall also make such disposition of the property of the parties as shall appear just and equitable, having regard to the respective merits of the parties, and to the condition in which they will be left by such divorce, and to the party through whom the property was acquired, and to the burdens imposed upon it for the benefit of the children, and shall make provision for the guardianship, custody, and support and education of the minor children of such marriage.

SEC. 6. Section two thousand and eight of said code of 1881 is amended to read as follows: Whenever judgment of divorce from the bonds of matrimony is granted by the courts in this state, the court shall order a full and complete dissolution of the marriage as to both parties: *Provided*, That neither party shall be capable of contracting marriage with a third person until the period in which an appeal may be taken has expired; and in case an appeal is taken, then neither party shall inter marry with a third person until the cause has been fully determined.

Absolute
divorce.

Effect of ap-
peal.

SEC. 7. Section two thousand and nine of said code of 1881 is amended to read as follows: In all actions for divorce, if a divorce be granted, the court may, for just and reasonable cause, change the name of the female, who shall thereafter be known and called by such name as the court shall in its order or decree appoint.

Change of
name.

SEC. 8. Section 2010 of the code of Washington of 1881

Duty of prosecuting attorney.

is amended to read as follows: Whenever a complaint for divorce remains undefended it shall be the duty of the prosecuting attorney to resist such complaint, but no prosecuting attorney shall be employed in or allowed to conduct any action for a divorce on the part of the plaintiff or applicant in the courts of this state; nor shall any prosecuting attorney be allowed to resist a complaint for divorce in those cases where the defendant does not appear or appearing admits the allegations of the complaint, if the attorney for the applicant is a partner of such prosecuting attorney in the practice of law, or keeps his office with such prosecuting attorney; but in all such cases the court or judge before whom the case is to be heard shall appoint an attorney to resist the complaint, who shall be entitled to the compensation allowed by law to prosecuting attorneys in such cases.

Practice governing.

SEC. 9. Section 2012 of said code of 1881 is amended to read as follows: The practice in civil actions shall govern all proceedings in the trial of actions for divorce, except that trial by jury is dispensed with.

SEC. 10. The various sections of this act shall constitute a part of the code of procedure of this state, and be arranged therein under appropriate numbers.

Approved February 24, 1891.

CHAPTER XXVII.

[S. B. No. 72.]

RELATING TO JUDGMENTS.

AN ACT relating to proceedings to vacate or modify judgments in the courts in which they were rendered.

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

SECTION 1. Section 438 of the code of Washington of 1881 is amended to read as follows: The proceedings to vacate or modify a judgment or order for mistakes or omis-

sions of the clerk, or irregularity in obtaining the judgment or order, shall be by motion served on the adverse party or on his attorney in the action, and within one year.

Limit of service of motion.

SEC. 2. Section 439 of said code of 1881 is amended to read as follows: The proceedings to obtain the benefit of subdivisions two, three, four, five, six and seven of section thirteen hundred and twenty-six shall be by petition verified by affidavit, setting forth the judgment or order, the facts or errors constituting a cause to vacate or modify it, and if the party is a defendant, the facts constituting a defense to the action; and such proceedings must be commenced within one year after the judgment or order was made, unless the party entitled thereto be a minor or person of unsound mind, and then within one year from the removal of such disability.

Petition and affidavit.

Must be within one year.

SEC. 3. Section 440 of said code of 1881 is amended to read as follows: In such proceedings the party shall be brought into court in the same way, on the same notice as to time, mode of service and mode of return, and the pleadings shall be governed by the same principles, and issues be made up by the same form, and all the proceedings conducted in the same way, as near as can be, as in original action by ordinary proceedings, except that the facts stated in the petition shall be deemed denied without answer, and defendant shall introduce no new cause, and the cause of the petition shall alone be tried.

Rules of procedure.

SEC. 4. The provisions of this chapter shall not be so construed as to affect the power of the court to vacate or modify judgments or orders as elsewhere in this code provided; nor shall any judgment of acquittal in a criminal action be vacated under the provisions of this chapter.

Effect on other proceedings.

SEC. 5. In all cases in which an application under this chapter to vacate or modify a judgment or order for the recovery of money is denied, if proceedings on the judgment or order shall have been suspended, judgment shall be rendered against the plaintiff for the amount of the former judgment or order, interest and costs, together with damages at the discretion of the court, not exceeding ten per cent. on the amount of the judgment or order.

Judgment.

SEC. 6. The provisions of this act shall be embodied in

and be a part of the chapter of the code of procedure relating to the vacation or modification of judgments in the courts in which they are rendered.

Approved February 24, 1891.

CHAPTER XXVIII.

[S. B. No. 81.]

PROSECUTIONS FOR PUBLIC OFFENSES.

AN ACT in relation to prosecutions for public offenses, and amending sections 782, 779, 760, 1072, 1073, 1076, 764, 977, 979, 981, 984, 985, 1000, 1001, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1028, 1030, 1038, 1039, 1066, 1064, 1065, 1045, 1048, 1049, 1050, 1051, 1052, 1054, 1055, 1058, 1059, 1060, 1061, 1070, 1043, 1044, 1078, 1083, 1084, 1067, 1088, 1091, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1105, 1107, 1121, 1125, 1134, 1138, 1139, 765, 766, 767, 769, 771, 772, 773, 775, 958 and 971 of the Code of Washington of 1881.

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

Trial in superior courts.

SECTION 1. Section 782 of the code of Washington of 1881 is amended to read as follows: For all offenses at common law which are not hereinafter defined by statute, the offender may be tried in the superior courts of this state.

Limit of action.

SEC. 2. Section 779 of said code of 1881 is amended to read as follows: Prosecutions for the offenses of murder and arson, where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in the penitentiary, within three years after their commission; and for all other offenses within one year after their commission: *Provided*, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one and three years respectively: *And further provided*, That where an indictment has been found, or an information filed, within the time limited for the commencement of a criminal action,

if the indictment or information be set aside, the time of limitation shall be computed from the setting aside of such indictment or information.

SEC. 3. Every person, whether an inhabitant of this state, or of any other state, territory, or country, may be tried and punished under the laws of this state for an offense committed by him therein, except when such offense is cognizable exclusively in the courts of the United States.

Offenses
against U. S.

SEC. 4. Except as otherwise specially provided by statute, all criminal actions shall be commenced and tried in the county where the offense was committed.

Limit of place
of trial.

SEC. 5. Section 960 of said code of 1881 is amended to read as follows: Offenses committed on the boundary line of two counties, or within one hundred rods of the dividing line between them, may be alleged in the indictment or information to have been committed in either of them, and may be prosecuted and punished in either county.

Offenses com-
mitted on or
near boundary
line.

SEC. 6. An accessory after the fact to a felony may be tried either in the county in which he shall have become an accessory, or in the county in which the felony shall have been committed.

Accessory.

SEC. 7. Section 1072 of said code of 1881 is amended to read as follows: The defendant may show to the court, by affidavit, that he believes he cannot receive a fair trial in the county where the action is pending, owing to the prejudice of the judge, or to excitement or prejudice against the defendant in the county or some part thereof, and may thereupon demand to be tried in another county. The application shall not be granted on the ground of excitement or prejudice other than prejudice of the judge, unless the affidavit of the defendant be supported by other evidence, nor in any case unless the judge is satisfied the ground upon which the application is made does exist.

Change of
venue.

SEC. 8. Section 1073 of said code of 1881 is amended to read as follows: When the affidavit is founded on prejudice of the judge, the court may, in its discretion, grant a change of venue to some other county, or may continue the cause until such time as it can be tried by another judge in the same county; if the affidavit is founded upon excitement or prejudice in the county against the defendant, the court may,

Continuance.

Transcript of proceedings.

in its discretion, grant a change of venue to the most convenient county. The clerk must, upon the granting of a change of the place of trial, make a transcript of the proceedings and order of court; and, having sealed up the same with the original papers, deliver them to the sheriff, who must without delay, deposit them in the clerk's office of the proper county and make his return accordingly.

Recognizance.

SEC. 9. Section 1076 of said code of 1881 is amended to read as follows: When a change of venue is ordered, if the offense be bailable, the court shall recognize the defendant, and in all cases the witnesses, to appear at the court to which the change of venue was granted.

Limit for holding to answer.

SEC. 10. Section 764 of said code of 1881 is amended to read as follows: No person shall be held to answer in any court for an alleged crime or offense, unless upon an information filed by the prosecuting attorney, or upon an indictment by a grand jury, except in cases of misdemeanor before a justice of the peace or before a court martial.

Challenges of grand jurors.

SEC. 11. Section 977 of said code of 1881 is amended to read as follows: Challenges to the panel of grand jurors shall be allowed to any person in custody or held to answer for an offense, when the clerk has not drawn from the jury box the requisite number of ballots to constitute a grand jury, or when the drawing was not done in the presence of the proper officers; and such challenges shall be in writing and verified by affidavit and proved to the satisfaction of the court.

New panel.

SEC. 12. Section 979 of said code of 1881 is amended to read as follows: If a challenge to the panel be allowed, the panel shall be discharged, and the court may order the sheriff to summon from the by-standers and the body of the county a sufficient number of persons to act as grand jurors.

Form of oath to grand jurors.

SEC. 13. Section 981 of said code of 1881 is amended to read as follows: The following oath shall be administered to the grand jury: "You, as grand jurors for the body of the county of ———, do solemnly swear [or affirm] that you will diligently inquire into and true presentment make of all such matters and things as shall come to your knowl-

edge, according to your charge; the counsel of the state, your own counsel, and that of your fellows, you shall keep secret; you shall present no person through envy, hatred, or malice; neither will you leave any person unrepresented through fear, favor, affection, or reward or the hope thereof; but that you will present things truly as they come to your knowledge, according to the best of your understanding, and according to the laws of this state. So help you God.”

SEC. 14. Section 984 of said code of 1881 is amended to read as follows: The prosecuting attorney shall attend on the grand jury for the purpose of examining witnesses and giving them such advice as they may ask. Duty of prosecuting attorney.

SEC. 15. Section 985 of said code of 1881 is amended to read as follows: The grand jury shall inquire into the cases of parties in custody or under bail charged with commission of offenses against the laws of this state, and duly returned by a committing magistrate, or upon a complaint sworn to before an officer authorized to administer oaths and presented by the prosecuting attorney or under the instructions of the court. Duty of grand jury.

SEC. 16. Section 1000 of said code of 1881 is amended to read as follows: When an indictment indorsed “not a true bill” has been presented in court and filed, the effect thereof is to dismiss the charge; and the same cannot be again submitted to or inquired of by the grand jury, or made the cause of an information, unless the court so order.

SEC. 17. Section 1001 of said code of 1881 is amended to read as follows: A presentment is an informal statement of facts for the purpose of obtaining the advice of the court as to the law thereon. It is made by the foreman in the presence of the grand jury and with the concurrence of twelve of their number. A presentment is not to be filed in court or preserved beyond the sitting of the grand jury.

SEC. 18. All informations shall be verified by the oath of the prosecuting attorney, complainant or some other person. Verification of information.

SEC. 19. Section 1003 of said code of 1881 is amended to read as follows: The first pleading on the part of the state is the indictment or information.

SEC. 20. Section 1004 of said code of 1881 is amended

Indictment or information.

to read as follows: The indictment or information must contain—1. The title of the action, specifying the name of the court to which the indictment or information is presented and the names of the parties. 2. A statement of the acts constituting the offense, in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended.

SEC. 21. Section 1005 of said code of 1881 is amended to read as follows: The indictment may be substantially in the following form:

Form of indictment.

THE STATE OF WASHINGTON V. A—— B——.

Superior court of the State of Washington for the county of ——.

A. B. is accused by the grand jury of the ——, by this indictment, of the crime of [here insert the name of the crime, if it have one, such as treason, murder, arson, manslaughter, or the like; or if it be a crime having no general name, such as libel, assault and battery, and the like, insert a brief description of it as given by law], committed as follows:

The said A. B. on the —— day of ——, 18—, in the county of ——, aforesaid, [here set forth the act charged as a crime.]

Dated at ——, in the county aforesaid, the —— day of ——, A. D. 18—.

[Signed] C. D., Prosecuting Attorney.

[Indorsed] A true bill.

[Signed] E. F., Foreman of the Grand Jury.

SEC. 22. Section 1006 of said code of 1881 is amended to read as follows: The indictment or information must be direct and certain as it regards: 1. The party charged. 2. The crime charged; and 3. The particular circumstances of the crime charged, when they are necessary to constitute a complete crime.

Name of defendant.

SEC. 23. Section 1007 of said code of 1881 is amended to read as follows: When a defendant is designated in the indictment or information by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it may be inserted in the subsequent proceedings, referring to the fact of his being indicted or informed against by the name mentioned in the indictment or information.

SEC. 24. Section 1008 of said code of 1881 is amended to read as follows: The indictment or information must charge but one crime, and in one form only, except that

where the crime may be committed by use of different means, the indictment or information may allege the means in the alternative.

SEC. 25. Section 1009 of said code of 1881 is amended to read as follows: The precise time at which the crime was committed need not be stated in the indictment or information, but it may be alleged to have been committed at any time before the finding of the indictment or the filing of the information, and within the time in which an action may be commenced therefor, except where the time is a material ingredient in the crime. Specifications of time.

SEC. 26. Section 1011 of said code of 1881 is amended to read as follows: When the crime involves the taking of or injury to an animal the indictment or information is sufficiently certain in that respect if it describes the animal by the common name of its class.

SEC. 27. Section 1012 of said code of 1881 is amended to read as follows: The words used in an indictment or information must be construed in their usual acceptation, in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

SEC. 28. Section 1013 of said code of 1881 is amended to read as follows: Words used in a statute to define a crime need not be strictly pursued in the indictment or information, but other words conveying the same meaning may be used.

SEC. 29. Section 1014 of said code of 1881 is amended to read as follows: The indictment or information is sufficient if it can be understood therefrom—1. That it is entitled in a court having authority to receive. 2. That it was found by a grand jury of the county in which the court was held. 3. That the defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with the statement that his real name is to the jury unknown. 4. That the crime was committed within the jurisdiction of the court, except where, as provided by law, the act, though done without the county in which the court is held, is triable therein. 5. That the crime was committed at some time previous to the finding Sufficiency of indictment or information.

of the indictment or filing of the information, and within the time limited by law for the commencement of an action therefor. 6. That the act or omission charged as the crime is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended. 7. The act or omission charged as the crime is stated with such a degree of certainty as to enable the court to pronounce judgment upon a conviction according to the right of the case.

SEC. 30. Section 1015 of said code of 1881 is amended to read as follows: No indictment or information is insufficient, nor can the trial, judgment or other proceedings thereon be affected, by reason of any of the following matters, which were formerly deemed defects or imperfections: 1. For want of an allegation of the time or place of any material fact, when the time and place have been once stated. 2. For the omission of any of the following allegations, namely: "With force and arms," "contrary to the form of the statute or the statutes," or "against the peace and dignity of the state." 3. For the omission to allege that the grand jury was impaneled, sworn, or charged. 4. For any surplusage or repugnant allegation, or for any repetition, when there is sufficient matter alleged to indicate clearly the offense and the person charged. Nor 5. For any other matter which was formerly deemed a defect or imperfection, but which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

SEC. 31. Section 1016 of said code of 1881 is amended to read as follows: Neither presumptions of law nor matters of which judicial notice is taken need be stated in an indictment or information.

SEC. 32. Section 1017 of said code of 1881 is amended to read as follows: In pleading a judgment or other determination of or proceeding before a court or officer of special jurisdiction, it is not necessary to state in the indictment or information the facts conferring jurisdiction; but the judgment, determination or proceeding may be stated to have been duly given or made. The facts conferring jurisdiction, however, must be established on the trial.

SEC. 33. Section 1018 of said code of 1881 is amended to read as follows: In pleading a private statute, or right derived therefrom, it is sufficient to refer, in the indictment or information, to the statute by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

SEC. 34. Section 1019 of said code of 1881 is amended to read as follows: An indictment or information for libel need not set forth any extrinsic facts, for the purpose of showing the application to the party libeled of the defamatory matter on which the indictment or information is founded; but it is sufficient to state generally that the same was published concerning him; and the fact that it was so published must be established on the trial.

SEC. 35. Section 1020 of said code of 1881 is amended to read as follows: When an instrument which is the subject of an indictment or information for forgery has been destroyed or withheld by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the indictment or information, and established on the trial, the misdescription of the instrument is immaterial.

SEC. 36. Section 1021 of said code of 1881 is amended to read as follows: In an indictment or information for ^{Perjury.} perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the crime was committed, and in what court or before whom the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment or information need not set forth the pleadings, record or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

SEC. 37. Section 1022 of said code of 1881 is amended to read as follows: Upon an indictment or information against several defendants any one or more may be convicted or acquitted.

SEC. 38. Section 1023 of said code of 1881 is amended

Larceny or
embezzlement.

to read as follows: In an indictment or information for larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, or for a conspiracy to cheat or defraud a person of any such property, it is sufficient to allege the larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, bank notes, certificates of stock, or valuable securities, without specifying the coin, number, denomination or kind thereof.

Lewdness or
obscenity.

SEC. 39. Section 1024 of said code of 1881 is amended to read as follows: An indictment or information for exhibiting, publishing, passing, selling, or offering to sell, or having in possession with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper, or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing, but it is sufficient to state generally the fact of the lewdness or obscenity thereof.

Ownership of
property af-
fected.

SEC. 40. Section 1025 of said code of 1881 is amended to read as follows: In prosecutions under the provisions of the penal code, sections fifty-two, sixty and ninety-one, where the owner of the property is unknown, such property shall, for the purpose of this code, be deemed and held to be owned by the State of Washington; and in all cases where the indictment or information alleges the state to be the owner of such property, and the proof on the trial discloses the name of the actual owner, it shall not be deemed a variance, or failure of proof, unless the defendant is the actual owner.

Warrant.

SEC. 41. Section 1026 of said code of 1881 is amended to read as follows: When an indictment is found or an information filed the court may direct the clerk to issue a warrant for the arrest of the defendant, returnable forthwith; if no order is made the clerk must issue a warrant within ten days after the indictment is returned into court or the information filed.

Bail.

SEC. 42. Section 1028 of said code of 1881 is amended to read as follows: The court must, at the time of directing the clerk to issue the warrant, fix the amount in which persons charged by indictment are to be held to bail, and the clerk must indorse the amount on the warrant. If no

order fixing the amount of bail has been made, the sheriff may present the warrant to the judge of the court, and such judge must thereon indorse the amount of the bail to be required; or if there is no such judge in the county, the clerk may fix the amount of bail.

SEC. 43. Section 1030 of said code of 1881 is amended to read as follows: The officer making an arrest must in- Authority. form the defendant that he acts under authority of a warrant, and must also show the warrant if required.

SEC. 44. Section 1038 of said code of 1881 is amended to read as follows: As soon as may be after the finding of Service upon defendant. an indictment or the filing of an information for a capital crime, the party charged shall be served with a copy thereof by the sheriff or his deputy, at least twenty-four hours before trial, and shall, on demand upon the clerk by himself or counsel, have a list of the petit jurors returned delivered to him at least twenty-four hours before trial, and shall also have process to summon such witnesses as are necessary to his defense, at the expense of the county.

SEC. 45. Section 1039 of said code of 1881 is amended to read as follows: Every person indicted or informed against for an offense for which he may be imprisoned in the penitentiary, if he be under recognizance or in custody to answer for such offense, he or his attorney shall be furnished with a copy of the indictment or information and of all indorsements thereof without paying any fees therefor.

SEC. 46. When the indictment or information has been Arraignment. filed the defendant, if he has been arrested, or as soon thereafter as he may be, shall be arraigned thereon before the court.

SEC. 47. Section 1066 of said code of 1881 is amended to read as follows: If the indictment or information be for Appearance by counsel. a misdemeanor punishable by fine only, the defendant may appear upon arraignment by counsel.

SEC. 48. Section 1064 of said code of 1881 is amended to read as follows: When the defendant is arraigned he True name. shall be interrogated; if the name by which he is indicted be not his true name, he shall then declare his true name or be proceeded against by the name in the indictment or information.

SEC. 49. Section 1065 of said code of 1881 is amended to read as follows: If he alleges that another name is his true name it must be entered in the minutes of the court, and the subsequent proceedings on the indictment or information may be had against him by that name, referring also to the name by which he is indicted or informed against.

Pleading.

SEC. 50. Section 1045 of said code of 1881 is amended to read as follows: In answer to the arraignment, the defendant may move to set aside the indictment or information, or he may demur or plead to it, and is entitled to one day after arraignment in which to answer thereto if he demand it.

Motion to set aside.

SEC. 51. A motion to set aside an information can be made by the defendant on one or more of the following grounds, and must be sustained: 1. When it is not signed by the prosecuting attorney. 2. When it is not verified. 3. When it has not been marked "filed" by the clerk. 4. When the names of the witnesses are not indorsed upon it as required by section eleven hundred and sixty-three of this code.

SEC. 52. Section 1048 of said code of 1881 is amended to read as follows: If the motion to set aside the indictment be denied, the defendant must immediately answer the indictment or information, either by demurring or pleading thereto.

SEC. 53. Section 1049 of said code of 1881 is amended to read as follows: If the court direct that the case be re-submitted, the defendant, if already in custody, must so remain, unless he be admitted to bail; or if already admitted to bail, or money has been deposited instead thereof, the bail or money is answerable for the appearance of the defendant to answer a new indictment or information.

SEC. 54. Section 1050 of said code of 1881 is amended to read as follows: An order to set aside the indictment or information as provided in this chapter shall be no bar to a future prosecution for the same offense.

Causes for demurrer.

SEC. 55. Section 1051 of said code of 1881 is amended to read as follows: The defendant may demur to the indictment or information when it appears upon its face

either—1. That it does not substantially conform to the requirements of this code. 2. More than one crime is charged. 3. That the facts charged do not constitute a crime. 4. That the indictment or information contains any matter which, if true, would constitute a defense or other legal bar to the action.

SEC. 56. Section 1052 of said code of 1881 is amended to read as follows: If the demurrer is sustained because the indictment or information contains matter which is a legal defense or bar to the action, the judgment shall be final, and the defendant must be discharged.

SEC. 57. Section 1054 of said code of 1881 is amended to read as follows: There are but three pleas to the indictment or information. A plea of—1. Guilty. 2. Not guilty. 3. A former judgment of conviction or acquittal of the offense charged, which may be pleaded with or without the plea of not guilty. Limit of pleas.

SEC. 58. Section 1055 of said code of 1881 is amended to read as follows: The plea may be entered on the record substantially in the following form: 1. A plea of guilty: The defendant pleads that he is guilty of the offense charged in the indictment (or information as the case may be). 2. A plea of not guilty: The defendant pleads that he is not guilty of the offense charged in the indictment (or information as the case may be). 3. A plea of former conviction or acquittal: The defendant pleads that he has formerly been convicted (or acquitted as the case may be) of the offense charged in the indictment (or information as the case may be), by the judgment of the court of (naming it), rendered on the _____ day of _____ A. D. 18 ____ (naming the time). Record of plea.

SEC. 59. Section 1058 of said code of 1881 is amended to read as follows: The plea of not guilty is a denial of every material allegation in the indictment or information; and all matters of fact may be given in evidence under it, except a former conviction or acquittal.

SEC. 60. Section 1059 of said code of 1881 is amended to read as follows: A conviction or acquittal by a judgment upon a verdict shall bar another prosecution for the same offense, notwithstanding a defect in form or substance in Effect of conviction or acquittal.

the indictment or information on which the conviction or acquittal took place.

SEC. 61. Section 1060 of said code of 1881 is amended to read as follows: The judgment for the defendant on a demurrer to the indictment or information, except where it is otherwise provided, or for an objection taken at the trial to its form or substance, or for variance between the indictment or information and the proof, shall not bar another prosecution for the same offense.

SEC. 62. Section 1061 of said code of 1881 is amended to read as follows: If the defendant fail or refuse to answer the indictment or information by demurrer or plea, a plea of not guilty must be entered by the court.

Satisfaction of injury. SEC. 63. Section 1070 of said code of 1881 is amended to read as follows: In such case, if the party injured appear in the court in which the cause is pending at any time before the final judgment therein, and acknowledge, in writing, that he has received satisfaction for the injury, the court may, in its discretion, on payment of the costs incurred, order all proceedings to be discontinued and the defendant to be discharged. The reasons for making the order must be set forth therein and entered in the minutes. Such order is a bar to another prosecution for the same offense.

Limit of compromise. SEC. 64. Section 1043 of said code of 1881 is amended to read as follows: No offense can be compromised, nor can any proceedings for the prosecution or punishment thereof be stayed upon a compromise, except as provided in this chapter.

Docket. SEC. 65. Section 1044 of said code of 1881 is amended to read as follows: The clerk shall, in preparing the docket of criminal cases, enumerate the indictments and informations pending according to the date of their filing, specifying opposite to the title of each action whether it be for a felony or misdemeanor, and whether the defendant be in custody or on bail; and shall, in like manner, enter therein all indictments and informations on which issues of fact are joined, all cases brought to the court on change of venue from other counties, and all cases pending upon appeal from inferior courts.

SEC. 66. Section 1078 of said code of 1881 is amended

to read as follows: Except as otherwise specially provided, Issues of fact. issues of fact joined upon an indictment or information shall be tried by a jury of twelve persons, and the law relating to the drawing, retaining, and selecting jurors, and trials by jury, in civil cases shall apply to criminal cases.

SEC. 67. Section 1083 of said code of 1881 is amended to read as follows: No person whose opinions are such as Disqualification of juror. to preclude him from finding any defendant guilty of an offense punishable with death shall be compelled or allowed to serve as a juror on the trial of any indictment or information for such an offense.

SEC. 68. Section 1084 of said code of 1881 is amended to read as follows: The jury shall be sworn or affirmed Oath of jurors. well and truly to try the issue between the state and the defendant, according to the evidence, and in capital cases to well and truly try, and true deliverance make between the state and the prisoner at the bar whom they shall have in charge, according to the evidence.

SEC. 69. Section 1067 of said code of 1881 is amended to read as follows: Witnesses may be compelled to attend Compulsory attendance of witnesses. and testify before the grand jury; and witnesses on behalf of the state, or of the defendant in a criminal prosecution, may be compelled to attend and testify in open court, if they have been subpoenaed, without their fees being first paid or tendered, unless otherwise provided by law; the court may recognize witnesses, with or without sureties, to attend and testify at the same or the next session of the court, or at the term of a court within the state, and any person accused of any crime in this state by indictment, information, or otherwise, may, in the examination or trial of the cause, offer himself or herself as a witness in his or her own behalf, and shall be allowed to testify as other witnesses in such case, and when accused shall so testify, he or she shall be subject to all the rules of law relating to cross-examinations of other witnesses: *Provided*, That nothing in this act shall be construed to compel such accused person to offer himself or herself as a witness in such case: *And provided further*, That it shall be the duty of the court to instruct the jury that no inference of guilt shall arise against the accused if the accused shall

fail or refuse to testify as a witness in his or her own behalf.

SEC. 70. Section 1088 of said code of 1881 is amended to read as follows: The court shall decide all questions of law which shall arise in the course of the trial, and the trial shall be conducted in the same manner as in civil actions.

Separate trial.

SEC. 71. Section 1091 of said code of 1881 is amended to read as follows: When two or more defendants are indicted or informed against jointly, any defendant requiring it shall be tried separately.

Correction of errors.

SEC. 72. Section 1094 of said code of 1881 is amended to read as follows: When it appears, at any time before verdict or judgment, that the defendant is prosecuted in a county not having jurisdiction, the court may order the venue of the indictment or information to be corrected, and direct that all the papers and proceedings be certified to the superior court of the proper county, and recognize the defendant and witnesses to appear at such court on a day specified in the order, and the prosecution shall proceed in the latter court in the same manner as if it had been there commenced.

Effect of conviction or acquittal.

SEC. 73. Section 1095 of said code of 1881 is amended to read as follows: When a jury has been impaneled in either case contemplated in sections twelve hundred and forty-eight and twelve hundred and forty-nine, such jury may be discharged without prejudice to the prosecution.

SEC. 74. Section 1096 of said code of 1881 is amended to read as follows: When the defendant has been convicted or acquitted upon an indictment or information of an offense consisting of different degrees, the conviction or acquittal shall be a bar to another indictment or information for the offense charged in the former, or for any lower degree of that offense, or for an offense necessarily included therein.

SEC. 75. Section 1097 of said code of 1881 is amended to read as follows: Upon an indictment or information for an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment or information, and guilty of any degree inferior thereto, or of an attempt to commit the offense.

SEC. 76. Section 1098 of said code of 1881 is amended to read as follows: In all other cases the defendant may be found guilty of an offense the commission of which is necessarily included within that with which he is charged in the indictment or information.

SEC. 77. Section 1099 of said code of 1881 is amended to read as follows: On an indictment or information against ^{Verdict.} several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment shall be entered accordingly.

SEC. 78. Section 1100 of said code of 1881 is amended to read as follows: When there is a verdict of conviction in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion, and direct the jury to reconsider the verdict; and if after such reconsideration they return the same verdict it must be entered, but it shall be good cause for new trial. When there is a verdict of acquittal the court cannot require the jury to reconsider it.

SEC. 79. Section 1101 of said code of 1881 is amended to read as follows: When any person indicted or informed ^{Insanity.} against for an offense shall, on trial, be acquitted by reason of insanity, the jury, in giving their verdict of not guilty, shall state that it was given for such cause; and thereupon, if the discharge or going at large of such insane person shall be considered by the court manifestly dangerous to the peace and safety of the community, the court may order him to be committed to prison, or may give him into the care of his friends if they shall give bonds, with surety to the satisfaction of the court, conditioned that he shall be well and securely kept, otherwise he shall be discharged.

SEC. 80. Section 1102 of said code of 1881 is amended to read as follows: When the jury have agreed upon their verdict they must be conducted into court by the officer having them in charge. Their names must then be called, and if all appear their verdict must be rendered in open court; and if all do not appear the rest must be discharged without giving a verdict, and the cause must be tried again.

SEC. 81. Section 1105 of said code of 1881 is amended

New trial.

to read as follows: An application for a new trial must be made before judgment, and may be granted for the following causes materially affecting a substantial right of the defendant: 1. When the jury has received any evidence, paper, document or book not allowed by the court. 2. Misconduct of the jury. 3. Newly discovered evidence material for the defendant, which he could not have discovered with reasonable diligence, and produced at the trial. 4. Accident or surprise. 5. Error of law occurring at the trial, and excepted to by the defendant. 6. When the verdict is contrary to law and evidence; but not more than two new trials shall be granted for these causes alone.

Arrest of judgment.

SEC. 82. Section 1107 of said code of 1881 is amended to read as follows: Judgment may be arrested on the motion of the defendant for the following causes: 1. No legal authority in the grand jury to inquire into the offense charged, by reason of its not being within the jurisdiction of the court. 2. That the facts as stated in the indictment or information do not constitute a crime or misdemeanor.

Bond for good behavior.

SEC. 83. Section 1121 of said code of 1881 is amended to read as follows: Every court before whom any person shall be convicted upon an indictment or information for an offense not punishable with death or imprisonment in the penitentiary may, in addition to the punishment prescribed by law, require such person to recognize with sufficient sureties in a reasonable sum to keep the peace, or to be of good behavior, or both, for any term not exceeding one year, and to stand committed until he shall so recognize.

Non-payment of fine or costs.

SEC. 84. Section 1125 of said code of 1881 is amended to read as follows: If any person ordered into custody until the fine and costs adjudged against him be paid shall not, within five days, pay, or cause the payment of the same to be made, the clerk of the court shall issue a warrant to the sheriff commanding him to imprison such defendant in the county jail until such fine and costs are paid, or until he has been imprisoned in such jail one day for every three dollars of such fine and costs; but execution may at any time issue against the property of the defendant as in other cases.

SEC. 85. Section 1134 of said code of 1881 is amended to read as follows: The clerk of the court shall make a Final record. final record of all the proceedings in a criminal prosecution within six months after the same shall have been decided, which shall contain a copy of the minutes of the challenge to the panel of the grand jury, the indictment or information, journal entries, pleadings, minutes of challenges to panel of petit jurors, judgment, orders, or decision, and bill of exceptions.

SEC. 86. Section 1138 of said code of 1881 is amended to read as follows: The parties, or either of them, against whom such judgment may be entered in the superior or supreme courts, may stay said execution for sixty days by giving a bond with two or more sureties, to be approved by the clerk, conditioned for the payment of such judgment at the expiration of sixty days, unless the same shall be vacated before the expiration of that time. Stay of execution.

SEC. 87. Section 1139 of said code of 1881 is amended to read as follows: If a bond be given and execution stayed, as provided in section twelve hundred and ninety-one, and the person for whose appearance such recognizance was given shall be produced in court before the expiration of said period of sixty days, the judge may vacate such judgment upon such terms as may be just and equitable, otherwise execution shall forthwith issue as well against the sureties in the new bond as against the judgment debtors.

SEC. 88. No action brought on any recognizance given in any criminal proceeding whatever shall be barred or defeated, nor shall judgment be arrested thereon, by reason of any neglect or omission to note or record the default of any principal or surety at the time when such default shall happen, or by reason of any defect in the form of the recognizance, if it sufficiently appear from the tenor thereof at what court or before what justice the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take such recognizance; and a recognizance may be recorded after execution awarded.

SEC. 89. Section 765 of said code of 1881 is amended to read as follows: On the trial of any indictment or in-

formation, the party accused shall have the right to be heard by himself or counsel, to meet the witnesses produced against him face to face: *Provided, always,* That in any case where a witness or witnesses whose deposition or depositions have been taken by a committing magistrate pursuant to law are absent, and cannot be found when required to testify in such case, so much of such deposition or depositions as the court shall decide to be admissible and competent shall be admitted and read as evidence in such case.

Rights of defendant.

SEC. 90. Section 766 of said code of 1881 is amended to read as follows: On the trial of any indictment or information the party accused shall have the right to produce witnesses and proofs in his favor, and have compulsory process to compel the attendance of witnesses in his behalf, and to a speedy public trial by an impartial jury, and no person shall be put upon trial on an indictment or information for a felony until the expiration of five days from the day of his arrest.

Conviction.

SEC. 91. Section 767 of said code of 1881 is amended to read as follows: No person indicted or informed against for an offense shall be convicted thereof unless by confession of his guilt in open court, or by the verdict of a jury accepted and recorded in open court.

SEC. 92. Section 769 of said code of 1881 is amended to read as follows: A defendant acquitted on the ground of variance between the indictment or information and the proof may be thereafter prosecuted upon a new indictment or information.

Dismissal of prosecution.

SEC. 93. Section 771 of said code of 1881 is amended to read as follows: When a person has been held to answer, if an indictment be not found or information filed against him within thirty days, the court must order the prosecution to be dismissed, unless good cause to the contrary be shown.

SEC. 94. Section 772 of said code of 1881 is amended to read as follows: If a defendant indicted or informed against for an offense, whose trial has not been postponed upon his application, be not brought to trial within sixty days after the indictment is found or the information filed, the court must order it to be dismissed, unless good cause to the contrary be shown.

SEC. 95. Section 773 of said code of 1881 is amended to read as follows: If the defendant be not indicted, informed against or tried, as provided in the last two sections, and sufficient reason therefor shown, the court may order the action to be continued from time to time, and in the mean-^{Continuation.} time may discharge the defendant from custody on his recognizance or on bail for his appearance to answer the charge at the time to which the action is continued.

SEC. 96. Section 775 of said code of 1881 is amended to read as follows: The court may, either upon its own motion or upon application of the prosecuting attorney, and in furtherance of justice, order an action, after an indictment or information, 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.

SEC. 97. Section 948 of said code of 1881 is amended to read as follows: Every person who shall become an ac-^{Accessory after the fact.} cessory after the fact to any felony may be indicted, convicted and punished, whether the principal felon shall or shall not have been convicted previously, or shall or shall not be amenable to justice, by any court having jurisdiction to try the principal felon.

SEC. 98. Section 971 of said code of 1881 is amended to read as follows: The governor of this state may appoint^{Extradition.} agents to demand of the executive authority of any state or territory any fugitive from justice, or any other person charged with felony or any other crime in this state; and whenever an application shall be made to the governor for that purpose the prosecuting attorney, when required by the governor, shall forthwith investigate the ground of such application and report to the governor all material circumstances which may come to his knowledge, with an abstract of the evidence and his opinion as to the expediency of the demand; but the governor may in any case appoint such agents without requiring the opinion of or any report from the prosecuting attorney, and the accounts of the agents appointed for such purposes shall in all cases be audited by the state auditor and paid from the state treasury.

SEC. 99. The foregoing sections, as amended by this act,

shall be a part of the code of procedure of this state, and be embodied therein under appropriate numbers.

Approved February 24, 1891:

CHAPTER XXIX.

[S. B. No. 84.]

APPEALS FROM JUSTICES' COURTS.

AN ACT relating to appeals from justices' courts, and amending sections 1858, 1859, 1861, 1863, 1865 and 1914 of the Code of Washington of 1881.

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

SECTION 1. Section 1858 of the code of Washington of 1881 is amended to read as follows: Any person considering himself aggrieved by any judgment or decision of a justice of the peace in a civil action or proceeding may, in person or by his agent, appeal therefrom to the superior court of the same county where the judgment was rendered or the decision made.

SEC. 2. Section 1859 of said code of 1881 is amended to read as follows: Such appeal shall be taken by filing a notice of appeal with the justice and serving a copy on the adverse party or his attorney, and, unless such appeal be by a county, city or school district, filing a bond or undertaking, as herein provided, within twenty days after the judgment is rendered or the decision made. No appeal, except when such appeals are by a county, city or school district, shall be allowed in any case unless a bond or undertaking shall be executed on the part of the appellant and filed with and approved by the justice, with one or more sureties, in the sum of one hundred dollars, to the effect that the appellant will pay all costs that may be awarded against him on the appeal; or if a stay of proceedings before the justice be claimed, except by a county, city or school district, a bond or undertaking, with two or more sureties to be approved by the justice, in a sum equal to twice the amount

Appeal; how taken.

of the judgment and costs, to the effect that the appellant will pay such judgment, including costs, as may be rendered against him on the appeal.

SEC. 3. Section 1861 of said code of 1881 is amended to read as follows: Upon appeal being taken and a bond ^{Appeal bond.} filed to stay all proceedings, the justice shall allow the same and make an entry of such allowance in his docket, and all further proceedings on the judgment before the justice shall thereupon be suspended; and if in the meantime execution shall have been issued, the justice shall give the appellant ^{Certificate.} a certificate that such appeal has been allowed.

SEC. 4. Section 1863 of said code of 1881 is amended to read as follows: Within ten days after the appeal has ^{Transcript.} been taken in a civil action or proceeding, the appellant shall furnish the superior court with a transcript of all entries made in the justice's docket relating to the case, together with all the process and other papers relating to the action, and file[d] with the justice, which shall be certified by such justice to be correct; and upon the filing of such transcript, the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as herein otherwise provided.

SEC. 5. Section 1865 of said code of 1881 is amended to read as follows: Upon an appeal being taken and al- ^{Mandatory} lowed the superior court may, by rule and attachment, ^{action.} compel the justice to make and deliver to the appellant a certified transcript of the proceedings, upon paying to such justice the fees allowed by law for making such transcript, and whenever the court is satisfied that the return of the justice is substantially erroneous or defective, it may, by rule and attachment, compel him to amend the same.

SEC. 6. Every person convicted before a justice of the peace of any offense may appeal from the judgment, within ^{Appeal by de-} ten days thereafter, to the superior court. The appeal ^{defendant.} shall be taken by orally giving notice thereof at the time the judgment is rendered, or by serving a written notice thereof upon the justice at any time after the judgment, and within the time allowed for taking the appeal; when the notice is given orally, the justice shall enter the same

in his docket. The appellant shall be committed to the jail of the county until he shall recognize or give a bond to the state, in such reasonable sum, with such sureties as said justice may require, with condition to appear at the court appealed to, and there prosecute his appeal, and to abide the sentence of the court thereon, if not revised by a higher court.

SEC. 7. The appellant in a criminal action shall not be required to advance any fees in claiming his appeal nor in prosecuting the same; but if convicted in the appellate court, or if sentenced for failing to prosecute his appeal, he may be required as a part of the sentence to pay the costs of the prosecution. If the appellant shall fail to enter and prosecute his appeal he shall be defaulted of his recognizance, if any was taken, and the superior court may award sentence against him for the offense whereof he was convicted in like manner as if he had been convicted thereof in that court; and if he be not then in custody process may be issued to bring him into court to receive sentence.

Recognizance
by witnesses.

SEC. 8. Upon an appeal being taken in a criminal action the justice shall require the witnesses to give recognizances for their appearance in the superior court, or, if they are not present, indorse their names on the copy of proceeding. He shall on such appeal make and certify a copy of the conviction and other proceedings in the case, and transmit the same, together with the recognizance and an abstract bill of the costs, to the clerk of the court appealed to, who shall issue a subpoena for the witnesses if they are not under recognizance.

SEC. 9. An appeal may be taken from the order of a magistrate requiring a person to give security to keep the peace or for good behavior. Such appeal shall be taken in the same manner and subject to the same conditions as appeals from justices' courts in criminal actions, and the magistrate may require recognizances of the appellant and the witness as in appeals in such criminal actions.

Failure to prosecute appeal.

SEC. 10. Section 1914 of said code of 1881 is amended to read as follows: If any party appealing from such order of a magistrate shall fail to prosecute his appeal his recognizance shall remain in full force and effect as to any

breach of the condition, without an affirmance of the judgment or order of the magistrate, and also shall stand as security for costs which shall be ordered by the court appealed to to be paid by the appellant.

SEC. 11. The foregoing sections of this act shall be embodied under appropriate numbers in the code of procedure of this state and shall be a part thereof.

Approved February 24, 1891.

CHAPTER XXX.

[S. B. No. 107.]

PARTIES TO CIVIL ACTIONS.

AN ACT with relation to parties to civil actions and proceedings, amending sections 12 and 15 of the Code of Washington of 1881.

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

SECTION 1. Section twelve of the code of Washington of 1881 is amended to read as follows: When an infant is a party he shall appear by guardian, or if he has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act. Said guardian shall be appointed as follows: 1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant. 2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years, and apply within thirty days after the service of the summons; if he be under the age of fourteen, or neglect to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

SEC. 2. Section 15 of the said code of 1881 is amended to read as follows: Any assignee or assignees of any judgment bond, specialty, book account, or other chose in action, for the payment of money, by assignment in writing,

signed by the person authorized to make the same, may, by virtue of such assignment, sue and maintain an action or actions in his or her name against the obligor or obligors, debtor or debtors, therein named, notwithstanding the assignor may have an interest in the thing assigned: *Provided*, That any debtor may plead in defense a counter claim or an offset, if held by him against the original owner, against the debt assigned, save that no counter claim or offset shall be pleaded against negotiable paper assigned before due, and where the holder thereof has purchased the same in good faith and for value, and is the owner of all interest therein.

Approved February 25, 1891.

CHAPTER XXXI.

[S. B. No. 86.]

JUDGMENTS OF OTHER STATES AND TERRITORIES.

AN ACT in relation to the effect of judgments of other states and territories, and amending section 739 of the Code of Washington.

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

SECTION 1. Section seven hundred and thirty-nine of the code of Washington of 1881 is amended to read as follows: Judgment for debt rendered in any other state or any territory against any person or persons residents of this state at the time of the rendition of such judgment, shall not be of any higher character as evidence of indebtedness than the original claim or demand upon which such judgment is rendered, unless such judgment shall be rendered upon personal service of summons, notice or other due process against the defendant therein.

Sec. 2. The foregoing section shall be embodied in the code of procedure of this state under appropriate number, and shall be a part thereof.

Approved February 25, 1891.

CHAPTER XXXII.

[S. B. No. 47.]

RELIEF OF LINDLEY E. MOORE.

AN ACT for the relief of Lindley E. Moore.

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

SECTION 1. That the sum of one hundred and sixty-seven $\frac{50}{100}$ dollars (\$167.50) be and the same is hereby appropriated out of any money in the state treasury not otherwise appropriated, to pay Lindley E. Moore for services as nightwatchman at the capitol building during the recess of the legislature, and for services in assisting to make inventory and record of state library.

SEC. 2. The state auditor is hereby directed to draw a warrant upon the state treasurer in favor of Lindley E. Moore for the sum of one hundred and sixty-seven $\frac{50}{100}$ dollars (\$167.50), payable out of any funds in the state treasury not otherwise appropriated.

Approved February 25, 1891.

CHAPTER XXXIII.

[S. B. No. 106.]

PLACE OF TRIAL OF ACTIONS.

AN ACT relating to the place of trial of actions and proceedings, and amending sections 50 and 53 of the Code of Washington of 1881.

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

SECTION 1. Section fifty of the code of Washington of 1881 is amended to read as follows: In all other cases the action must be tried in the county in which the defendants, or some of them, reside at the time of the commencement of the action, or may be served with process, subject, however, to the power of the court to change the place of trial, Power of court. as provided in sections one hundred and sixty-two and one hundred and sixty-three of this code. If the county in

which the action is commenced is not the proper county for the trial thereof, the action may, notwithstanding, be tried therein, unless the defendant, at the time he appears and demurs or answers, files an affidavit of merits and demands that the trial be had in the proper county.

Rights of parties.

SEC. 2. Section 53 of said code of 1881 is amended to read as follows: Any party in a civil action pending in the superior court in a county out of whose limits a new county, in whole or in part, has been created, may file with the clerk of such superior court an affidavit setting forth that he is a resident of such newly created county, and that the venue of such action is transitory, or that the venue of such action is local, and that it ought properly to be tried in such newly created county; and thereupon the clerk shall make out a transcript of the proceedings already had in such action in such superior court, and certify it under the seal of the court, and transmit such transcript, together with the papers on file in his office connected with such action, to the clerk of the superior court of such newly created county, wherein it shall be proceeded with as in other cases.

Duty of clerk.

SEC. 3. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 25, 1891.

CHAPTER XXXIV.

[S. B. No. 102.]

PROCEEDINGS TO OBTAIN POSSESSION OF PERSONAL PROPERTY.

AN ACT relating to proceedings to obtain possession of personal property during the pending of an action for the recovery thereof, and amending section 152 of the Code of Washington of 1881.

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

SECTION 1. Section one hundred and fifty-two of the code of Washington of 1881 is amended to read as fol-

lows: The sheriff shall file the affidavit, with the proceedings thereon, with the clerk of the court in which the action is pending, within twenty days after taking the property mentioned therein.

SEC. 2. The foregoing section shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 25, 1891.

CHAPTER XXXV.

[S. B. No. 164.]

RIGHTS OF PRIVATE CORPORATIONS TO HOLD PROPERTY.

AN ACT authorizing private corporations, other than religious, incorporated by the legislative assembly of the Territory of Washington, prior to the June 10th, 1872, to hold, acquire, own and possess real and personal property to any extent that the said private corporations may seem meet; anything in the acts incorporating such private corporations to the contrary notwithstanding.

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

SECTION 1. That all private corporations incorporated by the legislative assembly of the Territory of Washington, prior to the tenth day of June, 1872, other than for religious purposes, be and they are hereby authorized to hold, acquire, own and possess real and personal property to the extent and to such an amount as to said corporations may seem meet; anything in the acts incorporating said private corporations to the contrary notwithstanding.

Approved February 25, 1891.

CHAPTER XXXVI.

[S. B. No. 100.]

INJUNCTIONS.

AN ACT relating to motions to dissolve or modify injunctions, and amending section 169 of the Code of Washington of 1881.

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

SECTION 1. Section one hundred and sixty-nine of the code of Washington of 1881 is amended to read as follows: Motions to dissolve or modify injunctions may be made in open court, or before a judge of the superior court, at any time after reasonable notice to the adverse party.

SEC. 2. The foregoing section shall be embodied in the code of procedure of this state, appropriately numbered, and shall constitute a part thereof.

Approved February 25, 1891.

CHAPTER XXXVII.

[S. B. No. 53.]

PUBLICATION AND DISTRIBUTION OF SUPREME COURT REPORTS.

AN ACT to provide for the publication, distribution and sale of the supreme court reports of the State of Washington, and declaring an emergency.

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

SECTION 1. The reports of the decisions of the supreme court of the State of Washington shall be published by the state printer, under the supervision of the supreme court and the reporter thereof, in volumes of not less than seven hundred pages, the first volume of which reports published hereunder shall include the opinions of the supreme court of Washington Territory decided subsequently to those published in the third volume of Washington Territory reports. Said reports shall be known as "Washington reports," and shall be numbered consecutively, begin-

Supervision of
publication.

ning with volume 1. The style of type and the general Style of report. typography shall be generally similar to the Kansas supreme court reports. The reports shall be printed on paper weighing not less than sixty pounds to the ream, and shall be bound in good law sheep with double backs, and in a substantial and workmanlike manner.

SEC. 2. Neither the reporter of the supreme court nor the state printer shall have any pecuniary interest in the volumes of the reports, and neither of said officers shall Copyright. copyright the volumes thereof, or any portion of such volumes, or any notes, indexes or tables of contents that may be published in connection therewith.

SEC. 3. The state printer shall make stereotype plates Stereotype plates. of the pages of each volume, to the end that the same may never be out of print, and the state shall be the owner of said plates, and of all volumes printed therefrom or from the original type.

SEC. 4. Whenever the reporter of the supreme court shall have prepared sufficient copy to make a volume of reports, he shall deliver said copy to the secretary of state, who shall thereupon make requisition upon the state printer for fifteen hundred copies of said volume; and from time Number of copies. to time thereafter, whenever the supply of any volume shall have been exhausted, it shall be the duty of the secretary of state to make requisition for the publication of Duty of secretary of state. so many additional copies of such volume as may be necessary to meet the probable demand therefor.

SEC. 5. Each volume of the decisions of the supreme Distribution of copies. court, as soon as published, must be delivered to the secretary of state to be disposed of by him as follows: First, to each state and territory, one copy; second, to the state library, five copies, and to other public libraries in the state, one copy each; third, to the law library of the United States supreme court and the congressional library, one copy each; fourth, to the United States district judge for this state, to the supreme and superior judges, one copy each; fifth, to the clerk of the supreme court, one copy; sixth, to the reporter of the supreme court, two copies; seventh, to the attorney general of the United States, to the attorney general and each county attorney of the state

of Washington, one copy each; eighth, the surplus copies of said reports shall be sold by the secretary of state to any and all individuals applying therefor, at the price of two and 50-100 dollars per volume, and all moneys received therefor shall be turned into the state treasury.

Marking copies.

SEC. 6. The secretary of state must indelibly mark each book distributed to officers in this state (except the judges and reporter of the supreme court) with the name of the county to which, and the designation of the officer to whom, it is sent. Each book marked and delivered as aforesaid remains the property of the state, and must be by the officers receiving the same delivered to their successors.

SEC. 7. An act entitled "An act to provide for the publication and distribution of the supreme court reports of Washington," approved January 20, 1890, and all acts and parts of acts in conflict herewith are hereby repealed.

SEC. 8. Whereas, the recent decisions of the supreme court are of great importance to the people of this state, and their speedy publication is demanded by the public; an emergency is declared to exist, and this act shall be in force and take effect from and after its passage and approval.

Approved February 25, 1891.

CHAPTER XXXVIII.

[S. B. No. 95.]

ENTRY OF JUDGMENTS.

AN ACT relating to the taking and entry of judgments, and amending sections 301 and 302 of the Code of Washington of 1881.

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

SECTION 1. Section three hundred and one of the code of Washington is amended to read as follows: When a trial by jury has been had judgment shall be entered in conformity to the verdict within five days after the filing of the verdict, unless a motion for a new trial shall have

Limit of time
of entry.

been filed, or unless the court order the case to be reserved for argument or further consideration, or grant a stay of proceedings. In all other cases the judgment shall be entered on the day when it is given.

SEC. 2. Section 302 of said code of 1881 is amended to read as follows: When the case is reserved for argument or further consideration, as mentioned in the last section, it may be brought by either party before the court for argument.

SEC. 3. Immediately after entering the judgment the Duty of clerk. clerk shall attach the following papers in the case, which shall constitute the judgment roll: 1. If the complaint has not been answered by any defendant and no pleading has been filed by an intervenor, he shall attach together in the order of their filing, issuing and entry the complaint, summons and proof of service, and a copy of the entry of judgment. 2. In all other cases he shall attach together in like manner the summons and proof of service, the pleadings, bill of exceptions, all orders relating to change of parties, together with a copy of the entry of judgment and all other journal entries or orders in any way involving the merits and necessarily affecting the judgment.

SEC. 4. In all cases the clerk shall attach upon the outside of the judgment roll a blank sheet of paper upon which he shall indorse the name of the court, the title of the action, for whom judgment was given, and the amount or nature thereof and the date of its entry.

SEC. 5. Within twenty days after the entry of any judgment for the recovery of money, the clerk shall enter in said execution docket a statement of the judgment, and shall, at the request of the judgment creditor or his attorney, furnish a transcript of said judgment to the judgment creditor, and upon the filing of said transcript in the office of the county auditor, it shall be a lien upon all real estate of said judgment debtor in the county where such transcript shall be filed for the period of five years from the time of the entry of said judgment. The lien shall attach from the lien. day of the date of said judgment, if said transcript shall have been filed within the said twenty days; and in case an attachment has been levied upon any real estate, then from

Fees.

the levy of the attachment. The fees for making and filing such transcript shall be paid by the judgment creditor, and be taxed as costs against the judgment debtor, and be collected as other costs in the case. Said statements and transcripts shall contain: 1. The names, at length, of all the parties. 2. The date of the judgment, and against whom rendered. 3. The amount or nature of the judgment and costs. 4. An abstract of the costs of each party, and to whom belonging.

SEC. 6. The foregoing sections of this act shall be embodied in the code of procedure of this state, under appropriate numbers, and be a part thereof.

Approved February 25, 1891.

CHAPTER XXXIX.

[S. B. No. 91.]

FORCIBLE ENTRY OR DETAINER.

AN ACT relating to proceeding in cases of forcible entry into or forcible detainer of lands.

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

SECTION 1. There shall be added to the statutes upon forcible entry and detainer of lands the following sections, to be embodied in the code under appropriate numbers: When any forcible entry shall be made, or when an entry shall be made in a peaceable manner, and the possession shall be forcibly or unlawfully held, the person entitled to the premises may be restored to the possession thereof, by an action in the superior court, in the manner hereinafter provided. One year's quiet possession of the premises immediately preceding the filing of the complaint, by the party complained of or those under whom he holds, may be pleaded by any defendant in bar of the plaintiff's demand of possession, unless the estate therein be ended. On the trial of any proceeding for any forcible entry or forcible

Grounds of
action.

detainer, the plaintiff shall only be required to show, in addition to the forcible entry or the forcible or unlawful detainer complained of, that he was peaceably in the actual possession at the time of the forcible entry, or was entitled to the possession at the time of the forcible detainer. In case of trial by jury, the verdict shall be in form or to the effect following: "We, the jury, find the defendant guilty, in manner and form as the plaintiff in his complaint has alleged;" or, if in favor of the defendant, "We, the jury, find the defendant not guilty." Nothing contained in this chapter, nor any judgment in an action provided for in this chapter, shall prevent or be a bar to an action to recover the possession of the premises, as provided for in chapter one of this title, or to recover damages for trespass thereon or injury thereto.

Trial by jury.

Form of verdict.

Approved February 25, 1891.

CHAPTER XL.

[S. B. No. 92.]

CLAIMS OF THIRD PERSONS TO PROPERTY TAKEN UPON EXECUTION.

AN ACT relating to claims of third persons to property taken upon execution or attachment, and amending sections 350 and 352 of the Code of Washington of 1881.

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

SECTION 1. Section 350 of the code of Washington of 1881 is amended to read as follows: When any other person than the judgment debtor shall claim property levied upon or attached, he may have the right to demand and receive the same from the sheriff or other officer making the attachment or levy, upon his making an affidavit that the property is his, or that he has a right to the immediate possession thereof, stating on oath the value thereof, and giving to the sheriff or officer a bond, with sureties in

Bond.

double the value of such property, conditioned that he will appear in the superior court of the county in which the property was seized, within ten days after the bond is accepted by the sheriff or other officer, and make good his title to the same, or that he will return the property or pay its value to the said sheriff or other officer.

SEC. 2. Section 352 of said code of 1881 is amended to read as follows: The officer shall return the affidavit, bond and justification, if any, to the office of the clerk of the superior court, and this case shall stand for trial in said court.

Approved February 25, 1891.

CHAPTER XLI.

[S. B. No. 114.]

LEGAL HOLIDAYS.

AN ACT in relation to legal holidays.

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

SECTION 1. The following days are legal holidays, namely: Sunday; the first day of January, commonly called New Year's day; the fourth day of July; the twenty-second day of February; the twenty-fifth day of December, commonly called Christmas day; and any day designated by public proclamation of the chief executive of the state as a legal holiday, or as a day of thanksgiving; the day known and observed as Memorial or Decoration day; and the day on which a general election is held throughout the state.

SEC. 2. No court shall be open, nor shall any judicial business be transacted on a legal holiday, except—1. To give, upon their request, instructions to a jury when deliberating of their verdict. 2. To receive the verdict of a jury. 3. For the exercise of the powers of a magistrate in a criminal action or in a proceeding of a criminal nature.

Limit of judicial action.

4. For hearing an application for writs of habeas corpus, injunction, prohibition and attachment.

SEC. 3. If any legal holiday happen to be a day appointed for the sitting of a court, or to which it is adjourned, such sitting shall be deemed appointed for or adjourned to the next day which is not a legal holiday.

SEC. 4. All prior acts upon the subject of legal holidays are repealed, excepting an act entitled "An act declaring labor day a legal holiday."

Approved February 25, 1891.

CHAPTER XLII.

[S. B. No. 87.]

PROCEEDINGS IN THE NATURE OF *NE EXECAT*.

AN ACT in relation to proceedings in the nature of *ne execat*, and amending sections 637, 638 and 642 of the Code of Washington of 1881.

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

SECTION 1. Section 637 of the code of Washington of 1881 is amended to read as follows: At the time of filing the affidavit the plaintiff shall also file his complaint in the action, and thenceforth the action shall proceed as other actions at law, except as otherwise provided in this chapter.

SEC. 2. Upon such affidavit and complaint being filed, the clerk shall issue an order of arrest and bail, directed to the sheriff, which shall be issued, served and returned in all respects as such orders in other cases; before such order shall issue the plaintiff shall file in the office of the clerk a bond, with sufficient surety, to be approved by the clerk, conditioned that the plaintiff will pay the defendant such damages and costs as he shall wrongfully sustain by reason of the action, which sureties shall justify as bail upon an arrest.

SEC. 3. Section 638 of said code of 1881 is amended to read as follows: The sheriff shall require the defendant to

enter into a bond, with sufficient surety, personally to appear within the time allowed by law for answering the complaint, and to abide the order of the court; and in default thereof the defendant shall be committed to prison until discharged in due course of law; such special bail shall be liable for the principal, and shall have a right to arrest and deliver him up, as in other cases, and the defendant may give other bail.

SEC. 4. Section 642 of said code of 1881 is amended to Before justices. read as follows: The proceedings provided for in this chapter may be had before justices of the peace in all cases within their jurisdiction.

SEC. 5. The foregoing sections of this act shall be embodied in the code of procedure of this state under appropriate numbers, and shall be a part thereof.

Approved February 25, 1891.

CHAPTER XLIII.

[S. B. No. 88.]

HABEAS CORPUS.

AN ACT relating to proceedings upon habeas corpus.

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

SECTION 1. Section six hundred and seventy-seven of the code of Washington of 1881 is amended to read as follows: No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge him when the term of commitment has not expired, in either of the cases following: 1. Upon any process issued on any final judgment of a court of competent jurisdiction. 2. For any contempt of any court, officer or body having authority in the premises, to commit; but an order of commitment, as for a contempt upon proceedings to enforce the remedy of a party, is not included in any of the foregoing specifications. 3. Upon

a warrant issued from the superior court upon an indictment or information.

SEC. 2. The foregoing section shall be embodied in the code of procedure of this state, under appropriate number, and be a part thereof.

Approved February 25, 1891.

CHAPTER XLIV.

[S. B. No. 85.]

JUDGMENTS.

AN ACT relating to judgments upon promissory notes and similar instruments.

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

SECTION 1. In all judgments on promissory notes and similar instruments in writing, whether secured by mortgage or not, an attorney's [fee] may be allowed when specially contracted to be paid by the terms of the note or mortgage in any amount so specially contracted.

Approved February 25, 1891.

CHAPTER XLV.

[S. B. No. 111.]

IN RELATION TO SHERIFFS.

AN ACT in relation to sheriffs.

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

SECTION 1. The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of his office it is his duty—1. To arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses. 2. To defend

his county against those who by riot or otherwise endanger the public peace or safety. 3. To execute the process and orders of the courts of justice or judicial officers, when delivered to him for that purpose, according to the provisions of this code or other statutes. 4. To execute all warrants delivered to him for that purpose by other public officers, according to the provisions of particular statutes. 5. To attend the sessions of the courts of record held within his county, and to obey their lawful orders or directions. The county is not responsible for the acts of the sheriff.

SEC. 2. The sheriff must keep his office at the county seat of the county of which he is sheriff.

SEC. 3. The sheriff's office must be kept open on the days and during the hours required for the clerk's office to be kept open.

SEC. 4. No sheriff, deputy sheriff or coroner shall appear or practice as attorney in any court, except in defense of himself or his deputies.

SEC. 5. Unless otherwise provided by statute, all process issuing out of the court shall be directed to the sheriff of the county in which it is to be served, and be by him executed according to law.

Approved February 25, 1891.

CHAPTER XLVI.

[S. B. No. 90.]

APPROPRIATIONS OF PROPERTY BY CORPORATIONS.

AN ACT in relation to the appropriation of property
by corporations.

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

SECTION 1. Section six of the act entitled "An act to regulate the mode of proceeding to appropriate lands, real estate or property by corporations for corporate purposes, and of ascertaining and securing compensation therefor,

and repealing laws in conflict with this act, and declaring an emergency," approved March 21, 1890, is amended to read as follows: At the time of rendering judgment for damages, whether upon default or trial, if the damages awarded be then paid, or upon their payment, if not paid at the time of rendering such judgment, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate, premises, right-of-way or other property sought to be appropriated, thereby vesting the legal title to the same in the corporation seeking to appropriate such land, real estate, premises, right-of-way or other property for corporate purposes. Whenever said judgment or decree of appropriation shall affect lands, real estate or other premises, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate and with like effect. If the title to said land, real estate, premises or other property attempted to be acquired is found to be defective from any cause, the corporation may again institute proceedings to acquire the same, as in this chapter provided.

Approved February 25, 1891.

CHAPTER XLVII.

[S. B. No. 96.]

RELATING TO EXCEPTIONS.

AN ACT relating to exceptions, and amending section 260 of the Code of Washington of 1881.

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

SECTION 1. An exception is an objection upon a matter of law to a decision or ruling made, either before or after judgment, by a court, tribunal, judge or other judicial

officer, in an action or proceeding. The exception must be taken at the time the decision is made, except as provided in sections three hundred and fifty-four and three hundred and ninety-seven.

How taken or
disposed of.

SEC. 2. Section two hundred and sixty of the code of Washington of 1881 is amended to read as follows: Exceptions to any decision made after judgment may be presented to the judge at the time of such decision, and may be settled or noted as provided in section three hundred and ninety-two, and a bill thereof may be presented and settled afterward, as provided in section three hundred and ninety-three, and within like periods after entry of the decision.

SEC. 3. No exception need be taken or allowed with respect to any decision or ruling upon a matter of law when the same is entered in the journal or made wholly upon matters in writing and on file in the cause.

SEC. 4. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 25, 1891.

CHAPTER XLVIII.

[S. B. No. 113.]

IN RELATION TO JURIES.

AN ACT in relation to juries.

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

SECTION 1. A jury is a body of men temporarily selected from the qualified inhabitants of a particular district, and invested with power— 1. To present or indict a person for a public offense. 2. To try a question of fact.

SEC. 2. There shall be three kinds of juries— 1. A grand jury. 2. A petit jury. 3. A jury of inquest.

Grand.

SEC. 3. A grand jury is a body of men not less than

twelve nor more than seventeen in number, impaneled and sworn to inquire of public offenses committed or triable within the county.

SEC. 4. A petit jury is a body of men twelve in number ^{Petit.} in the superior court and six in number in courts of justices of the peace; drawn in the superior court by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact; but in a justice's court the jury is drawn according to the mode specially provided for such court.

SEC. 5. A jury of inquest is a body of men six in num- ^{Inquest.} ber summoned from the qualified inhabitants of a particular district, before the coroner or other ministerial officer, to inquire of particular facts.

SEC. 6. A person is not competent to act as a juror unless ^{Competency.} he be — 1. An elector of the State of Washington. 2. A male inhabitant of the county in which he is returned, and who has been an inhabitant thereof for the year next preceding the time he is drawn or called. 3. Over twenty-one years of age. 4. In the possession of his natural faculties and of sound mind. 5. A person who has been convicted of a felony is not competent to act as a juror.

SEC. 7. Civil officers of the United States, civil and judi- ^{Exceptions.} cial officers of the state, attorneys at law, ministers of the gospel or priests, school teachers, practicing physicians, locomotive engineers, active members of the fire department of any city or village, all persons who have served twice as a juror within two years, and all persons over sixty years of age, shall not be compelled to serve as jurors, and in preparing jury lists the county commissioners shall omit the names of such persons; but no act of a grand or petit jury shall be invalid by reason of such person or persons aforesaid, qualified in other respects, serving thereon; nor shall any disqualification of any member of a grand or petit ^{Effect of dis-} jury affect the indictment or verdict, unless the juror for ^{qualified juror's} that specific cause was challenged or excepted to before ^{action.} the finding of the indictment or rendition of the verdict, and the challenge or exception overruled, and error specifically assigned upon the overruling of such challenge or exception. A person may be excused from acting as a ^{Excuses.}

juror when, for any reason, his interests or those of the public will be materially injured by his attendance; or when his own health, or the death or illness of a member of his family, requires his absence; but no person shall be excused on account of the causes in this section mentioned unless it appear that after he was summoned he could not, by reasonable precaution, have provided against them.

Open venire.

SEC. 8. If for any cause the court shall see fit to set aside the venire for grand or petit jurors, returned as above provided, an open venire may thereupon issue to the sheriff, who shall thereupon complete the panel by such open venire as speedily as possible.

SEC. 9. If for any cause a sufficient number of grand or petit jurors are not returned by the sheriff in the manner first herein contemplated, or if a sufficient number of grand or petit jurors are not in attendance, the court may order the panel filled by summoning a sufficient number by an open venire issued and directed to the sheriff.

Duty of sheriff.

SEC. 10. When a venire is delivered to the sheriff he shall without delay proceed to summon the jurors as therein directed, and shall immediately thereafter make and file in the court a return of his doings thereon.

Limit of service.

SEC. 11. No person shall be summoned as a petit juror in any superior court upon an open venire more than once in one year; and it shall be sufficient cause of challenge to any juror called to be sworn in any cause, that he has been summoned upon an open venire and attended said court as a juror at any session of said court held within one year prior to the time of such challenge; or that he has been summoned from the by-standers or body of the county, and has served as juror in any cause, upon such summons, within one year prior to the time of such challenge.

Approved February 25, 1891.

CHAPTER XLIX.

S. B. No. 116.]

TERMS OF COURTS.

AN ACT in relation to the holding of sessions of courts.

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

SECTION 1. The superior courts shall hold their sessions at the county seats of the several counties respectively.

SEC. 2. No proceeding in a court of justice in any action, suit, or proceeding pending therein, is affected by a vacancy in the office of any or all of the judges, or by the failure of a session of the court.

Approved February 25, 1891.

CHAPTER L.

[S. B. No. 89.]

ACTIONS TO ABATE NUISANCE.

AN ACT relating to actions to abate nuisance, and amending section 606 of the Code of Washington of 1881.

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

SECTION 1. Section six hundred and six of the code of Washington of 1881 is amended to read as follows: Such action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance. If judgment be given for the plaintiff in such action, he may, in addition to the execution to enforce the same, on motion, have an order allowing a warrant to issue to the sheriff to abate such nuisance. Such motion shall be allowed, of course, unless it appear on the hearing that the nuisance has ceased, or that such remedy is inadequate to abate or prevent the continuance of the nuisance, in which latter case the plaintiff may have the defendant enjoined.

Approved February 25, 1891.

CHAPTER LI.

[S. B. No. 108.]

LIMIT FOR COMMENCING ACTIONS.

AN ACT relating to the time within which actions may be commenced, amending section twenty-five of the Code of 1881.

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

SECTION 1. Section twenty-five of the code of Washington of 1881 is amended to read as follows: Actions can only be commenced within the periods herein prescribed after the cause of action shall have accrued, except when in special cases a different limitation is prescribed by statute; but the objection that the action was not commenced within the time limited can only be taken by answer or demurrer.

SEC. 2. The foregoing section shall be embodied in the code of procedure, appropriately numbered.

Approved February 25, 1891.

CHAPTER LII.

[S. B. No. 99.]

IN RELATION TO RECEIVERS.

AN ACT in relation to receivers.

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

SECTION 1. A receiver is a person appointed by a court or judicial officer to take charge of property during the pending of a civil action or proceeding, or upon a judgment, decree or order therein, and to manage and dispose of it as the court or officer may direct.

Approved February 26, 1891.

CHAPTER LIII.

[S. B. No. 115.]

RELATING TO MAGISTRATES.

AN ACT in relation to magistrates.

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

SECTION 1. A magistrate is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime.

SEC. 2. The following persons are magistrates: 1. The justices of the supreme court. 2. The superior judges, and justices of the peace. 3. All municipal officers authorized to exercise the powers and perform the duties of a justice of the peace.

Approved February 26, 1891.

CHAPTER LIV.

[S. B. No. 112.]

POWERS OF COURTS AND JUDICIAL OFFICERS.

AN ACT in relation to the powers of courts and judicial officers.

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

SECTION 1. Every court of justice has power—1. To preserve and enforce order in its immediate presence. 2. To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority. 3. To provide for the orderly conduct of proceedings before it or its officers. 4. To compel obedience to its judgments, decrees, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein. 5. To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected

Powers of court
of justice

with a judicial proceeding before it, in every matter appertaining thereto. 6. To compel the attendance of persons to testify in an action, suit or proceeding therein, in the cases and manner provided by this code. 7. To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

SEC. 2. For the effectual exercise of the powers specified in the last section, the court may punish for contempt in the cases and the manner provided by law.

Judicial officer.

SEC. 3. A judicial officer is a person authorized to act as a judge in a court of justice. Such officer shall not act as such in a court of which he is a member in any of the following cases: 1. In an action, suit or proceeding to which he is a party, or in which he is directly interested. 2. When he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision. 3. When he is related to either party by consanguinity or affinity within the third degree. 4. When he has been attorney in the action, suit or proceeding in question for either party, but this section does not apply to an application to change the place of trial, or the regulation of the order of business in court. In the cases specified in subdivisions 3 and 4, the disqualification may be waived by the parties, and except in the supreme court shall be deemed to be waived unless an application for a change of the place of trial be made as provided in this code.

When disqualified.

SEC. 4. Any judicial officer may act as an attorney in any action, suit or proceeding to which he is a party or in which he is directly interested. A justice of the peace, otherwise authorized by law, may act as an attorney in any court other than the one of which he is judge, except in an action, suit or proceeding removed therefrom to another court for review; but no judicial officer shall act as attorney in any court except as in this section allowed.

SEC. 5. A judge may exercise out of court all the powers expressly conferred upon a judge as contradistinguished from a court and not otherwise.

Powers of.

SEC. 6. Every judicial officer has power— 1. To preserve and enforce order in his immediate presence and in the

proceedings before him, when he is engaged in the performance of a duty imposed upon him by this code or other statute. 2. To compel obedience to his lawful orders as provided in this code. 3. To compel the attendance of persons to justify in a proceeding pending before him, in the cases and manner provided in this code. 4. To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and the performance of his duties.

SEC. 7. For the effectual exercise of the powers specified in the last preceding section, a judicial officer may punish for contempt in the cases and manner provided by law.

SEC. 8. The judges of the supreme and superior courts have power in any part of the state to take and certify — Judges of supreme and superior courts.
Powers of.
 1. The proof and acknowledgment of a conveyance of real property or any other written instrument authorized or required to be proved or acknowledged. 2. The acknowledgment of satisfaction of a judgment in any court. 3. An affidavit or deposition to be used in any court of justice or other tribunal of this state. 4. To exercise any other power and perform any other duty conferred or imposed upon them by statute.

SEC. 9. Every other judicial officer may, within the county, city, district or precinct in which he is chosen —
 1. Exercise the powers mentioned in subdivisions 1, 2 and 3 of the last preceding section. 2. Exercise any other power and perform any other duty conferred or imposed upon him by other statute.

SEC. 10. A court or judicial officer has power to adjourn any proceeding before it or him from time to time, as may be necessary, unless otherwise expressly provided by law.

SEC. 11. If the proper authority neglects to provide any supreme or superior court with rooms, furniture, fuel, lights and stationery suitable and sufficient for the transaction of its business and for the jury attending upon it, if there be one, the court may order the sheriff to do so, at the place within the county designated by law for holding such court; and the expense incurred by the sheriff in carrying such order into effect, when ascertained and ordered to be paid by the court, is a charge upon the county.

SEC. 12. When jurisdiction is, by the constitution of this state or by statute, conferred on a court or judicial officer all the means to carry it into effect are also given; and in the exercise of the jurisdiction, if the course of proceeding be not specifically pointed out by statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of this code.

SEC. 13. Every court of record shall have the power to appoint a crier and as many bailiffs as may be necessary for the orderly and expeditious dispatch of the business.

Powers of superior judges.

SEC. 14. The superior courts, in the exercise of their jurisdiction of matters of probate, shall have power—1. To take proof of wills and to grant letters testamentary and of administration, and to bind apprentices as by law provided. 2. To settle the estates of deceased persons and the accounts of executors, administrators and guardians. 3. To allow or reject claims against the estates of deceased persons as hereinafter provided. 4. To hear and determine controversies between masters and their apprentices. 5. To award process, and cause to come before them all persons whom they may deem it necessary to examine, whether parties or witnesses, or who as executors, administrators or guardians or otherwise, shall be intrusted with or in any way accountable for any property belonging to a minor, orphan or person of unsound mind, or estate of any deceased person. 6. To order and cause to be issued all writs which may be necessary to the exercise of their jurisdiction.

SEC. 15. The judges of the superior courts may, at chambers, appoint appraisers, receive inventories and accounts, suspend the powers of executors, administrators or guardians in the cases allowed by law, grant letters of administration or guardianship, approve claims and bonds, and direct the issuance of all writs and process necessary in the exercise of their powers.

Approved February 26, 1891.

CHAPTER LV.

[S. B. No. 110.]

RELATING TO ATTORNEYS.

AN ACT in relation to attorneys.

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

SECTION 1. An attorney is a person authorized to appear Attorney. for and represent a party in the written proceedings in any action or proceeding in any stage thereof. An attorney, other than the one who represents the party in the written proceedings, may also appear for and represent a party in court or before a judicial officer, and then he is known in the particular action or proceeding as counsel only, and his Counsel. authority is limited to the acts that are done in the court or before such officer at that time.

SEC. 2. The powers and duties of the attorney general Powers and duties of attorney general. in relation to actions and proceeding in the courts shall be—

1. To appear for and represent the state before the supreme court in all cases in which the state is interested.
2. To institute and prosecute all actions and proceedings for or for the use of the state, which may be necessary in the execution of the duties of any state officer.
3. To defend all actions and proceedings against any state officer in his official capacity, in any of the courts of this state or the United States.
4. To consult and advise the several prosecuting attorneys in matters relating to the duties of their office, and when, in his judgment, the interests of the state require, he shall attend the trial of any person accused of a crime, and assist in the prosecution.

SEC. 3. Prosecuting attorneys are attorneys authorized Prosecuting attorneys. by law to appear for and represent the state and the counties thereof in actions and proceedings before the courts and judicial officers.

SEC. 4. No person shall be eligible to the office of prosecuting attorney in any county of this state, unless he be a qualified elector thereof, and shall have been admitted as an attorney and counselor of the courts of this state. Eligibility.

SEC. 5. When from illness or other cause the prosecuting attorney is temporarily unable to perform his duties, Temporary disqualification

the court or judge may appoint some qualified person to discharge the duties of such officer in court until such disability is removed.

Deputies.

SEC. 6. The prosecuting attorney of each county may appoint one or more deputies, not to exceed two, who shall have the same power in all respects as their principal. Such appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the district attorney, but his appointment may be revoked by the district attorney at will. The prosecuting attorney shall be responsible for the acts of his deputies.

Duty of prosecuting attorneys.

SEC. 7. The prosecuting attorney of each county shall have authority, and it shall be his duty, subject to the supervisory control and direction of the attorney general, to appear for and represent the state and the county of which he is prosecuting attorney in all criminal and civil actions and proceedings in such county in which the state or such county is a party.

Qualifications of attorneys.

SEC. 8. The following persons are entitled to practice as attorneys and counselors of all the courts of this state: 1. All citizens of the United States who were duly admitted as attorneys and counselors of the supreme court or any district court of the Territory of Washington. 2. All citizens of the United States who shall have been admitted as attorneys and counselors of the supreme court of the State of Washington.

Limit of study.

SEC. 9. Before any person shall be admitted as an attorney or counselor in this state it must appear to the satisfaction of the court to which he applies for admission—
1. That he is a citizen of the United States, and of the age of twenty-one years. 2. That he is of good moral character. 3. That he has the requisite learning and ability to practice as an attorney and counselor at law, and has diligently studied the common law and the laws of this state, for at least eighteen months previous to the date of his application, under the direction of some practicing attorney within the state, or is a graduate of a law school within the United States, or has been admitted as an at-

torney and counselor of the highest court of record of another state or territory of the United States.

SEC. 10. Subject to the provisions and restrictions contained in the last preceding section, the supreme court shall make rules for the examination and admission of attorneys and counselors of the courts of this state, and no person shall be admitted except in accordance with such rules.

Approved February 26, 1891.

CHAPTER LVI.

[S. B. No. 101.]

PROCEEDINGS AGAINST VIOLATORS OF INJUNCTIONS.

AN ACT relating to proceedings against persons who violate injunctions, and amending section 168 of the Code of Washington of 1881.

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

SECTION 1. Section 168 of the code of Washington of 1881 is amended to read as follows: If the court is not in session the officer making the arrest shall cause the person to enter into a bond, with surety, to be approved by the officer, conditioned that he personally appear in open court whenever his appearance shall be required, to answer such contempt, and that he will pay to the plaintiff all his damages and costs occasioned by the breach of the order; and in default thereof he shall be committed to the jail of the county until he shall enter into such bond with surety, or be otherwise legally discharged.

SEC. 2. The foregoing section shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 26, 1891.

Sig. 7.

CHAPTER LVII.

[S. B. No. 109.]

POWERS AND DUTIES OF CLERKS OF COURTS.

AN ACT in relation to the powers and duties of clerks of courts.

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

SECTION 1. The office of the clerk of the superior court shall be kept at the county seat of the county of which he is clerk.

Office hours.

SEC. 2. Each clerk of a superior court shall keep his office open for the transaction of business on every judicial day, from eight to twelve in the forenoon and from one to five in the afternoon.

Seal.

Record.

SEC. 3. The clerk of the supreme court, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court and of each county clerk for each of the courts for which he is clerk—1. To keep the seal of the court and affix it in all cases where he is required by law. 2. To record the proceedings of the court. 3. To keep the records, files and other books and papers appertaining to the court. 4. To file all papers delivered to him for that purpose in any action or proceeding in the court. 5. To attend the court of which he is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court. 6. To keep the journal of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments and decrees. 7. To authenticate by certificate or transcript, as may be required, the records, files or proceedings of the court, or any other paper appertaining thereto and filed with him. 8. To exercise the powers and perform the duties conferred and imposed upon him elsewhere by statute. 9. In the performance of his duties to conform to the direction of the court.

To authenticate records.

SEC. 4. The clerk of the supreme court, and each clerk

of a superior court, may have one or more deputies, to be ^{Deputies.} appointed by such clerk in writing and to continue during his pleasure. Such deputies have the power to perform any act or duty relating to the clerk's office that their respective principals have, and their respective principals are responsible for their conduct.

SEC. 5. Each clerk of a court is prohibited during his continuance in office from acting, or having a partner who acts, as an attorney of the court of which he is clerk.

Approved February 26, 1891.

CHAPTER LVIII.

[S. B. No. 105.]

MANNER OF COMMENCING CIVIL ACTIONS.

AN ACT relating to the manner of commencing civil actions.

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

SECTION 1. Civil actions in the superior courts shall be commenced by filing a complaint with the clerk of the court. The clerk shall, at the time the complaint is delivered to him to be filed, indorse thereon a certificate of the filing thereof, showing the date of such filing. ^{Filing complaint.}

SEC. 2. At any time after the complaint is filed, the ^{Summons} clerk must, upon request of the plaintiff, issue a summons. The summons shall run in the name of the State of Washington, shall be directed to the defendant, shall set forth the name of the court in which the action is commenced, and the name[s] of the parties, plaintiff and defendant, and shall require the defendant to appear in said court and answer the complaint, and contain a notice that unless the defendant appear and answer within the time prescribed by law, the plaintiff will apply to the court for the relief demanded in the complaint. It shall be signed by the clerk, and have the seal of the court affixed. It may be substantially in the following form:

Form of sum-
mons.IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR THE
COUNTY OF ———, ———, PLAINTIFF, VS. ———, DEFENDANT.

The State of Washington to ———, greeting: You are hereby required to appear in the superior court of the State of Washington for the county of ——— within twenty days after the day of service of this summons upon you, if served in said county of ———, or if served in any other county then within thirty days after the day of service, and answer the complaint of the above named plaintiff now on file in the office of the clerk of said court, a copy of which complaint is herewith delivered to you; and unless you so appear and answer, the plaintiff will apply to the court for the relief demanded in said complaint.

Witness my hand and the seal of said court this ——— day of ———, 18—.

[L. s.]

———, Clerk of said Court.

Service.

SEC. 3. The summons shall be served by delivering a copy thereof, certified by plaintiff's attorney or the sheriff, together with a copy of the complaint, certified by the plaintiff's attorney or the clerk of the court, as follows: 1. If the action be against any county in the state, to the county auditor; if against the state, to the governor. 2. If against any town or incorporated city in this state, to the mayor or president thereof. 3. If against a school district, to the clerk thereof. 4. If against a railroad corporation, to any station, freight, ticket, or other agent thereof within this state. 5. If against a corporation owning or operating sleeping cars or hotel cars, to any person having charge of any of its cars, or any agent found within the state. 6. If against any insurance company, to any agent authorized by such company or corporation to solicit insurance within the state. 7. If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state. 8. If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, secretary, cashier or managing agent thereof. 9. If the suit be against a foreign corporation or non-resident joint stock company or association, doing business within this state, to any agent, cashier or secretary thereof. 10. If against a minor under the age of fourteen years, to such minor personally,

and also to his father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed, if such there be. 11. If against any person for whom a guardian has been appointed for any cause, then to such guardian. 12. In all other cases, to the defendant personally, or, if he be not found, to some suitable person, a member of the family of such defendant, at the dwelling house or usual place of abode of such defendant.

SEC. 4. In all cases, except when service is made by publication as hereinafter provided, the summons shall be served by the sheriff of the county wherein the service is made, or by his deputy, or by a citizen of the State of Washington over twenty-one years of age who is competent to be a witness in the action, other than the plaintiff.

SEC. 5. In case service of summons cannot be made as provided in the last preceding section, by reason of the absence of the defendant, the summons may be served by publication thereof in a weekly newspaper printed and published in the county in which the court is held, and of general circulation in that county, or if there be no such newspaper printed and published in that county, then in a newspaper printed and published in the state and of general circulation in such county. The summons published shall set forth the name of the court in which the action is commenced, the names of the parties, plaintiff and defendant, a brief statement of the nature and object of the action, and a notice to the defendant that he is required to appear and answer the complaint within sixty days from the day of the first publication, which day shall be stated in the summons. Immediately after the first publication of the summons, the plaintiff shall cause a copy of the summons and complaint to be deposited in the postoffice, the postage thereon being prepaid, directed to the defendant at his place of residence, unless it shall appear that such place of residence is not known to the plaintiff and cannot by reasonable diligence be ascertained by him or his attorney; and before the hearing of the action the court or judge shall be satisfied by affidavit or other proof

that service could not be made as provided in the last preceding section because of the absence of the defendant, and that all the provisions of this section have been complied with.

SEC. 6. Whenever it shall appear by the return of the sheriff or his deputy, or the person appointed to serve a summons, that he has not served it upon the defendant, the plaintiff may have another summons issued, and so on till service be had, or the plaintiff may proceed by publication in the manner hereinbefore provided, at his election.

In case of two
or more de-
fendants.

SEC. 7. When the action is against two or more defendants upon a joint contract or liability and one or more of the defendants cannot be served, the plaintiff may proceed to judgment against the defendant or defendants served, and at any time thereafter while such judgment remains unsatisfied, the plaintiff or his attorney may have summons issued to the defendant or defendants not served, and upon service thereof upon such defendant or defendants, the same proceedings may be had as if he or they had been originally served. When the action is against defendants liable severally, or jointly and severally, the plaintiff may proceed against the defendants served in the same manner as if they were the only defendants.

Approved February 26, 1891.

CHAPTER LIX.

[S. B. No. 118.]

RELATING TO NEW TRIALS.

AN ACT relating to new trials, and amending section 282 of the Code of Washington of 1881, and repealing sections 279 and 280 of said Code of 1881.

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

Limit of time.

SECTION 1. The party intending to move for a new trial must, within two days after the verdict of the jury if the action was tried by a jury, or after notice of the decision

of the court or referee if the action was tried without a jury, file with the clerk and serve upon the adverse party a notice of his intention, designating the grounds upon which the motion will be made. If the motion is to be made upon affidavits, the moving party must, within two days after serving the notice, or such further time as the court in which the action is pending, or a judge thereof, may allow, file such affidavit with the clerk and serve a copy upon the adverse party, who shall have two days to file counter-affidavits, a copy of which must be served upon the moving party.

SEC. 2. Section 282 of the code of Washington of 1881 is amended to read as follows: If the motion be supported by affidavits and the cause be newly discovered evidence, the affidavits of any witness or witnesses, showing what their testimony will be, shall be produced or good reasons shown for their non-production.

SEC. 3. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

SEC. 4. Sections 279 and 280 of the said code of 1881 are repealed.

Approved February 26, 1891.

CHAPTER LX.

[S. B. No. 98.]

RELATING TO TRIALS BY JURY.

AN ACT relating to trial by jury, and amending sections 232, 234 and 244 of the Code of Washington of 1881.

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

SECTION 1. Section 232 of the code of Washington of 1881 is amended to read as follows: After the jury have retired for deliberation, if they desire to be informed of any point of law arising in the case, they may require the offi-

cer having them in charge to conduct them into court. Upon their being brought into court the information required shall be given in the presence of, or after notice to, the parties or their attorneys.

New trial.

SEC. 2. Section 234 of said code of 1881 is amended to read as follows: In all cases where a jury are discharged or prevented from giving a verdict, by reason of accident or other cause, during the progress of the trial or after the cause is submitted to them, the action shall thereafter be for trial anew.

Duty of jury.

SEC. 3. Section 244 of said code of 1881 is amended to read as follows: When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a set-off for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of the recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for the plaintiff on the pleadings.

SEC. 4. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 26, 1891.

CHAPTER LXI.

[S. B. No. 97.]

ARBITRATION AND AWARD.

AN ACT in relation to arbitration and award, and amending sections 266 and 269 of the Code of Washington of 1881.

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

Oath.

SECTION 1. Section two hundred and sixty-six of the code of Washington of 1881 is amended to read as follows: The said arbitrators shall be duly sworn to try and determine the cause referred to them, and a just award

make out, under the hands and seals of a majority of them, agreeably to the terms of the submission. Said award, together with the written agreement to submit, shall be Agreement. sealed up by the arbitrators and delivered to the party in whose favor it shall be made, who shall deliver the same, without breaking the seal, to the clerk of the superior court of the district including the county wherein said arbitration is held, who shall enter the same on record in his office. A copy of the award, signed by said arbitrators Copy of award. or a majority of them, shall also be delivered to the party in whose favor it is rendered, who shall, if the matter be not settled, serve a copy of the same on the adverse party, and if no exceptions be filed against the same within twenty days after such service, judgment shall be entered as upon the verdict of a jury, and execution may issue thereon, and the same proceedings upon said award with like effect as though said award were a verdict in a civil action.

SEC. 2. Section two hundred and sixty-nine of the code of Washington of 1881 is amended to read as follows: If, upon exceptions filed, it shall appear to the said superior Exceptions. court that the arbitrators have committed error in fact or law, the court may refer the cause back to said arbitrators, directing the amendment of said award forthwith, returnable to said court, and on the failure so to correct said proceedings the court shall be possessed of the case and proceed to its determination.

SEC. 3. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 26, 1891.

CHAPTER LXII.

[S. B. No. 104.]

PLEADINGS IN CIVIL ACTIONS.

AN ACT relating to pleadings in civil actions, and amending sections 76, 77 and 109 of the Code of Washington of 1881.

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

Complaint; re-
quirements of.

SECTION 1. Section 76 of the code of Washington of 1881 is amended to read as follows: The complaint shall contain—1. The title of cause, specifying the name of the court, the name of the county in which the action is brought and the name of the parties to the action, plaintiff and defendant. 2. A plain and concise statement of facts, constituting the cause of action, without unnecessary repetition. 3. A demand for the relief which plaintiff claims; if the recovery of money or damages be demanded, the amount thereof shall be stated.

Demurrer.

SEC. 2. Section 77 of said code of 1881 is amended to read as follows: The defendant may demur to the complaint when it shall appear upon the face thereof either—1. That the court has no jurisdiction of the person of the defendant or of the subject matter of the action. 2. That the plaintiff has no legal capacity to sue; or—3. That there is another action pending between the same parties for the same cause; or—4. That there is a defect of parties, plaintiff or defendant; or—5. That several causes of action have been improperly united. 6. That the complaint does not state facts sufficient to constitute a cause of action. 7. That the action has not been commenced within the time limited by law.

Amendment of
pleadings.

SEC. 3. Section 109 of said code of 1881 is amended to read as follows: The court may, in furtherance of justice, and on such terms as may be proper, amend any pleadings or proceedings by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect, and may upon like terms, enlarge the time for answer or demurrer. The court may likewise, upon affidavit showing good cause therefor, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceed-

ing in other particulars, and may, upon like terms, allow an answer to be made after the time limited by this code, and may, upon such terms as may be just, and upon payment of costs, relieve a party, or his legal representatives, from a judgment, order or other proceeding taken against him through his mistake, inadvertence, surprise or excusable neglect.

SEC. 4. The foregoing sections of this act shall be embodied in the code of procedure of this state, appropriately numbered, and shall be a part thereof.

Approved February 26, 1891.

CHAPTER LXIII.

[H. B. No. 51.]

COMPENSATION OF REPORTER OF SUPREME COURT.

AN ACT to amend section 6 of an act entitled "An act to prescribe the duties an[d] fix the compensation of the reporter of the supreme court," approved December 20, 1889, and declaring an emergency.

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

SECTION 1. Section 6 of an act entitled "An act to prescribe the duties an[d] fix the compensation of the reporter of the supreme court," approved December 20, 1889, be and the same is hereby amended to read as follows: Sec. 6. The annual salary of the reporter of the decisions of the supreme court shall be three thousand dollars (\$3,000): *Provided*, That out of said salary and compensation the reporter of the supreme court shall pay all expenses of his office, such as assistants, clerk hire, office rent, furniture, stationery and postage.

SEC. 2. Whereas, the reporter of the supreme court is in need of clerical help to assist in publishing the volume of reports now ready for the press, and further to assist in the work on the current decisions of the supreme court; an

emergency is declared to exist, and this act shall be in force from and after its passage.

Approved February 26, 1891.

CHAPTER LXIV.

[H. B. No. 30.]

MUNICIPAL COURTS.

AN ACT creating and establishing municipal courts in cities of the State of Washington having more than twenty thousand inhabitants, defining and prescribing their jurisdiction, regulating their practice and procedure and providing judges and clerks therefor, and declaring an emergency.

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

In cities of
more than 20,
000.

SECTION 1. There is hereby created in each incorporated city in this state having a population of more than twenty thousand (20,000) persons, as shown by the national or state census, a municipal court, which court shall be known and designated as "The Municipal Court of the city of _____," for which one judge shall be elected by the qualified electors of each of such cities, at the general state election in the year eighteen hundred and ninety-two (1892), and every four (4) years thereafter, and for which a clerk shall be elected or appointed in the manner hereinafter provided.

Jurisdiction.

SEC. 2. Said municipal court shall have original jurisdiction—1. Of any and all offenses under any ordinance of their respective cities. 2. Of all criminal offenses under the laws of the State of Washington, charged to have been committed within their respective cities, less than a felony. 3. The judges of said courts shall have all the powers of a committing magistrate as to all offenses committed within their respective cities. Wherever the jurisdiction hereby conferred may be exercised by other courts, under the constitution and laws of this state, the jurisdiction hereby conferred shall be deemed to be concurrent with such other courts.

SEC. 3. Said courts shall be courts of record, and shall ^{Record and seal.} have a seal with the name of the city and state, and the style of the court plainly engraved thereon; and all process from said court shall issue under the seal thereof, and shall run throughout the state. Said court shall have power to compel the attendance of witnesses, jurors and parties by the usual process of courts of record of this state, and within the jurisdiction hereby conferred, and for the purpose of exercising the same said courts and the judges thereof shall have all the powers of the superior courts and the superior judges.

SEC. 4. Except as otherwise provided by law, the practice and procedure of the municipal courts shall be, so far as applicable, the same as that of the superior courts of this state, and the fees of witnesses, as well as all other costs, shall be the same in amounts, save as herein provided, and taxed in the same manner as in superior courts. Change of venue may be taken from the municipal court to the proper justice court, within said state, for the same causes and in the same manner as change of venue may be taken from one superior court to another.

SEC. 5. Said courts shall always be open for the trans- ^{Terms.} action of business, except upon non-judicial days, but shall be considered as holding monthly terms commencing on the first Tuesday in each month.

SEC. 6. All criminal process issued from said court shall ^{Criminal process.} be directed to the chief of police, marshal or other principal police officer of the city, and shall be served by him or some police officer by him authorized.

SEC. 7. The judges of said courts shall have power to ^{Powers of.} prescribe such rules and regulations for the practice and procedure of said court as by them shall be deemed proper, not inconsistent with the laws of this state.

SEC. 8. The judge of said court, together with the city ^{Jurors.} clerk, shall, on the last Tuesday of each and every month, select and designate not more than twelve persons duly qualified as jurors of said court to serve therein during the next succeeding term, and until their successors are selected. They shall in writing certify and sign said list of jurors, and immediately file the same in the office of the

Venire.

clerk of said court. The clerk of the court shall thereupon immediately issue a venire directed to the chief of police, or other principal police officer of the city, requiring the attendance of said jurors in said court at 10 o'clock A. M. on the day of the commencement of the next succeeding term, which venire shall be served by the person to whom directed, or by some police officer by him authorized, not later than Saturday following. The clerk shall, before the commencement of the next term, write the names of the jurors so selected upon separate slips of paper and place the same in a box, and whenever a case is called for trial by a jury, he shall thereupon by lot draw from said box twelve names, and the names of the jurors so drawn shall be the jury for the trial of that particular case, unless some of them be excused upon challenge, peremptory or for cause, which shall be the same in number and for the same cause as in the superior court, and when any of them are so excused the clerk shall draw from the remaining names in the box a sufficient number to fill the place of those excused; and in the event that a jury cannot for any cause be filled and sworn from the whole number originally mentioned, then the panel may be filled from the by-standers or the judge may order the issuing of an open venire. If it appears to the court from any cause that a jury will not be needed at the beginning of any term, the court may, by order, dispense with the proceedings provided in this section.

Transfer of proceedings.

SEC. 9. Whenever, during the trial of any cause, it shall appear to the court that the matter in controversy is beyond the power of this court to try and determine, the court shall, by order, direct that the proceedings in the same, together with the original papers, be certified and transferred to the court having jurisdiction to try and determine the same.

SEC. 10. All process in criminal cases from said court shall be substantially the same in form as that of justice's courts. All prosecutions for the violation of any city ordinance shall be conducted in the name of the city, and may be upon the complaint of any person; and all prosecutions

for the violation of the criminal laws of the state may be instituted upon the complaint of any person.

SEC. 11. The judgments, orders or decisions of said courts may be reviewed and revised in the superior courts of the state to the same extent and in the same manner as judgments, orders or decisions of the justice courts, and the procedure governing appeals from the municipal courts to the superior courts shall be the same as that governing appeals from the justice courts to the superior court.

SEC. 12. The term of office of the municipal judges under Term of office. this act shall be four (4) years from and after the first Tuesday in January next succeeding their election, and until their respective successors shall have been duly elected and qualified. Judges of the municipal courts shall be duly qualified electors of the city in which elected, persons learned in the law and duly admitted to practice as an attorney in the courts of this state, and before entering upon the duties of their office shall take and subscribe an oath as prescribed for other judicial officers, which oath shall be filed in the office of the city clerk. They shall have the general powers of judges of courts of record, may administer oaths, take and certify acknowledgments, and as conservators of the peace shall have all the authority which is or may hereafter be vested in justices of the peace and other judicial officers. There shall be a clerk of the municipal court appointed by the mayor of the city, by and with the advice and consent of the council, or the council may by ordinance provide for the election of such clerk, who shall hold his office for such length of time as the council may by ordinance provide, and who shall be subject to removal in the same manner as other city officers. Before he enters upon the duties of his office he shall take and subscribe an oath the same as other city officers, and shall execute to his city a penal bond in such some [sum] and with such sureties as the council may direct, and subject to their approval, conditioned that he will faithfully account to and pay over to the treasurer of said city all moneys coming into his hands as such clerk; and that he will faithfully perform the duties of his office to the best of his knowledge and ability. Upon the recommendation of the judge of the municipal court the city council

may provide for the appointment of a deputy clerk of the municipal court, when they deem the same necessary, with such compensation as they may deem reasonable.

Clerk.

SEC. 13. The clerk shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to this office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all moneys received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor. The said clerk as well as the judge of said court is hereby made a conservator of the peace, and vested with the same authority and discretion to act on receiving complaints, and issuing warrants of said court in criminal cases.

Jurors; how paid.

SEC. 14. The jurors in the municipal court shall be paid by the city and county in proportion as follows: For the time occupied in trying cases in which the city is interested, they shall be paid by the city, and for the time occupied in the trial of criminal cases under the state law, they shall be paid by the county; and it shall be the duty of the judge of said court to apportion the same from time to time, and order the issuing of certificates of attendants [attendance] to the county auditor and the city clerk accordingly; and jurors shall be entitled to two dollars (\$2) per day, but no mileage.

Duty of mayor:

SEC. 15. It shall be the duty of the mayor of said city to see that a sufficient number of police officers are always in attendance upon the municipal court, and in readiness to obey its orders; and the mayor shall have the power, in his discretion, to appoint one [or] more persons, approved by the judge, to act as policemen for special attendance and duty in said court, irrespective of the general or special

rules or legal regulations or enactments relative to the qualifications of policemen, and pay said persons such compensation as the council may deem reasonable: *Provided, however,* That nothing herein contained shall affect the powers and duties of the general police of said city.

SEC. 16. No provision in this act shall be construed as repealing, or anywise limiting or affecting, the jurisdiction of justices of the peace under the general laws of this state.

SEC. 17. The municipal courts organized and created by this act shall take the place of and supersede the police courts now existing in any of the cities to which this act applies; and when this court shall have been organized, and be in operation, all actions and proceedings pending in any such police courts, and all records and papers of said police courts, shall be transferred to this court, and the same shall proceed to a final determination in this court, as if commenced therein; and said police courts shall then cease and determine.

SEC. 18. The salary of the judges of the municipal courts shall be twenty-four hundred dollars (\$2,400) per annum, payable out of the city treasury of their respective cities, in equal monthly installments, and the salary of the clerk of the municipal courts shall be twelve hundred dollars (\$1,200.00) per annum, payable out of the city treasury of their respective cities, in equal monthly installments, and all other officers of said courts shall receive such compensation as the city council may provide. The expense of maintaining said court shall be paid by the city, and the city shall provide a suitable place for holding the same, and no officer of said court shall receive any fees as compensation for any services as such officer, but all fees charged and collected, which would be payable into the county treasury in the superior court, shall be paid into the city treasury of their respective cities, save jury fees in state cases, which shall be paid into the county treasury, and all officers of the court shall be paid for their services as such by salary only.

SEC. 19. Vacancies in the office of judge of the municipal courts shall be filled by appointment by the governor

Sig. 8.

Salary of judge.

Salary of clerk.

Vacancies; how filled.

of the state, and any judge so appointed shall hold and remain in office until the election and qualification of a municipal judge, as in this act provided, which election shall be at the next succeeding general state election after said appointment, and the judge so elected shall qualify and enter upon the duties of his office upon the first Tuesday in January succeeding his election, as in this act provided. Immediately upon the taking effect of this act the governor of the State of Washington shall appoint and commission a judge of the municipal court in each city of this state having more than twenty thousand (20,000) inhabitants, who shall qualify and enter upon the discharge of their duties within ten days (10) after the date of such appointment, and the judges so appointed shall be the judges of the municipal courts in their respective cities until the qualification of the municipal judges to be elected at the general state election in the year eighteen hundred and ninety-two (1892), as herein provided: *Provided, however,* Where in any city to which this act applies a person has been elected, and by virtue of such election has been and is now acting, as police judge of such city, such person shall be and continue to be judge of the municipal court in and for such city, until his successor shall be elected and qualified as herein provided, and within ten days (10) after the taking effect of this act such person shall qualify as municipal judge and enter upon the duties of his office. It shall be the duty of the mayor, by and with the consent of the city council, to appoint a clerk of the municipal court in each of said cities, as in this act provided, immediately upon the going into effect of this act.

Duty of mayor.

Temporary absence or disability.

SEC. 20. In case of the temporary absence or disability to act of the municipal judge, the municipal court may be held by an acting municipal judge, who shall be designated in writing by the mayor from among the practicing attorneys, qualified electors of the city, who, before entering upon his duties as acting judge, shall take and subscribe an oath as other judicial officers; and while so acting he shall have all the powers of the municipal judge: *Provided, however,* Such appointment shall not continue for a longer period than the absence or disability of the municipal judge.

SEC. 21. Whereas, the police courts now in existence under the special charters of the cities of the first class in this state are inadequate to the present wants and necessities of such cities an emergency is hereby declared to exist. This act shall therefore take effect and be in force from and after its passage and approval.

Approved February 28, 1891.

CHAPTER LXV.

[S. B. No. 123.]

RELIEF OF L. P. BERRY.

AN ACT for the relief of L. P. Berry, agent.

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

SECTION 1. That there be and hereby is appropriated the sum of three hundred and twelve dollars (\$312.00) for the relief of L. P. Berry, to cover expenses incurred while serving requisition papers by the governor of the Territory of Washington on an escaped criminal in the State of Indiana.

SEC. 2. The state auditor is hereby directed to draw a warrant upon the state treasurer, in favor of L. P. Berry, for the sum of three hundred and twelve dollars, payable out of any money in the treasury not otherwise appropriated.

Approved February 27, 1891.

CHAPTER LXVI.

[H. B. No. 77.]

RELIEF OF COUNTY COMMISSIONERS SELECTING AND APPRAISING SCHOOL LANDS.

AN ACT making appropriation for the per diem and expenses of boards of county commissioners in selecting and appraising school lands.

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 state treasury not otherwise appropriated the sum of thirty-five thousand dollars (\$35,000), or so much thereof as may be necessary, to defray the per diem and expenses of boards of county commissioners of this state in selecting and appraising school lands, and other expenses connected therewith, in accordance with the provisions of section 18 of an act entitled "An act to provide for the sale and leasing of school lands, and declaring an emergency," approved March 28, 1890.

Approved February 28, 1891.

CHAPTER LXVII.

[H. B. No. 118.]

RELATING TO COUNTY COMMISSIONERS.

AN ACT providing for the election and terms of office of county commissioners.

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

SECTION 1. That the county commissioners to be elected at the next general election after the taking effect of this act, in each of the organized counties of this state, shall be elected for the following terms of office, to wit:

Terms of office. SEC. 2. The commissioner elected from districts No. 1 shall serve four years, and the commissioners elected from districts Nos. 2 and 3 shall serve two years each.

SEC. 3. At the next general election thereafter there shall

be a commissioner elected from the districts, No. 2 to serve four years, and a commissioner elected from districts No. 3 to serve two years.

SEC. 4. At the next general election thereafter there shall be a commissioner elected from the districts, No. 3 to serve four years, and a commissioner elected from districts No. 1 to serve two years.

SEC. 5. The terms of office of county commissioners thereafter elected shall be in accordance with the above provisions. The commissioner elected to serve the long term to be elected successively from the three districts in each county in their numerical order, commencing with district No. 1.

SEC. 6. One county commissioner shall be elected from among the qualified electors of each of said districts by the qualified electors of the county, and the person receiving the highest number of votes for the office of commissioner for the district in which he resides shall be declared duly elected from that district. Election by districts.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 28, 1891.

CHAPTER LXVIII.

[H. B. No. 172.]

PROVIDING ADDITIONAL JUDGES OF THE SUPERIOR COURT.

AN ACT providing for judges and additional judges for the superior court in various counties in the State of Washington, and declaring an emergency.

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

SECTION 1. There shall be in each of the counties of Thurston, Clallam and Klickitat one superior judge.

SEC. 2. There shall be in the county of Spokane one additional superior judge.

SEC. 3. There shall be in the counties of Lewis, Pacific and Wahkiakum, jointly, one superior judge; in the counties of Skagit and Island, jointly, one superior judge; and in the counties of Kitsap and Snohomish, jointly, one superior judge.

SEC. 4. The judge heretofore elected to preside over the superior courts for the counties of Kittitas, Yakima and Klickitat shall be and remain, during his term of office, the judge of the superior court for the counties of Kittitas and Yakima; the judge heretofore elected to preside over the superior courts for the counties of Clark, Skamania, Pacific, Cowlitz and Wahkiakum shall be and remain, during his term of office, the superior judge for the counties of Clark, Skamania and Cowlitz; the judge heretofore elected to preside over the superior courts for the counties of Thurston, Chehalis, Mason and Lewis shall be and remain, during his term of office, the superior judge for the counties of Chehalis and Mason; the judge heretofore elected to preside over the superior courts for the counties of Jefferson, Island, Kitsap, San Juan and Clallam shall be and remain, during his term of office, the superior judge for the county of Jefferson; and the judge heretofore elected to preside over the superior courts for the counties of Whatcom, Skagit and Snohomish shall be and remain, during his term of office, the judge of the superior court for the counties of Whatcom and San Juan.

SEC. 5. The governor of the State of Washington shall, when this act takes effect, appoint persons learned in the law to hold the offices established in the first three sections of this act, who shall hold their offices until the next general election, and until their successors shall have been elected and qualified.

SEC. 6. Whereas, a present necessity exists for the judges and additional judges provided for in this act, in order to speedily dispatch the business of the superior courts in this state; an emergency is declared to exist, and this act shall therefore take effect and be in force from and after its passage and approval by the governor.

Approved March 2, 1891.

CHAPTER LXIX.

[S. B. No. 119.]

CRIMES AND PUNISHMENTS.

AN ACT defining certain crimes and declaring their punishment, and amending the Code of 1881 and certain other statutes in relation to the same subject.

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

SECTION 1. That section seven hundred and eighty-six of the code of Washington of 1881 be amended so as to read as follows: Every person who shall purposely, and of deliberate and premeditated malice, or in the perpetration, or attempt to perpetrate, any rape, arson, robbery or burglary, or by administering poison, or causing the same to be done, kill another, shall be deemed guilty of murder in the first degree, and upon conviction thereof shall suffer death, but this shall in no case prevent the exercise of the pardoning power of the governor or the authority to commute the punishment from that of death to imprisonment for life. Murder.

SEC. 2. Section seven hundred [and] ninety-three of the code of Washington of 1881 is amended to read as follows: Every person who shall unlawfully kill any human being without malice express or implied, either voluntarily upon a sudden heat, or involuntarily, but in the commission of some unlawful act, shall be deemed guilty of manslaughter. Manslaughter.

SEC. 3. Sections 1230 and 1231 of the code of Washington of 1881 are consolidated into one section and amended to read in one section as follows: A libel is the defamation of a person made public by any words, printing, writing, sign, picture, representation or effigy tending to provoke him to wrath, or expose him to public hatred, contempt or ridicule, or to deprive him of the benefits of public confidence and social intercourse; or any defamation, made public as aforesaid, designed to blacken and vilify the memory of one who is dead, and tending to scandalize or provoke his surviving relatives or friends. Every person who makes, composes or dictates a libel, or procures the same to be done, or who publishes or willfully Libel.

Punishment.

circulates such libel, or in any way knowingly and willfully aids or assists in making, publishing or circulating the same, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Malicious injury to railroad tracks.

SEC. 4. Section 789 of the code of Washington of 1881 is amended to read as follows: Any person who shall willfully and maliciously displace any switch or rail, or disturb, injure or destroy any part of a track or bridge of any railroad, or place any obstruction thereon, with intent that any person or property passing over said railroad shall thereby be injured, and thereby endangering and not destroying human life, or thereby causing injury or destruction of property, upon conviction thereof shall be punished by imprisonment in the penitentiary for a term of not less than one nor more than ten years, and shall be kept at hard labor.

Arson.

SEC. 5. Section 826 of the code of Washington of 1881 is amended to read as follows: A married woman who shall commit the crime of arson may be convicted thereof, and punished therefor, though the property set fire to may belong partly or wholly to her husband.

Larceny.

Penalty.

SEC. 6. Section 835 of the code of Washington of 1881 is amended to read as follows: If any agent, clerk, officer, servant or person to whom any money or other property shall be intrusted, with or without hire, shall fraudulently convert to his own use, or shall take and secrete the same with intent fraudulently to convert the same to his own use, or shall fail to account to the person so intrusting it to him, he shall be deemed guilty of larceny, and on conviction thereof shall be imprisoned in the penitentiary not more than ten years or less than one year, or be imprisoned in the county jail for any length of time not exceeding one year.

Altering or defacing receipts.

SEC. 7. Section 836 of the code of Washington of 1881 is amended to read as follows: If any warehouseman, miller, storage, forwarding or commission merchant, or his or their servants, agents or clerks, shall willfully and fraudulently make or alter any receipt or other written evidence of the delivery into the warehouse, mill, store or

other building belonging to him, them, or either of them, or his or their employers, of any grain, flour, pork, beef or wool, or other goods, wares or merchandise which shall not have been so received or delivered into such mill, warehouse, store or other building previous to the making and altering such receipt or other written evidence thereof, he shall, upon conviction thereof, be imprisoned in the Penalty. penitentiary not more than two years nor less than six months, or imprisoned in the county jail for any length of time not exceeding one year, and fined in any sum not exceeding one thousand dollars.

SEC. 8. That it shall be unlawful for any person or persons to take up saw logs, hewn or other timber of value found adrift on any bay, harbor or river in the county of Snohomish, Whatcom, Skagit or Island, in this state, that it shall be marked with any mark or brand, without permission of the owner or agent thereof: *Provided*, The person claiming such mark or brand shall have had a copy thereof recorded in the county wherein he resides. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be fined Penalty. in any sum not exceeding three hundred dollars, and stand committed until paid.

SEC. 9. Section 856 of the code of Washington of 1881 is amended to read: In any case where the intent to defraud is necessary to constitute the offense of forgery, or any other offense that may be prosecuted, it shall be sufficient to allege in the indictment or information an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment it shall be deemed sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States, or any state, territory, county, city, town or village, or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person; and persons of skill shall be competent witnesses to prove a forgery. Forgery. Fraud.

SEC. 10. Section 1204 of the code of Washington of 1881 is amended to read as follows: Any owner or other legal occupant of any inclosed premises used for meadow, pas-

Trespass.

ture, cultivation or other use may post at the usual place or places of entering upon the same written or printed notices, forbidding persons to trespass upon said inclosed premises for the purpose of hunting or pursuing game without first obtaining the consent of the owner or legal occupant thereof. Any person entering said lands for said purposes while said notices are so posted shall be deemed guilty of a misdemeanor, and for every such offense shall be punished by a fine of ten dollars, one-half of which shall be paid to the owner or legal occupant of such premises, and the other half into the school fund in the county in which the act of trespass is committed. For the carrying out of the provisions of this section the owner or legal occupant of the premises may arrest the trespasser upon his premises, taken in the act, without a warrant, and take him before the nearest justice of the peace for trial, or may have a warrant issued as in other cases of misdemeanor; and any natural barrier, as a river, lake or other obstruction to the passage of stock shall, for the purposes of this act, constitute an inclosure.

Destruction of timber.

SEC. 11. Every person who shall cut down, girdle, destroy, or injure any tree, timber or shrub on the street or highway in front of any person's house, village, town or city lot, or on the commons or public grounds of any village, town or city, or on the street or highway in front thereof, without lawful authority, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail not more than twenty days, or by both such fine and imprisonment.

Penalty.

SEC. 12. Section 848 of the code of Washington of 1881 is amended to read as follows: Any person or persons who shall purposely and maliciously break down, destroy or injure any fence, gate, sign-board, mile-post, car or other useful structure upon the line of any railroad, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding two hundred dollars, or be imprisoned in the county jail not exceeding one year, or by both fine and imprisonment.

SEC. 13. Section 1225 of the code of Washington of 1881 is amended to read as follows: If any person shall

maliciously, with intent to injure any other person, by himself or any other person, kindle a fire on his own land, or the land of another person, and by means of such fire the buildings, fences, crops or other personal property or wooded timber lands of any other person shall be destroyed or injured, he shall, on conviction, be punished by a fine not less than twenty dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than three months nor more than twelve months, according to the aggravation of the offense.

Malicious kindling of fires.

Penalty.

SEC. 14. Section 1224 of the code of Washington of 1881 is amended to read as follows: If any person shall, without malice, kindle a fire in any field, pasture, inclosure, forest, prairie or timber land, not his own, without the consent of the owner, and the same shall spread and do damage to any buildings, fences, crops, cordwood, bark or other personal property, not his own, or to any wood or timber land, not his own, he shall, on conviction, be punished by a fine of not less than ten nor more than five hundred dollars, and costs, according to the aggravation of the offense, and shall stand committed till the fine and costs are paid.

Damage by fire.

Penalty.

SEC. 15. Section 1227 of the code of Washington of 1881 is amended to read as follows: Any person who shall enter upon the lands of another person for the purposes of hunting or fishing, and shall, by the use of fire-arms or other means, kindle any fire thereon, shall be punished by a fine not less than ten nor more than five hundred dollars, if such fire be kindled without malice, and if such fire be kindled maliciously and with intent to injure any other person, such offender shall be punished by a fine not less than twenty nor more than one thousand dollars, or by imprisonment in the county jail not less than three months nor more than twelve months.

SEC. 16. It shall be unlawful to cut or damage, break or destroy, any dyke or dam erected or maintained in this state for the protection of lands from overflow; and any person or persons so offending, upon conviction thereof, shall be fined any sum not exceeding three hundred dollars for each and every offense, which fine shall be paid over to

the school fund of the county wherein the offense is committed. The person or persons so offending shall not, by the provisions of this section nor by any judgment under this section, be exempted from any suit for damages brought by any person or persons injured by the cutting, breaking, damaging or destroying of such dyke or dam.

Destruction of buildings or fences.

SEC. 17. Any person or persons who shall willfully and maliciously disturb, or in any wise injure or destroy, the dwelling house or other building or any fence inclosing or being on the claim of any settler upon the unsurveyed public lands in this state, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than one hundred dollars for each and every offense, to which may be added imprisonment in the county jail not exceeding ninety days.

Disposing of intoxicants on election day.

SEC. 18. Sections 907 and 908 of the code of Washington are consolidated into one section and amended to read as one section as follows: Any person who shall barter, sell, give away, or in any manner dispose of any intoxicating liquors on the day of any general or special election of state, county or municipal officers within the state, district, county or corporation in which said election is held, and before the polls have closed, shall upon conviction thereof 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 ten nor more than thirty days, or both, in the discretion of the court.

Penalty.

Allowing minors to play at cards without written permission of parents.

SEC. 19. Section 941 of the code of Washington of 1881 is amended to read as follows: If any person shall allow any minor to play at cards in his house, without the written permission of the parent or guardian, he shall be liable to the same penalties as for furnishing to such minor spirituous liquors.

Renting room or building for a gaming house.

SEC. 20. Section 915 of the code of Washington of 1881 is amended to read as follows: Every person who shall let or rent any room or building for a gaming house or house of ill-fame, or for rent or hire shall permit to be dealt or carried on upon his premises any game prohibited by the last preceding section, shall be deemed guilty of a

misdemeanor, and upon conviction thereof shall be fined ^{Penalty.} in any sum not exceeding one hundred dollars.

SEC. 21. Section 1254 of the code of Washington of 1881 is amended to read as follows: All notes, bills, ^{Evidences of money invalid if won at gaming.} bonds, mortgages or other securities, or other conveyances, the consideration for which shall be money, or other things of value, won by playing at any unlawful game, shall be void and of no effect as between the parties to the same and all other persons, except holders in good faith without notice of the illegality of such contract or conveyance.

SEC. 22. Section 914 of the code of Washington of 1881 is amended to read as follows: Every white man, ^{Gaming.} negro, half-breed Indian, Kanaka or Chinaman who shall play at any game of cards or any game of chance with any Indian for fun, pleasure, luck, money or anything of value whatever, or for anything whatever, and every white man, negro, half-breed Indian, Kanaka or Chinaman who shall run horses, on a wager of any kind or for pastime, with an Indian, shall be subject, on conviction thereof, for each and every offense, to a fine of not less than fifty dol- ^{Penalty.} lars and not exceeding five hundred dollars, or to imprisonment not exceeding six months, or to both such fine and imprisonment; and it is hereby made the duty of any ^{Duty of officers.} prosecuting attorney having knowledge of the violation of this section to prosecute the offender, and of every sheriff or constable having such knowledge to report the same to a justice of the peace in the county in which such offense was committed, or to the prosecuting attorney or grand jury for such county.

SEC. 23. Section 880 of the code of Washington of 1881 is amended to read as follows: Every person who shall bribe or attempt to bribe, or offer any present, bribe or reward to any judge, justice of the peace, juror, commissioner, referee, auditor, arbitrator or person summoned as a juror, or to any executive, judicial or ministerial officer, or member of the legislature, for the purpose of influencing him in the exercise of any of the powers in him vested, or the performance of any duty of him required, shall on conviction thereof be imprisoned in the county ^{Bribery of officers.} jail any length of time not exceeding one year, and fined ^{Penalty.}

in any sum not exceeding two thousand dollars, or fined only.

Pernicious literature.

SEC. 24. If any person shall import, print, publish, sell, lend, give away, distribute, or show, or have in his possession with intent to sell, or give away, or to show or advertise, or otherwise offer for loan, gift, sale, or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing paper, picture, engraving, drawing or photograph, or if any person shall design, copy, draw, photograph, print, utter, publish, or otherwise prepare any of the articles mentioned in this section, or shall write or print, or cause to be written or printed, a notice of any kind, giving information, or shall give information stating when, where and how, or of whom, or by what means, any of the articles mentioned in this section could be purchased or obtained, or if any person sells, lends, gives away, or shows, or has in his possession with intent to sell or give away, or to show, or advertise, or otherwise offers for loan, gift, sale, or distribution, to any minor child, any book, pamphlet, magazine, newspaper, or other printed paper, devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime or if any person exhibits upon any street or highway, or in any other place within the view or which may be within the view of any minor child, any book, magazine, pamphlet, newspaper, writing paper, picture, engraving, drawing, photograph or other article coming within the description of the articles mentioned in this section, or any of them, or if any person, in any manner hires, uses or employs any minor child to sell or give away, or in any manner to distribute, or who, having the care, custody, or control of any minor child, permits such child to sell, give away, or in any other manner to distribute, any book, magazine, pamphlet, newspaper, story paper, writing paper, picture, engraving, drawing, photograph or other article or thing coming within the description of articles and matter mentioned in this section, or any of them, upon conviction thereof shall be punished by imprisonment in the penitentiary not exceeding three years, or by a fine not

Penalty.

exceeding two thousand dollars: *Provided, however,* That if such obscene or indecent matter is circulated in any school or institution of learning, or in any charitable or reformatory institution, or in any jail or penitentiary, supported in whole or in part by public money, or moneys raised by taxation, then the minimum of imprisonment shall not be less than thirty days, and in all such cases imprisonment shall follow conviction.

SEC. 25. Section 1266 of the code of Washington of 1881 is amended to read as follows: Any person who shall keep open any play house or theatre, race ground, cockpit, or play at any game of chance for gain, or engage in any noisy amusements, or keep open any drinking or billiard saloon, or sell or dispose of any intoxicating liquors as a beverage, on the first day of the week, commonly called Sunday, shall upon conviction thereof be punished by a fine not less than thirty dollars nor more than two hundred and fifty dollars. All fines collected for violation of this section shall be paid into the common school fund.

Gaming or disposing of intoxicants on Sunday.

Penalty.

SEC. 26. Sections 2067 and 2068 of the code of Washington of 1881 are consolidated into one section and amended to read as one section as follows: It shall be unlawful for any person or persons of this state to open on Sunday for the purpose of trade or sale of goods, wares and merchandise, any shop, store or building, or place of business whatever: *Provided,* That this section shall apply to hotels only in so far as the sale of intoxicating liquors is concerned, and shall not apply to drug stores, livery stables or undertakers. Any person or persons violating this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars.

Trade on Sunday.

Exceptions.

Penalty.

SEC. 27. Sections 2069 and 2070 of the code of Washington of 1881 are consolidated into one section [and] amended to read as one section as follows: It shall be the duty of any and all public officers of this state knowing of any violation of this chapter, to make complaint under oath to the nearest justice of the peace of the county in which the offense was committed. Any public officer who shall refuse or willfully neglect to inform against and

Duty of public officers.

prosecute offenders against the last preceding section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and the court before which such officer shall be tried shall declare the office or appointment held by such officer vacant for the remainder of his term.

Obstructing public highways.

SEC. 28. Any person or persons who shall, by driving stock along or near public highways, cause such highway to be obstructed with stones, earth or other debris, and shall permit such obstruction to remain for more than twenty-four hours, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding two hundred dollars.

Penalty.

Malicious injury to public highways, canals or telegraph posts or wires.

SEC. 29. If any person shall willfully break down, injure or remove or destroy any free or toll bridge, railway, plank road, macadamized road, or any gate upon any such road, or any lock or embankment of any canal, or any telegraph post or wire, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than two years, or by fine not less than fifty nor more than one thousand dollars.

Penalty.

Discharging ballast in navigable water less than twenty fathoms deep.

SEC. 30. Section 918 of the code of Washington of 1881 is amended to read as follows: Every master or mate, or other officer or other person, belonging to or in charge of any vessel, who shall discharge or cause to be discharged the ballast of such vessels into the navigable portions or channels of any of the inlets, bays, harbors or rivers within or bordering on this state, where the water is less than twenty fathoms deep, shall on conviction thereof be fined in any sum not less than seventy-five dollars nor more than five hundred dollars: *Provided*, That nothing in this section shall be so construed as to prevent any such person from discharging ballast from such vessel on the beach at or above ordinary high tide in all waters where the tide ebbs and flows, and that no ballast shall be discharged on any of the flats included within the boundary of any city or town site or extension thereof.

Penalty.

SEC. 31. Section 845 of the code of Washington of 1881 is amended to read as follows: Any person who shall will-

fully or maliciously cut, carve, otherwise deface or injure any guide board, bridge, building, column, monument or structure, grounds or trees, belonging to the public or any incorporated charitable, religious or scientific institution, shall on conviction thereof be fined in any sum not greater than five hundred nor less than ten dollars.

Malicious defacing of guide boards, buildings, etc.

Penalty.

SEC. 32. Any malicious, willful, reckless or voluntary injury to or mutilation of the grounds, buildings or other property of the United States within this state shall subject the offender or offenders to a fine not greater than five hundred dollars nor less than twenty dollars, to which may be added, for an aggravated offense, imprisonment not exceeding six months in the county jail or workhouse, to be prosecuted before any court of competent jurisdiction.

Injury to U. S. property.

Penalty.

SEC. 33. Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, is guilty of a misdemeanor. A false weight or measure is one which does not conform to the standard established by the laws of the United States.

False weights and measures.

SEC. 34. No person or persons shall sell, supply, or offer for sale or exchange any oleaginous substance, or any compound of the same, purporting to be butter or cheese, or having the semblance of butter or cheese, other than that produced from wholesome and unadulterated milk, or cream of the same, unless the said oleaginous substance, and the package containing the same, shall be marked so as to plainly indicate its true character and distinguish it from pure and genuine dairy products; and in any public dining or eating room where imitation dairy product or products are commonly or knowingly used as an article of food, the bill of fare used in such dining or eating room shall state the fact in the same sized type as is used in printing the body of said bill of fare; or if no bill of fare is used, then, in a conspicuous place of said dining or eating room, easily seen by any one entering said room, shall be posted a notice stating the name or names of such imitation dairy products: *Provided*, That the addition of harmless coloring matter to any product manufactured from pure, unadulterated milk, or the cream thereof, shall come within the provisions of this act: *Provided further*,

Imitation of butter or cheese.

Impure milk. That milk drawn from cows within fifteen days before and five days after parturition shall be construed to be unclean, impure and unwholesome. Any person violating any 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, or by not less than one month nor more than three months' imprisonment in the county jail, or by both such fine and imprisonment.

Willfully misrepresenting pedigree of breeding animals.

SEC. 35. Any person who is the owner, agent or keeper, or in any way interested in the ownership or the keeping of any stallion, bull, ram or boar, that may be kept for the use of the general public for pay, and who shall knowingly and willfully misrepresent the pedigree or blood of any such stallion, bull, ram or boar, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, and shall be liable for all damages that may be sustained by reason of such misrepresentation.

Penalty.

Fraudulent banking or corporation sign.

SEC. 36. Any person or persons now or hereafter engaged in the business of banking who shall put up or cause to be put up, or exhibit, any sign or advertisement, purporting thereby to be an incorporated bank, or shall do business under a corporate name, when they are not such, shall on conviction thereof be adjudged guilty of a misdemeanor, and punished by a fine not exceeding two hundred dollars.

Penalty.

Fire-hunting for game.

SEC. 37. Sections 1288 and 1289 of the code of Washington of 1881 are consolidated into one section, amended to read as one section as follows: Every person who shall fire-hunt for deer, moose or elk, except within the bounds of his own inclosure, or by the permission of the owner of any other inclosure, shall upon conviction thereof be fined twenty dollars for each and every offense, one-half of said fine to go to the informer and the other half into the common school fund of the county where such act is done.

Penalty.

Unlawful killing of game.

SEC. 38. Section 1 of an act entitled "An act for the protection of fish and game," approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, between the first day of

January and the fifteenth day of August, pursue, hunt, take, kill or destroy any elk, moose, deer, fawn, mountain sheep or mountain goat, shall be deemed guilty of a misdemeanor. Every person who shall take, kill or destroy any elk, moose, deer, fawn, mountain sheep or goat, at any time, unless the carcass of such animal is used or preserved for food by the person slaying it, shall be deemed guilty of a misdemeanor. Every person who shall, between the first day of January and the fifteenth day of August, sell or offer for sale any hides or horns of any elk, moose, deer, fawn, mountain sheep or goat, shall be deemed guilty of a misdemeanor.

SEC. 39. Section 2 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, chase, pursue, drive or hunt any elk or moose with dog or dogs, at any time except during the months of October, November and December, shall be guilty of a misdemeanor.

Hunting game
with dogs.—
Close season.

SEC. 40. Section 6 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, at any time, trap, net or ensnare, or attempt to trap, net or ensnare, any quail, prairie chicken, grouse or pheasant, except for the purposes of propagation, shall be deemed guilty of a misdemeanor.

Trapping game
birds.

SEC. 41. Section 7 of said act approved February 2, 1888, is amended to read as follows: Every person who shall within the State of Washington, remove or destroy any egg or eggs from the nest of any mallard duck, widgeon, wood duck, teal, butter-ball, spoon bill, gray duck, black duck, sprig-tail, blue-bill, red-head or canvas-back duck, or prairie chicken, blue or dusky grouse, mountain grouse, ruffed grouse, or pheasant, sage-hen, quail or partridge, or willfully molest or destroy the nest of any such fowls or birds, shall be guilty of a misdemeanor.

Destroying
eggs of wild
water fowls
and other wild
birds.

SEC. 42. Section 8 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, at any time during the months of November, December, January, February and March, take, catch, kill or have in their possession any brook trout, mountain trout, bull trout or salmon trout,

Unlawful tak-
ing of fish.

shall be guilty of a misdemeanor. Every person who shall take, catch, kill or have in their possession any of the food fishes implanted in the creeks, rivers, lakes or bogs of the State of Washington, except for propagating the same, for a period of three years after the same shall have been implanted, shall be guilty of a misdemeanor.

Possession
prima facie
evidence.

SEC. 43. Section 10 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, have in his possession any of the animals, fowls, birds or fish mentioned in section one, two, three, four, five or eight of the act hereby amended, at any time when by any of said sections it is made unlawful to take or kill the same, shall be guilty of a misdemeanor; and proof of the possession by any person of any of the aforesaid animals, fowls, birds or fish when it is unlawful to take or kill the same, shall be *prima facie* evidence that the animals, fowls, birds or fish were unlawfully taken or killed by the person having possession of the same, within the county wherein the same may be found: *Provided*, That nothing in this chapter shall prohibit any person from taming or keeping for the purpose of propagation or curiosity any of the animals, fowls or birds mentioned therein.

Killing game
birds at night.

SEC. 44. Section 11 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, take, kill, shoot at or injure or destroy any mallard duck, widgeon, teal, butterball, spoon-bill, wood-duck, gray duck, black duck, blue-bill, read-head, sprig-tail or canvass-back duck, at any season of the year, between the hours of eight o'clock P. M. and five o'clock A. M., shall be guilty of a misdemeanor.

Use of blinds or
other devices
prohibited.

SEC. 45. Section 13 of said act approved February 2, 1888, is amended to read as follows: Every person who shall, within the State of Washington, use any sink-box, floating blind, rafts, sneak-boat, punt or any other device for approaching any of the water fowl mentioned in this chapter, while the same are resting on the waters of this state, shall be guilty of a misdemeanor: *Provided*, That nothing in this chapter shall be construed to prevent the shooting of any of the water fowl mentioned therein from

shore blinds, or over decoys, with any gun which is fired from the shoulder of the shooter.

SEC. 46. All acts and parts of acts in force at the time of the passage of this act relating to the same subject are continued in force so far as not repugnant to the provisions of this act, and the provisions of this act, so far as they are the same as those of acts and parts of acts upon the same subject in force at the time of the passage hereof, are to be construed as continuations of such provisions. All persons guilty of violations of any act heretofore in force, relating to the same subject as this act, may be prosecuted and convicted of such violations as if this act had not been passed.

Approved March 2, 1891.

CHAPTER LXX.

[H. B. No. 93.]

DISPOSING OF MONEY IN CERTAIN CASES.

AN ACT to provide for the disposal of money in certain cases, and declaring an emergency.

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

SECTION 1. That whenever any money may be or come into the possession of any public officer, as such, to which, as such, said officer has no right, or to which he shall cease as such officer to have any right, and no other person has or appears to have any right or claim thereto, and no provision is made by law for the disposal of such money, otherwise than as provided by this act, such public officer shall pay such money to the state treasurer and take his receipt therefor, and such receipt shall fully protect such officer so paying the same in any suit or action in relation thereto.

SEC. 2. That the state treasurer shall add all money received by virtue of the provisions of this act to the permanent school fund, and the same shall be and constitute a part of such fund.

Permanent
school fund.

SEC. 3. Whereas, there is now five hundred dollars (\$500.00) in the hands of certain officers, for the disposal of which no provision is made by law, therefore an emergency exists, and this act shall take effect and be in force upon its passage and approval.

Approved March 3, 1891.

CHAPTER LXXI.

[H. B. No. 190.]

PROTECTION OF FOOD FISHES.

AN ACT to amend sections one, seven and twelve of an act entitled "An act to protect salmon and other food fishes in the State of Washington, and upon all waters upon which this state has jurisdiction and concurrent jurisdiction," approved February 11, 1890, and declaring an emergency to exist.

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

SECTION 1. Section one of "An act to protect salmon and other food fishes in the State of Washington, and upon all waters upon which this state has jurisdiction and concurrent jurisdiction" is amended to read as follows: Sec.

Salmon in the
Columbia river.

1. It shall not be lawful to take or fish for salmon in the Columbia river or its tributaries, by any means whatever, in any year hereafter, between the first day of March and the tenth day of April, or between the tenth day of August

Rivers and bays
of the state.

and the tenth day of September, or in any of the rivers and bays of the state, or the Columbia river, during the weekly close time, that is to say, between the hours of six o'clock P. M. on each and every Saturday and six o'clock in the afternoon of the following Sunday; and any such person or persons fishing for or catching salmon in violation of this section, or catching salmon by leaving or having any fishing gear in the water in a condition to take fish, or purchasing salmon so unlawfully caught, or having in his or their possession any such salmon, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in

a sum not less than fifty dollars nor more than two hundred and fifty dollars; and it shall be unlawful for any person or persons to receive or have in his possession, or to offer for sale or transportation, or to transport, during the close season in the spring, namely from March first to April tenth and from August tenth to September tenth, any of the following varieties or kinds of fresh fish: Chinook salmon, silver salmon, steel-head or blue-black, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and be fined in a sum not less than sixty dollars nor more than two hundred and fifty dollars.

SEC. 2. Section seven of said [of said] act shall be amended to read as follows: Sec. 7. It shall not be lawful to cast or pass, or allow to be cast or passed, into any waters of this state into which salmon or trout are wont to be, any lime, gas, coculus indicus or any other substance deleterious to fish, or to explode, or cause to be exploded, any powder, hercules powder, dynamite, nitro glycerine or any other explosive substance, for the purpose of catching, killing or destroying salmon or other food fish, and any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum not less than fifty dollars nor more than two hundred and fifty dollars.

SEC. 3. Section 12 of said act shall be amended to read as follows: Sec. 12. Any person or persons owning, operating or using any pound net or trap shall cause to be painted in a conspicuous place on said pound net or trap, while the same is in use, a number designated by the fish commissioner of this state, said number consisting of a black figure or figures not less than six inches in height painted on a white ground; and shall also conspicuously show at night time, between sunset and sunrise, a bright white light; and any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding two hundred and fifty dollars.

SEC. 4. All acts or parts of acts in conflict with this act are hereby repealed.

Close season de-
fined.
Emergency.

SEC. 5. The close season for salmon commencing on the first of March, an emergency is declared to exist, and this act shall take effect from and after its approval by the governor.

Approved March 3, 1891.

CHAPTER LXXII.

[S. B. No. 51.]

MARKS AND BRANDS.

AN ACT to amend section 2551 of chapter CXCVIII of the Code of Washington relating to marks and brands.

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

SECTION 1. That section 2551 of chapter CXCVIII of the code of Washington relating to marks and brands be amended to read as follows: Sec. 2551. Every owner adopting a brand or mark shall record with the county auditor his mark, brand and counter brand, dewlaps or wattles, by delivering to such auditor his brand and counter brand, burnt upon a piece of leather, and a description of his mark, dewlaps or wattles; and the auditor shall enter in a book kept by him for that purpose a description of said mark, dewlaps or wattles and brands, together with the owner's name and time of recording, also describing the part or place on the animal where such mark, dewlap, wattle or brand is designed to be used, and any person other than the owner thereof using or imitating, or causing to be used or imitated, any such recorded mark, dewlap, wattle, brand or counter brand within the county where the same is recorded shall be deemed guilty of a misdemeanor and punished as provided in section 2554 of this chapter. The auditor, when any mark, dewlap, wattle or brand is presented for record, shall satisfy himself that they are different from any other recorded in his office, and he shall be

Record of.

Unlawful using
of mark or
brand of an-
other.

Penalty.

entitled to charge a fee of fifty cents for every entry made under the provisions of this chapter.

Approved March 3, 1891.

CHAPTER LXXIII.

[S. B. No. 125.]

JURISDICTION OF JUSTICES' COURT.

AN ACT relating to the civil jurisdiction of justices' courts, amendatory of section 1710 of the Code of Washington of 1881, as amended by an act entitled "An act to correct errors and supply omissions in the Code of Washington," approved November 28, 1883.

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

SECTION 1. Section seventeen hundred and ten of the code of Washington of 1881, as amended by an act entitled "An act to correct errors and supply omissions in the code of Washington," approved November 28, 1883, is amended to read as follows: Every justice of the peace shall have jurisdiction and cognizance of the following civil actions and proceedings: 1. Of an action arising on contract for the recovery of money only in which the sum claimed is less than one hundred dollars. 2. Of an action for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same, when the amount of damages claimed is less than one hundred dollars; also of actions to recover the possession of personal property when the value of such property, as alleged in the complaint, is less than one hundred dollars. 3. Of an action for a penalty less than one hundred dollars. 4. Of an action upon a bond conditioned for the payment of money, when the amount claimed is less than one hundred dollars, though the penalty of the bond exceed that sum, the judgment to be given for the sum actually due, not

Limit of jurisdiction.

To recover possession of personal property.

Upon a bond.

Damages for
fraud.

Confession of
judgment.

Attachment.

exceeding the amount claimed in the complaint. 5. Of an action on an undertaking or surety bond taken by him or his predecessor in office when the amount claimed is less than one hundred dollars. 6. Of an action for damages for fraud in the sale, purchase or exchange of personal property when the damages claimed are less than one hundred dollars. 7. To take and enter judgment on confession of a defendant when the amount of the judgment confessed is less than one hundred dollars. 8. To issue writs of attachment upon goods, chattels, moneys and effects when the amount is less than one hundred dollars. 9. Of all other actions and proceedings of which jurisdiction is specially confessed by statute when the amount involved is less than one hundred dollars, and the title to or right of possession of or to a lien upon real property is not involved.

Approved March 3, 1891.

CHAPTER LXXIV.

[S. B. No. 131.]

APPROPRIATING LAND FOR PUBLIC USES.

AN ACT to regulate the mode of proceeding to acquire and appropriate land, real estate and other property for public uses of the State of Washington, and prescribing the method of ascertaining and making compensation therefor, and declaring an emergency.

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

SECTION 1. Whenever the legislature of this state shall deem it necessary for the public uses of the state to acquire or appropriate land, real estate, premises or other property, and shall by act set forth and describe such land, real estate, premises or other property, it shall be the duty of the attorney general to present to the superior court of the county in which said land, real estate, premises or other property so sought to be acquired or appropriated shall be situated, a petition in which the land, real estate, premises

By petition.

or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, incumbrancer or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be empaneled to ascertain and determine the compensation to be made in money to such owner or owners, respectively, and to all tenants, incumbrancers and others interested, for taking such lands, real estate, premises or other property, or in case a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained and determined by the court or judge thereof.

SEC. 2. A notice stating briefly the objects of the petition and containing a description of the land, real estate, premises or property sought to be acquired and appropriated, and stating the time and place when and where the same will be presented to the court or the judge thereof, shall be served on each and every person named therein as owner, incumbrancer, tenant or otherwise interested therein at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of minors on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such minor; in case of idiots, lunatics or distracted persons on their guardians, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other

Jury.

Waiver.

Service of notice.

Service on domestic corporations.

Appropriation
of school or
county lands.

In case of non-
resident owner.

Proof of service.

Powers of
court.

property sought to be appropriated is school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be acquired and appropriated is situated. In all cases where the owner or person claiming an interest in such real estate or other property is a non-resident of this state, or where the residence of such owner or person is unknown, and an affidavit of the attorney general shall be filed that such owner or person is a non-resident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest the county in which lies the land sought to be acquired and appropriated. And such publication shall be deemed service upon each of such non-resident person or persons whose residence is unknown. Such notice shall be signed by the attorney general of the State of Washington. Such notice may be served by any competent person over twenty-one years of age. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, order and other papers in the proceedings authorized by this act may be made as the superior court or judge thereof may direct.

SEC. 3. The court or judge may, upon application of the said attorney general or any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

SEC. 4. At the time and place appointed for hearing said

petition, or to which the same may have been adjourned, ^{Hearing of cause.} if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property, described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really necessary for the public use of the State of Washington, the court or judge thereof may make an order, to be recorded in the minutes of said court, directing the sheriff to summons from the citizens of the county in which such land, real estate, premises or other property sought to be acquired or appropriated shall be situated, as many qualified persons as may be necessary in order to form a jury of twelve ^{Jury.} 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, the sheriff, under the direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from the bystanders, citizens of the county where the land, real estate, premises or other property is situated.

SEC. 5. A judge of the superior court shall preside at the trial, which shall be held at such time as the court or the judge thereof may direct, at the court house in the county where the land, real estate, premises or other property sought to be appropriated or acquired is situated, and the jurors at such trial shall make in each case a separate assessment of damages which shall result to any ^{Separate assessment of damages.} person, corporation or company, or to any county, by reason of the appropriation and use of such land, real estate, premises or other property, and shall ascertain, determine and award the amount of damage to be paid said owner or owners respectively, and to all tenants, incumbrancers and others interested for taking such land, real estate, premises or other property so taken. Upon the trial, witnesses may ^{Conduct of trial.} be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in

such proceedings shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. Upon the verdict of the jury, judgment shall be entered for the amount of the damages awarded to such owner or owners, respectively, and to all tenants, incumbrancers and others interested, for taking such land, real estate or premises. In case a jury is waived, as in civil cases in courts of record, in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court or the judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court.

When a jury is waived.

Judgment or decree.

SEC. 6. At the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate or premises sought to be appropriated, thereby vesting the legal title to the same in the State of Washington. Whenever said judgment or decree of appropriation is made, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate, and with like effect.

Damages; how paid.

SEC. 7. Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the State of Washington may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or the judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs to any land, real estate, premises or other property mentioned in said petition, said State of Washington shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court and the costs of appeal: *Provided*, That in case of an appeal to the supreme court of the state

In case of appeal.

by any party to the proceedings, the money so paid into the superior court by the state as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court.

SEC. 8. Any person, corporation or county claiming to be entitled to any money paid into court, as provided in this act, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he or it shall be found entitled to; but if, upon application, the court or judge thereof should decide that the title to the land, real estate or premises specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced and the conflicting claims to such land, real estate or premises be determined according to law.

Payment of damages to different persons jointly.

Conflicting claims.

SEC. 9. Either party may appeal from the judgment for damages entered in the superior court, to the supreme court of the state, within thirty days after the entry of judgment as aforesaid, and such appeal shall bring before the supreme court the propriety and justness of the amount of damage in respect to the parties to the appeal: *Provided however*, That upon such appeal no bond shall be required: *And provided further*, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively an appeal to the supreme court, and final judgment by default may be rendered in the superior court as in other cases: *Provided further*, That no appeal shall operate so as to prevent the said State of Washington from taking possession of such property pending such appeal after the amount of said award shall have been paid into court.

Appeals.

Waiver of appeal.

Effect of appeal.

SEC. 10. Whenever the attorney general shall file with the auditor of this state a certificate setting forth the amount of any award found against the State of Washington under the provisions of this act, together with the

Duty of state
auditor.

costs of said proceeding, and a description of the lands and premises sought to be appropriated and acquired, and the title of the action or proceeding in which said award is rendered, it shall be the duty of the state auditor to forthwith issue a warrant upon the state treasury to the order of the attorney general in a sum sufficient to make payment in money of said award and the costs of said proceeding, and thereupon it shall be the duty of said attorney general to forthwith pay to the clerk of said court in money the amount of said award and costs.

Emergency.

SEC. 11. Whereas, there is no law now in force in this state prescribing the manner in which private property may be acquired for the use of the State of Washington, therefore an emergency is hereby declared to exist, and this act shall be in force and effect from and after its passage and approval.

Approved March 3, 1891.

CHAPTER LXXV.

[S. B. No. 147.]

RELATING TO LIENS.

AN ACT to amend section 1975 of the Code of Washington relating to liens.

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

Laborer's lien.

SECTION 1. That section 1975 of chapter CXXXIX of the code of Washington relating to liens be and the same is hereby amended to read as follows: Sec. 1975. Any person who shall do labor upon any farm or land, in tilling the same or in sowing or harvesting or threshing any grain, as laborer, contractor or otherwise, or laboring upon, or securing or assisting in securing or housing any crop or crops sown, raised or threshed thereon during the year in which said work or labor was done, such person shall have a lien upon all such crops as shall have been raised

upon all or any of such land, for such work or labor, and every landlord shall have a lien upon the crops grown or Landlord's lien. growing upon the demised lands of any year for the rents accrued or accruing for such year, whether the same is paid wholly or in part in money or specific articles of property, or products of the premises, or labor, and also for the faithful performance of the lease; and the lien created by the provisions of this act shall be a preferred lien and shall be prior to all other liens.

Approved March 3, 1891.

CHAPTER LXXVI.

[S. B. No. 66.]

AUTHORIZING COUNTY COMMISSIONERS TO SELL PROPERTY.

AN ACT authorizing and empowering boards of county commissioners to sell and convey property belonging to their respective counties, and declaring an emergency.

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

SECTION 1. Whenever it shall appear to the board of county commissioners of any county in this state that it is for the best interests of such county and the people thereof, that any part or parcel, or portion of such part or parcel, of the property, whether real, personal or mixed, belonging to said county should be sold, it shall be the duty of such board and they are hereby authorized and empowered to sell and convey such property, under the limitations and restrictions and in the manner hereinafter provided.

SEC. 2. The board of county commissioners so desiring to sell shall first give notice of their intention to make such sale, by publication at least once a week for the term of four weeks in three different newspapers of such county, if there are three published in such county, and also place a notice in a conspicuous place in the court house for the same length of time. Such notice so published shall par-

ticularly designate and describe the property or portion thereof which it is proposed to sell, and shall contain full notice that the board of county commissioners will meet on a certain day and hour of such day at their usual place of meeting to hear and determine the advisability of making such sale: *Provided*, That such meeting shall be held at a time not more than one week after the expiration of the time hereinbefore designated for the publication of the notice of such meeting. The board shall at such meeting hear evidence and take testimony, should any be offered, as to the propriety and advisability of making such proposed sale, and any tax-payer in the county, either in person or by counsel, shall have the right to be heard for or against such proposition: *Provided*, That the board may limit the number to be heard to not less than three on either side, for or against the proposed sale.

Tax-payers
shall be heard

SEC. 3. The board shall within three days after such meeting make their findings as to the propriety and advisability of making such sale and their determination thereon, which said finding and determination shall be spread upon their minutes and be made matter of record.

SEC. 4. If the findings and determination of the board shall be against such sale all proceedings in that regard shall then and there terminate without further action or order; but if the board shall find and determine in favor of such sale they shall then enter an order on their minutes directing the auditor of the county to give notice that such sale will be made, and the auditor shall give such notice in the manner prescribed in section 2 of this act: *Provided*, That such sale shall not be made in less than thirty nor more than forty-five days from the date of the first publication of notice thereof; and such notice shall designate the hour and day when such sale shall take place. And the sale shall be made by the sheriff by public auction and at the door of the court house of the county, to the highest and best bidder. Such sale may be postponed by the board of commissioners, but in no case for longer than thirty days.

Auditor's no-
tice of sale.

SEC. 5. If the property to be sold be personal or mixed or both the sale thereof shall be for cash; in case such property be real, then the sale thereof shall be on such

terms as the board may designate: *Provided*, That any and all deferred payments shall be secured by such good and sufficient means as may to the board seem necessary; but no conveyance of the property so sold shall be made until full payment be made therefor.

SEC. 6. The county treasurer shall attend at such sale and receive all proceeds of the same, and on full and entire payment he shall make, execute and deliver to the purchaser of the property so sold a deed for the same, which deed shall fully set out all the proceedings had in relation to the said sale of the property therein described, and shall be attested by the county auditor, and when so executed and delivered it shall vest all the title which the county had in the property so sold in the grantee. Duty of county treasurer.

SEC. 7. The provisions of this act shall be held to apply to all property now owned by any county in this state and to all property hereafter acquired by any county.

SEC. 8. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 9. Whereas, there is no act or acts of the legislature of this state now in existence clearly giving to boards of county commissioners the powers and duties hereinbefore given and conferred, and certain counties now own property which, in the opinion of the board of commissioners of such counties, should be sold; therefore, an emergency Emergency. is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 4, 1891.

CHAPTER LXXVII.

[H. B. No. 196.]

INSURING CAPITOL BUILDING AND STATE LIBRARY.

AN ACT to appropriate four hundred and eighty dollars (\$480) for the insurance against fire of the capitol building and the state library.

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

SECTION 1. That the sum of four hundred and eighty dollars (480.00) be and the same is hereby appropriated for the insurance against fire of the capitol building and the state library, for the period of two years from the fifth day of March, 1891, to the fifth day of March, 1893, in such insurance company or companies as the board of commissioners of the state library may select.

SEC. 2. The said sum of four hundred and eighty dollars (\$480.00) to cover the premium on fifteen thousand dollars (\$15,000.00) insurance, namely: Five thousand dollars on the capitol building and furniture, and ten thousand dollars (\$10,000.00) on the state library.

SEC. 3. The state auditor is hereby directed to draw a warrant in the sum of four hundred and eighty dollars (\$480.00) on the state treasurer in favor of the board of commissioners of the state library for the payment of the premium on such insurance.

Approved March 4, 1891.

CHAPTER LXXVIII.

[S. B. No. 145.]

RELATING TO THE STATE LIBRARY.

AN ACT to amend section 3 of an act entitled "An act relating to the state library," approved March 27, 1890, 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 relating to the state library," approved March 27, 1890,

be and is hereby amended to read as follows: Sec. 3. The state librarian shall employ two persons, one as an assistant Assistant librarian. to assist in properly caring for and conducting the state library and the other as a nightwatchman to watch, guard Watchman. and protect the capitol building and its contents through each and every night, the two persons so employed being first approved by the board of library commissioners and duly sworn. The compensation of said assistant and of said Compensation. nightwatchman shall be, for each, sixty dollars per month, payable monthly. And the state auditor shall draw warrants upon the state treasurer for the amounts found due to each at the end of each month, in like manner as the state librarian is paid.

SEC. 2. Whereas, it is necessary that the state library, supreme court documents and other public property be watched and protected after the adjournment of the legislature, and assistance is urgently required in the library; therefore, an emergency is declared to exist, and this act Emergency. shall take effect and be in force from and after its passage and approval.

Approved March 4, 1891.

CHAPTER LXXIX.

[S. B. No. 175.]

BARTON'S LEGISLATIVE HAND BOOK.

AN ACT to provide for the purchase of Barton's Legislative Hand Book and Manual of the State of Washington for 1891 and 1892, for the use and benefit of the state and state legislature and officials and others, and making an appropriation therefor.

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

SECTION 1. That the sum of fourteen hundred dollars Appropriation. (\$1,400) be and the same is hereby appropriated out of any money in the state treasury not otherwise appropriated by law, for the purchase of one thousand copies of Barton's Legislative Hand Book and Manual of the State

Certificate of
correctness.

of Washington: *Provided*, That the state printer shall certify as to the correctness of the constitution of the state and the index thereof printed therein.

SEC. 2. That upon the delivery of the said one thousand copies to the secretary of state the said secretary shall notify the state auditor, who shall draw his warrant in favor of C. M. Barton, compiler, and T. H. Boyd, publisher, on the state treasurer for the amount named in section one.

Distribution of
copies.

SEC. 3. That the secretary of state shall deliver five copies of said book to each of the members of the senate and house of representatives: *Provided*, That upon one copy of said five to each member shall be placed the name of such member on the outside front cover; one copy to each of the judges of the supreme court and superior courts of the state; five copies each to the governor and lieutenant governor; two copies each to the auditor, secretary of state, treasurer, attorney general, superintendent of public instruction and commissioner of public lands; one copy each to the members of the board of public instruction; one copy each to the county school superintendents, and ten copies to the state librarian for use in the state library.

SEC. 4. That one copy of the said book be sent by the secretary of state to each of the state libraries of the several states and territories of the Union, in exchange for books of a similar character for use in the library of this state, and that one copy be sent to the president and each cabinet officer of the United States, and to the congressional library at Washington City.

SEC. 5. All of said books remaining in the possession of the secretary of state after such distribution is made, shall be distributed pro rata by the secretary of state among the educational institutions of the state.

Approved March 4, 1891.

CHAPTER LXXX.

[S. B. No. 124.]

TO PROTECT PERSONS KEEPING OR FEEDING LIVE STOCK.

AN ACT for the protection of farmers, ranchmen, herders of cattle, tavern keepers, and livery and boarding house stable keepers, and other persons, for herding, keeping, pasturing, feeding and caring for stock, and declaring an emergency.

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

SECTION 1. Any farmer, ranchman, herder of cattle, tavern keeper, livery and boarding stable keeper to whom any horses, mules, cattle or sheep shall be entrusted for the purpose of feeding, herding, pasturing, training, caring for or ranching, shall have a lien upon said horses, mules, cattle or sheep for the amount that may be due for such feeding, herding, pasturing, training, caring for or ranching, and shall be authorized to retain possession of such horses, mules, cattle or sheep until the said amount is paid: *Provided*, That these provisions shall not be construed to apply to stolen stock. May retain possession until charges are paid.

SEC. 2. Any person having a lien under the provisions of section 1 of this act may enforce the same by an action in any court of competent jurisdiction; and said property may be sold on execution for the purpose of satisfying the amount of such judgment and costs of sale, together with the proper costs of keeping the same up to the time of said sale. Enforcing lien.

SEC. 3. Whereas, fraud and injustice is constantly being perpetrated upon persons mentioned in section 1 of this act, an emergency is declared to exist; therefore, this act shall take effect and be in force from and after its passage and approval. Emergency.

Approved March 4, 1891.

CHAPTER LXXXI.

[S. B. No. 68.]

VENTILATION OF COAL MINES.

AN ACT relating to the proper ventilation and safety of coal mines, and prescribing the manner of appointment of inspectors.

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

Duty of owner.

SECTION 1. The owner, agent, operator or manager of every coal mine in this state shall keep in the office at such mine an accurate plan and section or tracing thereof, on a scale not to exceed one hundred (100) feet to the inch, showing the workings up to at least six (6) months prior to any given date, and shall produce it to the inspector of mines for examination by him, but not for the purpose of copying the same, nor for any other purpose, and if requested by said inspector so to do shall mark on the same the workings up to the time of the production of the same. Within three (3) months next after the abandonment of any mine a plan and section or tracing thereof, showing the boundaries of the workings, is to be sent by the owner, operator or superintendent of such mine to the secretary of state as a mining record. The map or plan of such abandoned mines as aforesaid shall be the property of the state and shall remain in the care of the secretary of state as a permanent record in his office.

Liability for neglect.

SEC. 2. Whenever the owner, agent or operator of any coal mine shall neglect or refuse to furnish the said inspector with the map or plan of any such mine, or make the addition to such map or plan upon the demand of the mine inspector, as provided in section one (1) of this act, at the times and in the manner therein provided, the said inspector is hereby authorized to cause an accurate map or plan of the workings of such coal mine to be made at the expense of said owner, agent or operator, and the cost thereof may be recovered by law from said owner, agent or operator in the same manner as other debts, by suit in the name of the state, brought in the county where said mine is situated.

Openings required.

SEC. 3. It shall not be lawful for the owner, agent or operator of any coal mine to employ any person to work within said coal mine, or to permit any person to work in

said mine, unless they are in communication with at least two (2) openings in case such mine be worked by shaft or slope, which openings, shafts or slopes shall be separated by natural strata by a distance of not less than one hundred (100) feet at the mouth of such openings, except that in mines already opened such distance may be less, if, in the judgment of the mine inspector, one hundred (100) feet is impracticable. If the mine be worked by drift two (2) openings not less than one hundred (100) feet apart shall be required, except in drift mines heretofore opened, where the mine inspector shall deem such distance impracticable: *Provided, however,* That an aggregate number not exceeding twenty-four (24) persons may be employed in the mine at any one time until the second opening shall be reached and made available, which said second opening the mine inspector shall cause to be made without unnecessary delay, and in case of furnace ventilation being used before the second opening is completed, the furnace shall not be placed within forty (40) feet of the foot of the shaft, slope or drift, and shall be well secured so as not to be a source of danger by fire, by brick, stone, or walls made of other fire proof material of sufficient thickness, while such second opening is being driven and until the same is completed.

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 and machinery used for hoisting 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.

Stairways or
ladders re-
quired.

SEC. 5. This state shall be divided into two (2) inspection districts. The first inspection district shall be comprised of the following counties, to wit: Whatcom, San Juan, Skagit, Island, Snohomish, King, Okanogan, Kittitas, Douglas, Stevens, Lincoln, Spokane, Adams and Whit-

Inspection dis-
tricts.

man. The second inspection district shall be comprised of the following counties, to wit: Clallam, Jefferson, Kitsap, Chehalis, Mason, Thurston, Pacific, Wahkiakum, Pierce, Lewis, Cowlitz, Skamania, Clarke, Yakima, Klickitat, Franklin, Walla Walla, Columbia, Garfield and Asotin. The governor shall, upon the recommendation of a board, to be by him selected and appointed for the purpose of examining candidates for appointment to the office of mine inspector under the provisions of this act, appoint two properly qualified persons to fill the office of inspectors of coal mines of this state (being one inspector for each district provided for in this act.) whose commissions shall be for the term of four (4) years, and they shall at all times be subject to removal from office for neglect of duty or malfeasance in the discharge of duty, as hereinafter provided for; said board shall be composed of three (3) practical coal miners, three (3) competent coal operators and one mining engineer, all of whom shall be sworn to a faithful discharge of their duties. The said inspectors shall be citizens of the state and shall have had at least two (2) years, practical experience in mining in the Territory and State of Washington, and shall have resided within the inspection district for which he is appointed at least one (1) year prior to his appointment as such inspector. Such person or persons so appointed as inspectors shall devote their entire time to the duties of such office, shall not be interested either as owner, operator, stockholder, superintendent, manager or mining engineer of any coal mine or mining corporation within the state, during his term of office, and shall be of good moral character and temperate habits, and shall not commit any act whatsoever tending to the injury of miners or operators of mines during his term of office: *Provided*, That no inspector shall be appointed whose term of office shall begin prior to the first Monday in February, 1892. Each of such inspectors shall be provided by the state with the most approved modern instruments necessary for the proper performance of his duties and the carrying out of the intention of this act. Said instruments and appliances to remain the property of the state, and be turned over by the said mine inspectors to

Duties of inspectors.

their successors in office. Each of such inspectors, before assuming the duties of his office, shall give bond in the sum of five thousand (\$5,000) dollars with sureties to be approved by a judge of a superior court of the county in which he resides, conditioned for the faithful discharge of his duty, and take an oath (or affirmation) to discharge his duties impartially and with fidelity, to the best of his knowledge and ability. The salary of each of such inspectors shall be fifteen hundred (1,500) dollars per annum, and he shall have in addition thereto his actual mileage paid out for traveling while in the performance of his duties under the provisions of this act, and the auditor of the state is hereby authorized and directed to draw his warrant on the state treasurer in favor of such inspectors for the amount due them for their salary and expenses quarterly, to be paid out of any moneys in the treasury not otherwise appropriated. Each of such inspectors shall devote the whole of his time to the duties of his office, and it shall be his duty to examine each and every mine in his district not less than once in every three (3) months, and as much oftener as is necessary to see that all of the provisions of this act are fully carried out and complied with, and he shall make record of all examinations of mines, showing the condition in which he finds them, and especially in reference to ventilation and drainage, also the number of mines in his district, the number of persons employed in each mine, the progress made in improvements sought to be secured by the passage of this act, the number of accidents and deaths resulting from injuries received in or about the mines with the causes of such accidents or deaths, which record, completed up to the thirty-first (31) day of December of each and every year, shall on or before the first day of February next following be filed in the office of the secretary of state, to be by him filed and preserved as a record in his office and included in his annual report to the governor: *Provided*, That two thousand (2,000) copies of the reports of each of said mine inspectors shall be published biennially by the state in pamphlet form for free distribution.

Bond of inspectors.

Record of examinations.

Annual report.

SEC. 6. The board of examiners provided for in section

five (5) of this act shall be appointed by the governor, and shall hold their offices for two (2) years. They shall meet biennially at the state capital on the second Tuesday in January, and special meetings may be called at any time by the governor when the office of coal mine inspector becomes from any cause vacant. They shall receive as compensation the sum of five (\$5) dollars per day and mileage actually paid out each for the time actually employed in the duties of their office: *Provided*, That in no case shall the per diem received by any member of said board exceed the sum of fifty (\$50) dollars per annum, and the auditor of the state is hereby authorized and directed to draw his warrant on the state treasurer in favor of each member of the board of examiners at the close of each regular and special session for the full amount due them for time and expenses, the same to be paid out of any moneys in the state treasury not otherwise appropriated.

SEC. 7. Upon a petition signed by not less than ten reputable citizens who shall be miners, mine owners or lessees of mines, to the superior court of any county in the proper district, with the affidavit of one or more of said petitioners attached, setting forth that any inspector of mines neglects his duty or is incompetent, or that he is guilty of a malfeasance in office or any act tending to the injury of miners or operators of mines, the judge of such superior court shall issue a citation in the name of the state to the said inspector to appear on not less than fifteen (15) days' notice, upon a day fixed before said court, at which time the court shall proceed to inquire into and investigate the allegations of the petitioners. If the court find that said inspector is neglectful of his duties or that he is guilty of malfeasance in office the court shall certify the same to the governor, who shall declare the office of said inspector vacant and proceed in compliance with the provisions of this act to supply the vacancy. The costs of said investigation shall, if the charges are sustained, be imposed upon the inspector, but if the charges are not sustained they shall be imposed upon the petitioners, and the payment of such costs shall be enforced by the proper action brought in the name of and on behalf of the state by the prose-

Meetings of examiners.

Compensation.

Penalty for neglect by inspector.

Costs of investigation.

cuting attorney of the county wherein such investigation is had.

SEC. 8. It shall be lawful for the inspectors provided for in this act to enter into and examine and inspect any and all coal mines and machinery belonging thereto within their respective districts at all reasonable times either by day or night; but they shall not hinder or obstruct the necessary workings of such coal mines, and the owner, agent or operator of every such coal mine is hereby required to furnish all necessary facilities for the entering and making of such examination and inspection, and if the said owner, agent or operator shall refuse to permit such inspection the inspector shall file his affidavit setting forth such refusal with the judge of the superior court of the county in which said mine is situated, and obtain an order from such judge commanding such owner, agent, or operator so refusing, as aforesaid, to permit such examination and inspection and furnish such necessary facilities for the examination and inspection of such coal mine, or in default thereof to be adjudged as in contempt of court and punished accordingly; and if the said inspector shall, after examination of any coal mine and the works and machinery pertaining thereto, find the same to be worked contrary to the provisions of this act, or unsafe for the workmen therein employed, said inspector shall, through the prosecuting attorney of the county in which said mine is located, or any attorney in case of the refusal of such prosecuting attorney to so act, in the name and on behalf of the state proceed against the owner, agent or operator of such coal mine by injunction without bond after giving at least two days' notice to such owner, agent or operator, and said owner, agent or operator shall have the right to appear before the judge to whom the application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto; and if sufficient cause appear the court or judge, in term time or in vacation, by order shall prohibit the further working of any portion or portions of any such coal mine in which persons may be unsafely employed, and the further use of such unsafe machinery, contrary to the provis-

Duty of mine owner or agent.

Duties of courts and officers.

ions of this act until the same shall have been made safe and the requirements of this act shall have been complied with, and the court shall award such costs in the matter of said injunction as may be just, but any such proceedings so commenced shall not prejudice any other remedy permitted by law for enforcing the provisions of this act.

Circulating air
required.

SEC. 9. The owner, agent or operator of every coal mine, whether operated by shaft, slope or drifts, shall provide and maintain in every coal mine a good and sufficient amount of ventilation for such persons as may be employed therein, the amount of air in circulation to be in no case less than one hundred (100) cubic feet for each person per minute, measured at the foot of the down cast, the same to be increased at the discretion of the inspector according to the character and extent of the workings or the amount of powder used in blasting, and said volume of air shall be forced and circulated to the face of every working place throughout the mine, so that said mine shall be free from standing powder smoke and gases of every kind. In all mines where fire damp is generated every working place, when the same is known or thought to exist, shall be examined every morning with a safety lamp by a competent person, and a workman shall not enter the mine until the said mine or part thereof and his working place are reported to be safe. The person who makes such examination shall establish proof of the same by marking plainly the date thereof at the face of each working place. Whenever the inspector shall find men working without sufficient air or under any unsafe conditions he shall at once notify the superintendent of the mine, or in his absence the person immediately in charge thereof, in writing of the facts, and such superintendent or person in charge shall at once remove such men from such places where such conditions exist. At the expiration of one (1) year from and after the passage of this act, it shall not be lawful to use a furnace for the purpose of ventilating any coal mine in this state.

Condition of
mine.

Prohibition as
to furnace for
ventilation.

Protection from
caving.

SEC. 10. The owner, agent or operator of any coal mine shall keep a sufficient supply of timber at any such mine where the same is required for use as props, so that the

workmen may at all times be able to properly secure the said workings from caving in, and it shall be the duty of the owner, agent or operator to send down into the mine all such props when required, the same to be delivered at the entrance of the working place.

SEC. 11. At all mines where coal is hoisted by steam power from shaft or slope, having no other means of ingress or egress than that afforded to persons therein by such hoisting apparatus by way of such shaft or slope, there shall be provided within ninety (90) days next after the first day of May, A. D. 1891, a steam pump or other power, conveniently situated, and a sufficient supply of water and hose always ready for use in any part of the buildings, chutes or constructions within a radius of fifty (50) feet of said coal hoisting shaft or slope; and if the person in charge of such coal shaft or slope shall refuse or neglect to comply with the provisions of this act, then the inspector of coal mines for the district in which the said shaft or slope is situated shall proceed, through the prosecuting attorney in the county in which said shaft or slope is situated, or any attorney in case of the refusal of the prosecuting attorney to so act, in the name and on behalf of the state against the owner, agent or operator of said shaft or slope by injunction without bond, after giving at least two (2) day's notice to such owner, agent or operator, and the said owner, agent or operator shall have the right to appear before the judge to whom the application is made, who shall hear the same on affidavits and such other testimony as may be offered in support as well as in opposition thereto, and if it be found that the owner, agent or operator of said shaft or slope has refused or neglected to comply with the provisions of this act, the court or judge, in term time or in vacation, by order shall prohibit the further working of any such coal shaft or slope until the owner, agent or operator shall have complied with the provisions of this act.

Steam pump and hose.

Proceedings in case of neglect.

SEC. 12. No boy under the age of fourteen (14) 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 twelve (12) years be em-

Age limit of employes.

ployed or permitted to be in or about the outside structures or workings of a colliery for the purpose of employment: *Provided, however,* That this prohibition shall not affect the employment of a boy of suitable age in an office or in the performance of clerical work at a 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.

Stretchers for injured employes.

SEC. 13. It shall be the duty of the owner, superintendent or operator of any coal mine to keep at the mouth of the drift, shaft or slope, or at such other place as may be designated by the mine inspector, stretchers properly constructed for the purpose of carrying away any miner or employé working in or about such mine who may in any way be injured in or about his employment.

Bore holes.

SEC. 14. The owner, agent or operator of any coal mine shall provide that bore holes shall be kept twenty feet (20) in advance of the face of each and every working place, and if necessary on both sides when driving towards an abandoned mine or part of a mine suspected of containing inflammable gases or being inundated with water.

Proceedings in case of accident.

SEC. 15. Whenever by reason of any explosion or any other accident in any coal mine, or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the person having charge of such mine or colliery to give notice thereof forthwith to the inspector of the district, and, if any person is killed thereby, to the coroner of the county who shall give due notice of the inquest to be held. If the coroner shall determine to hold an inquest the mine inspector shall be allowed to testify and offer such testimony as he may deem necessary to thoroughly inform the said inquest of the cause of the death, and the said inspector shall have authority at any time to appear before such coroner and jury and question or cross question any witness, and in choosing a jury for the purpose of holding such inquest, it shall be the duty of the coroner to empanel a jury, no one of whom shall be directly or indirectly interested. It

shall be the duty of the inspector, upon being notified as herein provided, to immediately repair to the scene of the accident and make such suggestions as may appear necessary to secure the future safety of the men, and if the results of the explosion or accident do not require an investigation by the coroner, he shall proceed to investigate and ascertain the cause of the explosion or accident and make a record thereof which he shall file as provided for, and to enable him to make the investigation he shall have power to compel the attendance of persons to testify and administer oaths or affirmations. The cost of such investigation shall be paid by the county in which the accident occurred, in the same manner as costs of inquests held by coroners or justices of the peace are paid.

SEC. 16. The owner, agent or operator of every coal mine operated by shaft or slope shall provide suitable means of signaling between the bottom and top thereof, subject to the approval of the mine inspector, and shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe as far as possible persons descending into or ascending out of such shaft, and such cage shall be furnished with guides to conduct it through such shaft with a sufficient break [brake] on every drum to prevent accident in case of the giving out or breaking of the machinery, and such cage shall be furnished with safety catches (to be approved by the mine inspector), intended and provided as far as possible to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery, and no props or rails shall be lowered in a cage while men are descending into or ascending out of said mine: *Provided*, That the provisions relating to covering cages with boiler iron shall not apply to coal mines less than one hundred (100) feet in depth. Signals.

SEC. 17. All main doors in any coal mine shall be so placed that whenever one door is open another which has the same effect upon the same current of air shall be and remain closed, and thus prevent any temporary stoppage of the current. Doors.

SEC. 18. All boilers used in generating steam in and about coal mines shall be kept in good order, and the Safety of
boilers.
Sig. 11.

owner, agent or operator, as aforesaid, shall have said boilers examined and inspected by a competent person as often as once every six (6) months, and the result of such examination shall be certified in writing to the mine inspector, and every steam boiler shall be provided with a steam gauge, water gauge and safety valves. All underground self-acting or engine planes on which coal cars are drawn and persons travel shall be provided with some proper means of signaling between the stopping places and the end of said planes, and sufficient places of refuge shall be provided at the sides of said planes, the same to be not more than sixty (60) feet apart and to extend six (6) feet at right angles from the rail: *Provided, however,* That such places of refuge shall not be required in mines where a separate traveling road is provided for employes.

Sobriety, capability and age of operatives.

SEC. 19. No owner, agent or operator of any coal mine operated by shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted from the mine any other than competent, experienced and sober engineers and firemen, and they shall be not less than eighteen (18) years of age. No person shall ride upon a loaded cage or car used for hoisting purposes in any shaft or slope, and in no case shall more than twelve (12) persons ride on any cage or car at one time in any such shaft. Nor shall more than five (5) persons for each and every ton's capacity of the hoisting apparatus ride in any cage or car at any one time in any such slope, excepting in the case of persons employed as rope riders or couplers, nor shall any coal be hoisted out of any coal mine while persons are descending into such mine, notice of which shall be kept posted at said mines. The number of persons permitted to ascend out of or descend into any coal mine at one time shall be determined by the inspector, and such persons shall not be lowered or hoisted more rapidly than six hundred (600) feet per minute. Whenever a cage load of persons shall come to the bottom to be hoisted out, who have finished their day's work or otherwise been prevented from working, an empty cage shall be given them to ascend, except in mines having slopes or provided with stairways in escapement shafts.

SEC. 20. All owners or operators of coal mines within the state shall keep posted in a conspicuous place about their mines printed rules, submitted to and approved by the district mining inspector, regulating the duties of persons employed in or about said mines or collieries. Rules must be posted.

SEC. 21. Any miner, workman or other person who shall knowingly injure any water gauge, barometer, air course or brattice, or shall obstruct or throw open any air ways, or carry any lighted lamp or matches into places that are worked by the light of safety lamps, or shall handle or disturb any part of the machinery of the hoisting engine or open a door in the mine and not have the same closed again, whereby danger is produced, either to the mine or those that work therein, or who shall enter into any part of the mine against caution, or who shall interfere with or intimidate, or attempt to interfere with or intimidate, any engineer, fireman or other employé employed in or about such mine, in the discharge of his duty or performance of his labor, or who shall disobey any order given in pursuance of this act, or violate any of the rules established by this act, or who shall do any willful act whereby the lives and health of persons working in the mine, or the security of the mine or mines or the machinery thereof is endangered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred (\$200) dollars nor less than fifty (\$50) dollars, or by imprisonment in the county jail for a term not exceeding six (6) months nor less than three (3) months, or by both such fine and imprisonment, in the discretion of the court. Offense defined.

SEC. 22. Any person violating any of the provisions of this act other than those mentioned in section twenty-one (21) of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not more than five hundred (\$500) dollars nor less than two hundred (\$200) dollars. Penalty.

Approved March 5, 1891.

CHAPTER LXXXII.

[S. B. No. 57.]

COMMENCEMENT OF TERMS OF STATE OFFICERS.

AN ACT to fix the time of the commencement of the term of office of state officers.

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 and commissioner of public lands, who shall be elected at the next general election for the State of Washington, shall commence on the Wednesday after the second Monday in January after their election, and hold their office for the term of four years, and until their successors are elected and qualified; and thereafter the term of office of said officers shall commence upon the Wednesday after the second Monday of January following their election.

Approved March 6, 1891.

CHAPTER LXXXIII.

[S. B. No. 217.]

APPROPRIATION TO MAINTAIN AND IMPROVE THE STATE REFORM SCHOOL.

AN ACT making an appropriation for the maintenance and improvement of the state reform school.

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 appropriated the sum of fifty-two thousand and five hundred (\$52,500) dollars, or so much thereof as may be necessary, for the maintenance, support and improvement of the state reform school, from the first day of April, A. D. 1891, to the first day of April, A. D. 1893, to be drawn and expended in the manner directed by section ten of an act en

titled "An act providing for the establishment and location of a state reform school and to declare an emergency," approved March 28, 1890: *Provided*, That not more than twenty-five hundred (\$2,500) dollars of the money hereby appropriated shall be used for the purchase of additional ground.

Approved March 6, 1891.

CHAPTER LXXXIV.

[S. B. No. 42.]

REVIVAL AND CONTINUANCE OF JUDGMENTS.

AN ACT to amend section 324 of chapter twenty-nine of the Code of Washington, relating to the revival and continuance of judgments.

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

SECTION 1. That section three hundred and twenty-four of the code of Washington, relating to the revival and continuance of judgments, be and the same is hereby amended so as to read as follows: Section 324. Such motion shall not be granted unless it be established by oath ^{Proof.} of the party, or other satisfactory proof, that the judgment, or some part thereof, remains unsatisfied. The order of the court granting such leave shall operate as a revival of the judgment for the amount found due at the time of such revival, and the same shall be and continue a lien upon real estate of the judgment debtor for a period ^{Lien upon real estate.} of five years from and after the date of such order, in like manner with the original judgment: *Provided*, That a transcript thereof shall, within twenty days, be filed in the office of the county auditor of the county where the lands lie of such judgment debtor, or said lien shall be suspended till such transcript be filed. Revived judgments shall bear ^{Interest.} the same interest and be in all respects similar to original judgments as to lien and enforcement of collection: *Pro-*

Limit of commencement of proceedings.

vided, however, That no judgment shall be revived or continued unless proceedings for such revival or continuance shall be commenced within six years after the date of its rendition: *Provided further,* That this act shall not apply to any judgment now in existence until one year from the time this act takes effect.

Approved March 6, 1891.

CHAPTER LXXXV.

[H. B. No. 45.]

TO CURE DEFECTIVE TITLES TO REAL ESTATE.

AN ACT to cure defective titles to real estate, by providing for the collection of unpaid taxes and assessments, and by securing record evidence in relation to real estate sold for taxes or assessments, in the offices of county treasurers and auditors.

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

Duty of county commissioners.

SECTION 1. The commissioners of each county in the state shall examine the tax rolls of the county and determine the amount of all unpaid taxes and assessments levied and payable on or before the first day of April, 1891, which remain a lien on real estate in the county, and shall have tax rolls made showing the amount of said taxes and assessments, together with all penalties, costs and interest, and the real estate on which the same is a lien, and shall file said rolls in the office of the county treasurer on or before the first day of April, 1892, and like proceedings shall be had for the collection of said taxes and assessments, with penalties, costs and interest, as may by law be provided for the collection of taxes on real estate becoming delinquent on the roll of 1891.

Lists of land sold for taxes.

SEC. 2. Said commissioners shall also cause to be made out rolls containing lists of all lands sold to the county or state for taxes or assessments prior to the first day of November, 1891, and unredeemed at said date, with the amount of taxes and assessments, with penalties, costs and

interest, which may be a lien thereon, in which lists all unplatted land shall be classified numerically by range, township and section, and all platted land alphabetically by the name of the town, city or addition, and shall file said lists in the office of the county treasurer on or before the first day of April, 1892.

SEC. 3. All taxes and assessments levied and payable on or before the first day of April, 1891, shall cease to be a lien on real estate from and after the first day of November, 1892: *Provided*, That, except as hereinafter expressed, said lien shall continue on all real estate which has been or shall have been sold for taxes and assessments prior to the first day of November, 1892.

SEC. 4. Taxes and assessments for which real estate has been sold to the county or state prior to November 1st, 1891, shall not be a lien thereon against purchasers or incumbrancers for value and in good faith, after the first day of November, 1892, unless said sale be shown by the rolls provided for in section two of this act, and these only for the amount with which said real estate is therein shown to be charged. Limit of tax liens.

SEC. 5. Purchasers of real estate at tax sale prior to the first day of November, 1891, shall have no lien against said real estate for the amount of their payments, nor any title to said land, as against purchasers or incumbrancers for value and in good faith, unless they shall duly file their certificates of purchase, or tax deeds in case the same may have been issued, for record in the office of the county auditor on or before the first day of November, 1892. Certificates of purchase and tax deeds.

SEC. 6. In construing sections four and five of this act no tax rolls of any county for years prior to 1891 shall be deemed notice of the facts therein stated.

SEC. 7. County treasurers and auditors and their deputies shall furnish all needed assistance in carrying this act into effect. Duties of county auditors and treasurers.

Approved March 6, 1891.

CHAPTER LXXXVI.

[H. B. No. 164.]

RELATING TO PRIVATE SALES OF REAL PROPERTY
BELONGING TO ESTATES.

AN ACT relating to private sales of real property belonging to estates of decedents, minors and insane persons.

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

SECTION 1. That real property belonging to the estates of decedents, minors, idiots and insane persons, may be sold at private sale according to the following provisions.

When property
may be sold at
private sales.

SEC. 2. That when the court is satisfied, after a full hearing upon the petition and an examination of the proofs and allegations of the parties interested, that a sale of the whole or some portion of the real estate is necessary for any of the causes specified in the laws of the State of Washington, or if such sale be assented to by all the persons interested in a decedent estate, an order must be made to sell the whole or so much and such parts of the real estate described in the petition as the court shall judge necessary or beneficial, at either public or private sale.

Public auction.

SEC. 3. The order of sale must describe the lands to be sold and the terms of sale, which may be for cash or on a credit not exceeding one year, payable in gross or in installments, and in such kind of money with interest as the court may direct. The land may be sold in one parcel or in subdivisions as the executor, administrator or guardian shall judge most beneficial to the estate, unless the court otherwise specially directs. Every such sale must be ordered to be made at public auction, unless in the opinion of the court it would benefit the estate to sell the whole or some part of such real estate at private sale. The court may, if the same is asked for in the petition, order or direct such real estate or any part thereof to be sold at either public or private sale, as the executor, administrator or guardian shall judge most beneficial for the estate. If the executor, administrator or guardian rejects or refuses to make a sale under the order, and as directed therein, he may be compelled to sell by order of the court made on motion after due notice by any party interested.

Discretion of
court.

SEC. 4. When a sale of real estate is ordered to be made Notice of sale. at private sale, notice of the same must be posted up in three of the most public places in the county in which the land is situated, and published in a newspaper if there is one printed in the same county; if none, then in such paper as the court or a judge thereof may direct, for two weeks successively next before the day on which the sale is to be made, in which the lands and tenements to be sold must be described with common certainty. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to must be at least fifteen days from the first publication of notice, and the sale must not be made before that day, but must be made within six months thereafter. The bids or offers must be in writing, and may be Written bids. left at the place designated in the notice, or delivered to the executor or administrator personally, or may be filed in the office of the clerk of the court to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale. If it be shown that it will be for the best interest of the estate the court or judge may by an order shorten the time of notice, which shall not, however, be less than one week, and may provide that the sale may be made on or after a day less than fifteen, but not less than eight days from the first publication of the notice of sale, and the sale may be made to correspond with such order.

SEC. 5. No sale of real estate at private sale shall be confirmed by the court unless the sum offered is at least Confirmation of sale. ninety per cent. of the appraised value thereof, nor unless such real property has been appraised within one year of the time of such sale. If it has not been so appraised, or if the court is satisfied that the appraisement is too high or low, appraisers must be appointed, and they must make an appraisement thereof in the same manner as in case of an original appraisement of an estate; this may be done at any time before the sale or the confirmation thereof.

SEC. 6. The executor, administrator or guardian must, Security on credit sales. when the sale is made upon a credit, take the notes of the

purchaser for the purchase money, with a mortgage on the property to secure their payment.

Return of sale.

SEC. 7. The executor, administrator or guardian after making such sale of real property must make a return of his proceedings to the court, which must be filed in the office of the clerk at any time subsequent to the sale. A hearing upon the return of the proceedings may be asked for by any interested party by petition, and thereupon the court or judge must fix the day for the hearing, of which notice of at least ten days must be given by the clerk, by notices posted in three public places in the county, or by publication in a newspaper, or both, as the court or judge shall direct, and must briefly indicate the land sold, the sum for which it was sold, and must refer to the return for further particulars. Upon the hearing the court must examine the return and witnesses in relation to the same, and if the proceedings were unfair or the sum bid disproportionate to the value, and if it appear that a sum exceeding such bid at least ten per cent., exclusive of the expenses of a new sale, may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given and the sale in all respects conducted as if no previous sale had taken place; if an offer of ten per cent. more in amount than that named in the return be made to the court in writing by a responsible person, it is in the discretion of the court to accept such offer and confirm the sale to such person, or to order a new sale.

Vacation of sale.

Confirmation proceedings.

SEC. 8. When the return of the sale is made and filed, any person interested in the estate may file written objections to the confirmation thereof, and may be heard thereon when the return is heard by the court or judge, and may produce witnesses in support of his objections.

SEC. 9. If it appears to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum, as above specified, cannot be obtained, or if the increased bid in section seven of this act be made and accepted by the court, the court must make an order confirming the sale and directing conveyances to be executed.

SEC. 10. That in all other respects such sales shall be governed by the laws of the State of Washington now in force governing the sale of real property belonging to such estates.

SEC. 11. All acts or parts of acts conflicting in any manner with this act are hereby repealed.

Approved March 6, 1891.

CHAPTER LXXXVII.

[H. B. No. 195.]

TO REGULATE SALMON AND STURGEON FISHING.

AN ACT to regulate salmon and sturgeon fishing in the rivers and waters of this state, and over which it has concurrent jurisdiction.

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

SECTION 1. That from and after the first day of January, 1892, it shall be unlawful for any person to fish for or take for sale or profit any salmon, sturgeon or other food fish in any of the rivers or waters of this state, or over which it has concurrent jurisdiction in civil and criminal cases, unless such person be a citizen of the United States, or has declared his intention to become such one year prior thereto, and is and has been for six months immediately prior to the time he engages in such business an actual resident of the state.

Prohibition
against for-
eigners and
non-residents.

SEC. 2. Any person desiring to fish for salmon, sturgeon or other food fish in any such rivers or waters may go before any county clerk of any county of this state and furnish satisfactory evidence of his citizenship, or of the fact that he has declared his intentions to become such one year prior thereto, and file his own affidavit and the affidavit of two other persons to the effect that he is and has been for six months prior thereto an actual *bona fide* resident of this state, and thereupon such recorder or clerk shall issue to him a certificate briefly reciting those facts, and thereafter

Recorders' cer-
tificate.

in any prosecution against such person for a violation of the provisions of this act such certificate or duly authenticated copies of the record in the office of the clerk or recorder relative thereto, shall be *prima facie* evidence of his citizenship and residence as in this act required. But in all prosecutions under this act the burden of proof shall be on the defendant to establish the facts of his citizenship and residence.

SEC. 3. Any person violating any of the provisions of this act, upon conviction thereof before any justice of the peace, shall be fined not less than five nor less than one hundred dollars.

Fee.

SEC. 4. For taking the affidavits and issuing the certificates herein provided for, the clerk shall collect from the party applying the sum of one dollar, to be paid into the county treasury; and he shall keep in his office a record of all certificates issued pursuant to this act.

Concurrent jurisdiction.

SEC. 5. Nothing in this act shall be construed to prevent citizens of any state having concurrent jurisdiction with this state over or upon any rivers or waters from fishing upon such rivers or waters: *Provided*, That this act shall not apply to Indians.

Approved March 6, 1891.

CHAPTER LXXXVIII.

[H. B. No. 139.]

TO PROVIDE FOR TAKING A CENSUS ON THE COLVILLE INDIAN RESERVATION.

AN ACT to provide for taking a census on the Colville Indian Reservation, and making an appropriation therefor, and declaring an emergency.

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

Enumerators.

SECTION 1. That the governor be and is hereby empowered and directed to appoint two (2) enumerators, at a salary of five dollars (\$5.00) per diem each, and that said

enumerators be allowed in addition to their per diem the sum of three hundred dollars (\$300.00) for traveling expenses, or such portion thereof as may be expended by them while enumerating the Indians on the Colville reservation.

SEC. 2. That the sum of fifteen hundred dollars (\$1,500.00) be and the same is hereby appropriated, out of any money not otherwise appropriated in the state treasury, for the purpose of taking a census of the Indians residing on the Colville reservation, or such portion thereof as may be necessary to carry out the provisions hereinbefore provided by this act. Whereas, there being no reliable data in existence relative to the actual number of Indians occupying the Colville reservation, and this data being absolutely essential for the information and guidance of the commission to open the reservation, or any part thereof, to occupancy by *bona fide* settlers, an emergency exists; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 6, 1891.

CHAPTER LXXXIX.

[H. B. No. 261.]

TO AMEND SECTION EIGHT OF THE LAW CREATING A CODE COMMISSIONER.

AN ACT to amend section eight of an act entitled "An act to appoint a commissioner to compile, re-arrange and annotate the laws of Washington, and to provide for the publication and distribution thereof, and for payment therefor," approved February 18, 1890.

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

SECTION 1. That section eight of an act entitled "An act to appoint a commissioner to compile, re-arrange and annotate the laws of Washington, and to provide for the publication and distribution thereof, and for payment therefor," is hereby amended to read as follows: "On receipt of the one thousand copies of the laws, as hereinbe-

Distribution of
copies.

fore provided, the secretary of state shall deliver to each of the officers of the executive department of this state, one copy; to each of the judges of the supreme court of this state, one copy; and to the state librarian, for use in the library and for exchange with the librarians of other states and territories, one hundred copies; and he shall forward by mail post-paid to the librarian of congress, two copies; to each of the justices of the supreme court of the United States, one copy; to the libraries of the department of justice and of the interior of the United States, one copy each; to each of the judges of the superior courts of this state, one copy; to each member of the legislature of this state, one copy; to each county clerk, auditor, sheriff, treasurer, prosecuting attorney, superintendent of schools and justice of the peace of this state, one copy; and to the library of the state university, one copy. Before sending such volumes to the said county officers and justices of the peace, the secretary shall indelibly mark each of such volumes with the name of the county and the office for which it is intended, and said volumes must be, by the officer so receiving them, turned over to his successor in office. The secretary shall retain for such further distribution as may be provided by law one hundred copies, and the remaining copies he is hereby empowered to sell at the price of ten dollars per set.

Copies must be
marked.

Approved March 6, 1891.

CHAPTER XC.

[H. B. No. 222.]

TO AMEND COUNTY ROAD BOND LAW.

AN ACT to amend section two of an act entitled "An act to authorize county commissioners to issue bonds for road purposes," approved March 22, 1890, and declaring an emergency.

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

SECTION 1. Section two of an act entitled "An act to authorize county commissioners to issue bonds for road

purposes," approved March 22, 1890, is hereby amended so as to read as follows: Sec. 2. Such election may be held at the times and in the manner provided for holding general elections in this state, and it may be held as a special election at such time as the board of county commissioners may designate: *Provided*, That no special election shall be held under this act at any time after the general election of November, 1892. The ballots used must contain the words "bonds, yes" or "bonds, no." If three-fifths of the legal ballots cast on the question of issuing bonds for the improvement contemplated in section one of the act of which this act is amendatory shall be in favor of bonds, the said commissioners must issue said bonds in due and legal form and negotiate or float the same to the best advantage for the county, at not less than par value. Such bonds must bear the signature of the chairman of such board of commissioners and be countersigned by the county auditor of the county in whose name they are issued, with the seal of the county thereunto attached, and the coupons must be signed by said chairman and said clerk, and each bond so issued must be registered in the office of the county treasurer in a book provided for that purpose, which must show the date, number and amount of the bond, and the name and address of the person to whom the same is issued.

Time and manner of holding election.

Special elections.

Majority necessary.

Requirement of register.

SEC. 2. On account of the impassable condition of highways in many counties, an emergency is hereby declared to exist; therefore, this act shall be in force from and after its passage and approval by the governor.

Emergency.

Approved March 6, 1891.

CHAPTER XCI.

[H. B. No. 166.]

RELIEF OF JOHN HUNTINGTON AND JOHN D. LITLE.

AN ACT for the relief of John Huntington and John D. Litle, copartners known as Huntington & Litle, and making an appropriation therefor.

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

SECTION 1. That there be and hereby is appropriated the sum of five thousand two hundred and eighty dollars (\$5,280.00) to pay said John Huntington and John D. Litle, copartners known as Huntington & Litle, for labor, service and materials furnished to the Territory of Washington for the construction of the asylum for the insane at Medical Lake, remaining due and unpaid by the Territory of Washington.

SEC. 2. The state auditor is hereby directed to draw a warrant upon the state treasurer in favor of said Huntington & Litle, copartners, for the sum of five thousand two hundred and eighty dollars (\$5,280.00), payable out of any money in the treasury not otherwise appropriated.

Approved March 6, 1891.

CHAPTER XCII.

[H. B. No. 202.]

TO APPROPRIATE MONEY TO PAY DEFICIENCIES.

AN ACT to appropriate money to pay deficiencies in appropriations for expressage, furniture for and cleaning of capitol building, and for other expenses.

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 state treasury not otherwise appropriated the sum of one thousand and eleven and $\frac{66}{100}$ dollars (\$1,011 $\frac{66}{100}$) for the payment of express charges, fuel, furniture for and cleaning capitol building, and other incidental

expenses incurred prior to January 8, 1891, not provided for by existing appropriations.

SEC. 2. That the state auditor shall draw his warrant in favor of Allen Weir, secretary of state, on the state treasurer for the amount named in section one, who shall pay the same out of any moneys in the state treasury not otherwise appropriated.

Approved March 6, 1891.

CHAPTER XCIII.

[H. B. No. 85.]

TO APPROPRIATE MONEY TO COVER DEFICIENCY IN MAINTAINING THE STATE PENITENTIARY.

AN ACT to appropriate money to cover the deficiency for maintaining the state penitentiary to January first, eighteen hundred and ninety-one (1891).

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

SECTION 1. That there be and is hereby appropriated out of the general funds of the state not otherwise appropriated the sum of fifteen thousand nine hundred and ten dollars (\$15,910.00) to pay the deficiency created for the maintenance of the state penitentiary up to January first, eighteen hundred and ninety one (1891).

SEC. 2. The state auditor shall audit all bills and vouchers heretofore lawfully drawn and properly certified to by the penitentiary commissioners for the above amount, and draw warrants on the state treasurer for the amounts thereof respectively, and the state treasurer shall pay all said warrants out of said appropriation.

SEC. 3. This act shall take effect from and after its passage and approval by the governor.

Approved March 6, 1891.

Sig. 12.

CHAPTER XCIV.

[H. B. No. 152.]

CONFIRMING SHERIFFS' DEEDS.

AN ACT confirming sheriffs' deeds made by the successor in office of sheriffs who have sold land in pursuance of law but have not made deeds therefor.

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

SECTION 1. In all cases where real estate has been heretofore duly sold by a sheriff in pursuance of law by virtue of an execution or other process, and no deed having been made therefor in the manner required by law to the purchaser therefor [thereof] or other person entitled to the same by the sheriff making the sale, the successor in office of the sheriff making the sale having made a deed of the premises so sold to the purchaser or other person entitled to the same, such deed shall be valid and effectual to convey to the grantee the lands or premises so sold: *Provided*, That this act shall not be construed to affect the equities of third parties in the premises.

Approved March 6, 1891.

CHAPTER XCV.

[H. B. No. 182.]

TO PROTECT TROUT.

AN ACT making it unlawful to catch or kill trout during certain months, or to take, catch or kill the same in any manner whatever other than by hook and line, providing a punishment, and declaring an emergency.

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

Close season.

SECTION 1. Every person who shall, within the State of Washington, during the months of November, December, January, February, March and April of each year, take, catch, kill or have in their possession any brook trout, mountain trout, bull trout or salmon trout, shall be guilty of a misdemeanor. Every person who shall take, catch,

kill or have in their possession any of the food fishes im- Offense defined.
 planted in the creeks, rivers, lakes or bays of the State of
 Washington, except for propagating the same, for a period
 of three years after the same shall have been implanted,
 shall be guilty of a misdemeanor.

SEC. 2. Every person who shall, within the State of
 Washington, take, catch or destroy with any seine, net,
 weir, trap or other device, other than hook and line, any
 mountain trout, brook trout, bull trout or salmon trout, in
 any of the waters of the State of Washington, shall be
 guilty of a misdemeanor.

SEC. 3. An emergency is hereby declared to exist, and Emergency.
 this act shall be in force from and after its passage and ap-
 proval.

Approved March 6, 1891.

CHAPTER XCVI.

[S. B. No. 196.]

DEFINING FORCIBLE ENTRY, FORCIBLE DETAINER AND UNLAWFUL DETAINER OF REAL PROPERTY.

AN ACT defining forcible entry, forcible detainer and unlaw-
 ful detainer of real property, and providing remedies therefor by
 summary proceedings.

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

SECTION 1. Every person is guilty of a forcible entry Forcible entry.
 who either—1. By breaking open windows, doors or other
 parts of a house, or by fraud, intimidation or stealth, or
 by any kind of violence or circumstance of terror, enters
 upon or into any real property; or—2. Who, after entering
 peaceably upon real property, turns out by force, threats
 or menacing conduct the party in actual possession.

SEC. 2. Every person is guilty of a forcible detainer Forcible de-
 tainer.
 who either—1. By force, or by menaces and threats of
 violence, unlawfully holds and keeps the possession of any
 real property, whether the same was acquired peaceably or

otherwise; or—2. Who in the night time, or during the absence of the occupant of any real property, enters thereon, and who, after demand made for the surrender thereof, refuses for the period of three days to surrender the same to such former occupant. The occupant of real property within the meaning of this subdivision is one who for the five days next preceding such unlawful entry was in the peaceable and undisturbed possession of such real property.

Unlawful de-
tainer.

SEC. 3. A tenant of real property for a term less than life is guilty of unlawful detainer either—1. When he holds over or continues in possession, in person or by sub-tenant, of the property or any part thereof after the expiration of the term for which it is let to him. In all cases where real property is leased for a specified term or period by express or implied contract, whether written or by parol, the tenancy shall be terminated without notice at the expiration of such specified term or period; or—2. When he having leased real property for an indefinite time, with monthly or other periodic rent reserved, continues in possession thereof, in person or by sub-tenant, after the end of any such month or period, in cases where the landlord, more than twenty days prior to the end of such month or period, shall have served notice (in manner in this act provided) requiring him to quit the premises at the expiration of such month or period. 3. When he continues in possession in person or by sub-tenant after a default in the payment of any rent, and after a notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner hereafter in this act provided) in behalf of the person entitled to the rent upon the person owing the same, shall have remained uncomplished with for the period of three days after service thereof. Such notice may be served at any time after the rent becomes due; or—4. When he continues in possession in person or by sub-tenant after a neglect or failure to keep or perform any other condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sub-let, than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the

property, served (in the manner provided in this act) upon him, and if there be a sub-tenant in actual possession of the premises, also upon such sub-tenant, shall remain uncomplished with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any sub-tenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture; or—5. When he commits or permits waste upon the demised premises, or when he sets up or carries on therein or thereon any unlawful business, or when he erects, suffers, permits or maintains on or about said premises any nuisance, and remains in possession after service (in manner in this act provided) of three days' notice to quit upon him.

SEC. 4. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than sixty days after the expiration of his term without any demand or notice to quit by his landlord or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of his landlord or the successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of a tenant to hold for another year.

SEC. 5. Any notice provided for in this act shall be served either—1. By delivering a copy personally to the person entitled thereto; or—2. If he be absent from his place of business, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his place of residence; or—3. If the person to be notified be a tenant and his place of residence is not known, or if a person of suitable age and discretion there cannot be found, then by affixing a copy of the notice in a conspicuous place on the demised property, and also delivering a copy to a person there residing, if such person can be found, and also sending a copy through the mail addressed

Notice; how served.

to the tenant at the place where the demised property is situated. Service upon a sub-tenant may be made in the same manner. Any service in this act provided for may be made by any person who is over the age of twenty-one years.

Jurisdiction of proceedings.

SEC. 6. The superior court of the county in which the property or some part of it is situated shall have jurisdiction of proceedings under this act.

SEC. 7. No person other than the tenant of the premises, and sub-tenant, if there be one, in the actual occupation of the premises when the complaint is filed, need be made parties defendant in any proceeding under this act, nor shall any proceeding abate, nor the plaintiff be non-suited, for the non-joinder of any person who might have been made party defendant; but when it appears that any of the parties served with process, or appearing in the proceeding, are guilty of the offense charged, judgment must be rendered against him. In case a person has become a sub-tenant of the premises in controversy after the service of any notice in this act provided for, the fact that such notice was not served on such sub-tenant shall constitute no defense to the action. All persons who enter the premises under the tenant, after the commencement of the action hereunder, shall be bound by the judgment the same as if they had been made parties to the action.

Complaint to recover.

SEC. 8. The plaintiff in his complaint, which shall be in writing, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force or violence which may have accompanied the said forcible entry or forcible or unlawful detainer, and claim damages therefor, or compensation for the occupation of the premises, or both; in case the unlawful detainer charged be after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint a summons must be issued thereon as in other cases, returnable at a day designated therein, which shall not be less than six nor more than twelve days from its date, except in cases where the publication of summons is necessary, in which case the court or judge thereof may order that the

summons be made returnable at such time as may be deemed proper, and the summons shall specify the return day so fixed.

SEC. 9. The summons must state the names of the Summons. parties to the proceeding, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him. The summons must be directed to the defendant, and in case of summons by publication, be served at least five days before the return day designated therein. The summons must be served and returned in the same manner as summons in other actions is served and returned. Upon the return of any summons issued under this act, when the same has not for any reason been served, or has not been served in time, the plaintiff may have a new summons issued the same as if no previous summons had been issued.

SEC. 10. The plaintiff, at the time of commencing an ac- Writ of restitu- tion of forcible entry or forcible detainer or unlawful de- tion. tainer, or at any time afterwards, may apply to the judge of the court in which the action is pending for a writ of restitution restoring to the plaintiff the property in the complaint described, and the judge shall order a writ of restitution to issue. The writ shall be issued by the clerk of the superior court in which the action is pending, and be returnable in twenty days after its date; but before any writ shall issue prior to judgment the plaintiff shall execute - to the defendant and file in court a bond in such a sum as the court or judge may order, with two or more sureties, to be approved by the clerk, conditioned that the plaintiff will prosecute his action without delay, and will pay all costs that may be adjudged to the defendant, and all damages which he may sustain by reason of the writ of restitution having been issued, should the same be wrongfully sued out.

SEC. 11. The sheriff shall, upon receiving the writ of Duty of sheriff. restitution, forthwith serve a copy thereof upon the defendant, his agent or attorney, or a person in possession of the premises, and shall not execute the same for three days

thereafter, within which time the defendant, or those in possession of the premises, may execute to the plaintiff a bond to be filed with and approved by the clerk of the court, in such a sum as may be fixed by the judge, with two or more sureties to be approved by the clerk of said court, conditioned that they will pay the plaintiff such sum as the plaintiff may recover for the use and occupation of the said premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of said premises, and also all the costs of the action. The plaintiff, his agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualifications and sufficiency of the sureties upon said bond before said bond shall be approved by the clerk.

Bond.

SEC. 12. The plaintiff or defendant at any time, upon two days' notice to the adverse party, may apply to the court or any judge thereof for an order raising or lowering the amount of any bond in this act provided for. Either party may, upon like notice, apply to the court or any judge thereof for an order requiring additional or other surety or sureties upon any such bond. Upon the hearing of any application made under the provisions of this section evidence may be given. The judge after hearing any such application shall make such an order as shall be just in the premises.

Judgment by default.

SEC. 13. If at the time appointed in the summons the defendant do not appear and defend, the court must render judgment in favor of the plaintiff as prayed for in the complaint.

SEC. 14. On or before the day fixed for his appearance the defendant may appear and answer or demur.

Issue of fact must be tried by jury.

SEC. 15. Whenever an issue of fact is presented by the pleadings it must be tried by a jury, unless such a jury be waived as in other cases. The jury shall be formed in the same manner as other trial juries in the court in which the action is pending; and in all cases actions under this act shall take precedence of all other civil actions.

SEC. 16. On the trial of any proceeding for any forcible

entry or forcible detainer the plaintiff shall only be required to show, in addition to a forcible entry complained of, that he was peaceably in the actual possession at the time of the forcible entry; or, in addition to a forcible detainer complained of, that he was entitled to the possession at the time of the forcible detainer.

SEC. 17. When upon the trial of any proceeding under this act it appears from the evidence that the defendant has been guilty of either a forcible entry or a forcible or unlawful detainer, in respect of the premises described in the complaint, and other than the offense charged in the complaint, the judge must order that such complaint be forthwith amended to conform to such proofs; such amendment must be made without any imposition of terms. No continuance shall be permitted on account of such amendment unless the defendant shows to the satisfaction of the court good cause therefor.

SEC. 18. If upon the trial the verdict of the jury or, if Judgment for restitution. the case be tried without a jury, the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement or tenancy. The jury, or the court, if the proceedings be tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the defendant guilty of the forcible entry, forcible detainer or unlawful detainer for twice the amount of damages thus assessed and of the rent, if any, found due. When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration

Satisfaction of
Judgment.

of five days after the entry of the judgment, within which time the tenant or any sub-tenant, or any mortgagee of the term, or other party interested in its continuance, may pay into court for the landlord the amount of the judgment and costs, and thereupon the judgment shall be satisfied and the tenant restored to his estate; but if payment, as herein provided, be not made within five days the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

Rules of pro-
cedure.

SEC. 19. Amendments may be allowed by the court at any time before final judgment, upon such terms as to the court may appear just, in the same cases and manner and to the same extent as in civil actions.

SEC. 20. Except as otherwise provided in this act, the provisions of the laws of this state with reference to practice in civil actions are applicable to, and constitute the rules of practice in the proceedings mentioned in this act; and the provisions of such laws relative to new trials and appeals, except so far as they are inconsistent with the provisions of this act, shall be held to apply to the proceedings mentioned in this act.

SEC. 21. The court may relieve a tenant against a forfeiture of a lease and restore him to his former estate, as in other cases provided by law, where application for such relief is made within thirty days after the forfeiture is declared by the judgment of the court, as provided in this act. The application may be made by a tenant or sub-tenant, or a mortgagee of the term, or any person interested in the continuance of the term. It must be made upon petition, setting forth the facts upon which the relief is sought, and be verified by the applicant. Notice of the application, with a copy of the petition, must be served on the plaintiff in the judgment, who may appear and contest the application. In no case shall the application be granted except on condition that full payment of rent due, or full performance of conditions of covenants stipulated, so far as the same is practicable, be first made.

SEC. 22. If either party feels aggrieved by the judgment he may appeal to the supreme court, as in other civil actions: *Provided*, That if the defendant appealing desires a stay of proceedings pending such appeal, he shall execute and file a bond, with two or more sufficient sureties to be approved by the judge, conditioned to abide the order of the court on such appeal, and to pay all rents and other damages justly accruing to the plaintiff during the pendency of the appeal.

SEC. 23. When the defendant shall appeal, and shall file a bond as provided in the preceding section, all further proceedings in the case shall be stayed until the determination of said appeal and the same has been remanded to the superior court for further proceedings therein.

SEC. 24. If a writ of restitution has been issued previous to the taking of an appeal by the defendant, and said defendant shall execute and file a bond as provided in this act, the clerk of the court, under the direction of the judge, shall forthwith give the appellant a certificate of the allowance of such appeal; and upon the service of such certificate upon the officer having such writ of restitution the said officer shall forthwith cease all further proceedings by virtue of such writ; and if such writ has been completely executed the defendant shall be restored to the possession of the premises, and shall remain in possession thereof until the appeal is determined.

SEC. 25. The act of the legislature of the State of Washington, approved March 27, 1890, entitled "An act relating to summary proceedings for obtaining possession of real property in certain cases, and declaring an emergency," and all acts and parts of acts, and all code provisions relating to the subject matter of this act (other than provisions for criminal prosecutions), are hereby repealed: *Provided, however*, That this repeal shall in nowise affect vested rights: *And provided further*, That no proceeding pending in any court at the time this act shall go into effect shall be in anywise affected by this act.

Approved March 7, 1891.

CHAPTER XCVII.

[H. B. No. 120.]

FOR RELIEF OF L. COFFIN AND MARY E. TEAL.

AN ACT for the relief of L. Coffin and Mary E. Teal, and making an appropriation.

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

SECTION 1. That the state auditor be and is hereby authorized to draw a warrant in favor of L. Coffin and Mary E. Teal for the sum of eight hundred and forty-four twenty-six hundredths dollars (\$844.26), and the state treasurer is authorized to pay such warrant, for the payment of which there be and is hereby appropriated out of any funds not otherwise appropriated the said sum.

Approved March 7, 1891.

CHAPTER XCVIII.

[S. B. No. 28.]

TO CREATE A BOARD OF HEALTH AND BUREAU OF VITAL STATISTICS.

AN ACT to create and establish a board of health and bureau of vital statistics in the State of Washington.

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

SECTION 1. That the governor, with the advice and consent of the senate, shall appoint five persons who shall constitute the state's board of health. The persons so appointed shall hold their office for five years: *Provided*, That the term of office of the first five appointed shall be so arranged that the term of one shall expire on the 30th day of December of each year, and the vacancies so created, as well as all vacancies occurring otherwise, shall be filled by the governor, with the advice and consent of the senate: *And provided also*, That appointments made when the senate is not in session may be confirmed at the next ensuing session.

Terms of office.

Vacancies;
how filled.

SEC. 2. The state board of health shall have the general supervision of the interests of the health and life of the citizens of the state, they shall have authority to make such rules and regulations and such sanitary investigations as they may, from time to time, deem necessary for the preservation or improvement of public health; and it shall be the duty of all police officers, sheriffs and constables, all county officers and employés of the state, to enforce such rules and regulations so far as the efficiency and success of the board may depend upon their official coöperation.

Duties and powers of board.

SEC. 3. The board of health shall have supervision of the state system of registration of births and deaths, as hereinafter provided. They shall recommend such forms and such legislation as shall be necessary for the thorough registration of vital and mortuary statistics throughout the state. The secretary of the board shall be the superintendent of such registration, and shall keep well bound record books in which shall be tabulated the reports made to the state board by the county auditor, as hereinafter provided. He shall keep an accurate account of all moneys received for certificates issued, for fines and all other sources. He shall pay at the end of each month all money on hand to the state treasurer for the credit of the state board of health.

SEC. 4. It shall be the duty of all physicians, accoucheurs and midwives in this state to register their names and post-office address with the county auditor of the county where they reside, within ninety days after the passage of this act; and said physicians, accoucheurs and midwives shall be required, under penalty of ten dollars, to be recovered in any court of competent jurisdiction in the state, at suit of the county auditor, to report to the county auditor within thirty days from the date of their occurrence all births and deaths which may come under their supervision, with a certificate of the cause of death, and such correlative facts as the board may require, in the blank forms to be provided and furnished by the county auditor.

Duty of physicians, accoucheurs and midwives.

SEC. 5. Where any birth or death shall take place, no physician, accoucheur or midwife being in attendance, the same shall be reported to the county auditor within thirty

Births and deaths must be reported to county auditors.

days from the date of their occurrence, with the supposed cause of death, by the parent or, if none, by the nearest of kin, not a minor, or if none, by the resident householder where the death shall occur, under penalty as provided in the preceding section of this act.

SEC. 6. The coroners of the several counties shall be required to report to the county auditor all cases of deaths which may come under their supervision, with the cause and mode of death, etc., as per forms to be provided and furnished by the county auditor, under penalty as provided in section four of this act.

SEC. 7. All moneys recovered under the penalties herein provided shall be appropriated to a special fund for the carrying out of the objects of this law.

County auditors
must keep a
record.

SEC. 8. The county auditor of the several counties in this state shall be required to keep a record book for the registration of the names and postoffice addresses of physicians, accoucheurs and midwives, to be known as a register of physicians and accoucheurs. Shall also keep a book for registering all births, to be known as a birth register, and also shall keep a book to register all deaths, to be known as a death register, and all the births and deaths so registered shall be transcribed quarterly, in alphabetical order, into books to be known as the permanent record of births and the permanent record of deaths. He shall also keep a book to be known as the marriage statistic record, in which shall be recorded all the statistical information prescribed by the state board. Said books shall always be open for inspection, and said county auditor shall be required to render a full and complete report of all marriage statistics, births and deaths to the secretary of the board of health quarterly, and at such other times as the secretary of the board may direct.

Report of mar-
riage statistics.

Meetings of
board.

SEC. 9. The first meeting of the board shall be within fifteen day after their appointment, and thereafter in January and June of each year, and at such other time as the board shall deem expedient. The meeting in January of each year shall be at the capital. A majority shall constitute a quorum. They shall choose one of their number

to be president, and they may adopt rules and by-laws for their government, subject to the provisions of this act.

SEC. 10. They shall elect a secretary who shall perform the duties prescribed by the board, and by this act he shall receive a salary of twelve hundred dollars per annum. He shall also receive his expenses incurred in the performance of his official duties. The other members of the board shall receive no compensation for their services, but their traveling and other expenses while employed on business of the board shall be paid. The president of the board shall quarterly certify the amount due the secretary as salary, and all other accounts due, and on presentation of his certificate the auditor of state shall draw his warrant on the treasurer for the amount.

Secretary of board.

SEC. 11. It shall be the duty of the board of health to make an annual report, through their secretary or otherwise, in writing, to the governor of the state on or before the first of January of each year, and such reports shall include so much of the proceedings of the board and such information concerning vital statistics, such knowledge respecting diseases, and such instructions on the subject, as may be thought useful by the board for the dissemination among the people, with suggestions as to legislative action as they may deem necessary.

Annual report.

SEC. 12. The secretary of the state shall furnish to each county auditor the necessary books for record, and blank certificates in book form, which certificates the county auditor shall furnish to each physician practicing in his county.

SEC. 13. The sum of five thousand (\$5,000) dollars, or so much thereof as may be necessary, is hereby appropriated to pay the salary of the secretary and the expenses of the board, meet the contingent expenses of the office of the secretary and all costs for printing, which together shall not exceed the sum hereby appropriated. Said expenses shall be certified and paid in the same manner as the salary of the secretary.

Appropriation.

SEC. 14. The secretary of the state shall provide room suitable for the meetings of the board and office room for the secretary.

SEC. 15. The state board of health shall take cognizance

Fatal diseases
among domestic
animals.

of any fatal diseases which may be prevalent among the domestic animals of the state and ascertain the nature and causes of such disease, and shall from time to time publish the result of their investigations, with suggestions for the proper treatment of such animals as may be affected, and the remedy or remedies therefor.

SEC. 16. All acts or parts of acts in conflict with this act are hereby repealed.

Approved March 7, 1891.

CHAPTER XCIX.

[H. B. No. 292.]

FOR RELIEF OF WILBUR W. WALTMAN.

AN ACT for the relief of Wilbur W. Waltman.

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

SECTION 1. There is hereby appropriated out of the state treasury, out of any money not otherwise appropriated, the sum of one hundred and twenty-one and $\frac{20}{100}$ dollars (\$121.20) for the relief of Wilbur W. Waltman, and the state auditor is hereby authorized to issue a warrant for the above amount.

Approved March 7, 1891.

CHAPTER C.

[H. B. No. 231.]

TO PRESCRIBE THE DUTIES OF THE STATE BOARD OF
HORTICULTURE IN RELATION TO HOPS AND HOP
PLANTS.

AN ACT to prescribe the duties of the state board of horticulture
in relation to hops and hop plants.

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

SECTION 1. For the purpose of preventing the spread of
diseases among hops and hop plants, and for the treatment,
cure and extirpation of hops and hop plant pests, the state
board of horticulture shall have the same powers, perform
like duties, and receive the same compensation, as it does
under similar circumstances in the act creating the said
board in relation to fruit and fruit trees.

Approved March 7, 1891.

CHAPTER CI.

[H. B. No. 130.]

TO PROVIDE FOR THE ERECTION OF A BUILDING FOR
FEEBLE MINDED PUPILS OF THE WASHINGTON
SCHOOL FOR DEFECTIVE YOUTH.

AN ACT to provide for the erection of a building to accommodate
the feeble minded pupils of the Washington school for defective
youth, and to appropriate money therefor.

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

SECTION 1. That the board of trustees of the Washing-
ton school for defective youth are hereby authorized to
construct a building for the accommodation of the feeble
minded pupils of the Washington school for defective
youth, subject to the regulations specified and provided in
sections two (2), three (3), four (4) and five (5) of an act
entitled "An act to provide for the completion of the
building of the Washington school for defective youth and

to appropriate money therefor," approved March 20th, 1890: *Provided further*, That a plan shall be adopted for a building which, when completed, shall be capable of accommodating at least fifty pupils, and shall not cost more than nineteen thousand dollars (\$19,000): *And provided further*, That the purchase of a suitable tract of land as a site for said building, which tract of land must not cost more than fifteen hundred dollars (\$1,500), may be construed as being included in the construction of said building: *Provided further*, That the land so purchased shall not be at a distance of more than one mile nor nearer than one-half mile from the present site: *Provided further*, That said tract shall not contain less than five acres.

Limit of cost.

Location and size of site.

Appropriation. SEC. 2. That for the purposes of carrying into effect the provisions of this act there is hereby appropriated from funds in the state treasury not otherwise appropriated the sum of twenty thousand dollars (\$20,000).

Approved March 7, 1891.

CHAPTER CII.

[H. B. No. 71.]

TO COMPLETE A BUILDING FOR THE WASHINGTON SCHOOL FOR DEFECTIVE YOUTH.

AN ACT to provide for the completion of the building of the Washington school for defective youth, and to appropriate money therefor.

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

SECTION 1. That the board of trustees of the Washington school for defective youth are hereby authorized to complete the building now under process of construction for the said Washington school for defective youth, in the manner and subject to the regulations specified and provided in sections two (2), three (3), four (4) and five (5) of an act entitled "An act to provide for the completion of the building of the Washington school for defective

youth, and to appropriate money therefor," approved March 20, 1890: *Provided*, That the purchase of a storage electric battery may be included in the completion of the building.

SEC. 2. That for the purposes of carrying into effect the provisions of this act there is hereby appropriated from funds in the state treasury not otherwise appropriated the sum of thirteen thousand four hundred and fifty dollars (\$13,450).

Approved March 7, 1891.

CHAPTER CIII.

[H. B. No. 279.]

TO PROVIDE FOR COMMITTING JUVENILE OFFENDERS TO THE STATE REFORM SCHOOL.

AN ACT to provide for the committing of juvenile offenders to the state reform school at Chehalis.

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

SECTION 1. When a boy or girl of sane mind between Limit of age. the ages of eight and sixteen years shall, in any court of record in this state, be found guilty of any crime except murder or manslaughter, or who for want of proper paternal care is growing up in mendicancy or vagrancy, or is incorrigible, and complaint thereof is made and properly sustained, the court may, if in its opinion the accused is a Discretion of court. proper subject therefor, instead of entering judgment cause an order to be entered that said boy or girl be sent to the state reform school, in pursuance of the provisions of this act, and a copy of said order under the 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.

SEC. 2. When a boy or girl of sane mind between the ages of eight and sixteen years shall be convicted before

Duty of magis-
trate.

a justice of the peace or other inferior court of any crime, mendicancy, vagrancy or incorrigibility, it shall be the duty of said magistrate before whom he or she may be convicted to forthwith send such boy or girl, together with all the papers filed in his office upon the subject, under the control of some officer, to a judge of a court of record. He shall then issue an order to the parent or guardian of said boy or girl, or such person as may have him or her in charge, or with whom she or he has last resided, or any one known to be near related to him or her, or if she or he be alone and friendless then to such person said judge may appoint to act as guardian for the purposes of the cases, requiring him or her to appear at the time and place stated in said order to show cause why said boy or girl should not be committed to the said state reform school for training and reformation.

Guardian.

Fees.

SEC. 3. Said order shall be served by the sheriff or other qualified officer by delivering a copy thereof personally to the party to whom it is addressed, or leaving it with some person of full age at the place of residence or business of said party, and immediate returns shall be made to said judge of the time and manner of such service. The fees of the sheriff or other officer under this chapter shall be the same as now or may hereafter be allowed by law for like services.

Proceedings.

SEC. 4. At the time and place mentioned in said order, or at the time and place to which it may be adjourned, if the parent or guardian to whom said order may be addressed shall appear, then in his or her presence, or if he or she fail to appear, then in the presence of some competent person whom the said judge shall appoint as guardian for the purposes of the case, it shall be lawful for the said judge to proceed to take the voluntary examination of said boy or girl, and to hear the statements of the party appearing for him or her and such testimony in relation to the case as may be produced, and if upon such examination and hearing the said judge shall be satisfied that the boy or girl is a fit subject for the state reform school, he may commit him or her to said school by warrant.

Commitment
by warrant

SEC. 5. The judge shall certify in the warrant the place

in which the boy or girl resided at the time of his or her arrest, also his or her age as near as can be ascertained, and command the said officer to take the said boy or girl and deliver him or her without delay to the superintendent of said school, or other persons in charge thereof at the place where the same is located and established, and such certificate for the purpose of this act shall be conclusive evidence of his or her residence or age; accompanying this warrant the judge shall transmit to the superintendent by the officer executing it a statement of the nature of the complaint, together with such other particulars concerning the boy or girl as a judge is able to ascertain: *Provided*, The expense of conveying any boy or girl so committed to said state reform school or returning him or her to his or her parent or guardian after his or her release therefrom shall be at the expense of the state. Expenses; how paid.

SEC. 6. The proceedings before any judge or court may be reviewed on writ of error by the superior court, and proceedings before any superior court or judge thereof may be reviewed by the supreme court, in the manner provided by law for reviewing criminal cases in these courts.

SEC. 7. Each boy or girl committed to the state reform school shall remain there until he or she arrives at the age of 18 years, unless sooner paroled or legally discharged. Discharge or parole. The discharge of any boy or girl having arrived at the age of eighteen years shall be a complete release from all penalties incurred by conviction of the offense for which she or he was committed.

Approved March 7, 1891.

CHAPTER CIV.

[H. B. No. 204.]

TO PROVIDE FOR REGISTRATION OF VOTERS IN PRECINCTS PARTLY WITHIN INCORPORATED CITIES AND TOWNS.

AN ACT to provide for the registration of voters in precincts where an incorporated city or town, or any portion thereof, forms a part of a voting precinct.

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

SECTION 1. That in precincts where an incorporated city or town forms a part of a voting precinct, and where any portion of a city or town forms a part of a precinct extending beyond the corporate limits, there shall be a registration of voters: *Provided*, The board of county commissioners may appoint the clerk of a city or town in such a precinct the officer of registration for that portion of such a precinct without the city or town, but the voters within the city or town and those without shall be registered in separate poll books of registration.

Separate poll books.

SEC. 2. The voters of any such precinct resident within the corporate limits of an incorporated city or town shall be registered by the clerk of said city or town, and those voters resident within the precinct, but without the corporate limits of a city or town, shall be registered by an officer of registration to be appointed by the board of county commissioners.

Time and manner of registration.

SEC. 3. The time and manner of registration under this act shall be the same as that prescribed by law.

SEC. 4. The expense of registration in all cities and towns shall be paid by such cities or towns, and the expense of registration in precincts outside of cities and towns shall be paid by the county in which such precincts are situated.

Approved March 7, 1891.

CHAPTER CV.

[H. B. No. 244.]

TO AMEND AN ACT REGULATING BUILDING AND LOAN ASSOCIATIONS.

AN ACT to amend section 33 of an act entitled "An act relating to building, loan and saving associations doing a general business," and declaring an emergency.

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

SECTION 1. That section 33 of an act entitled "An act relating to building, loan and saving associations doing a general business" be and the same is hereby amended to read as follows: Sec. 33. All corporations organized in this state and doing business in this or any other state as building and loan associations, shall comply with and be subject to all the provisions of this act within sixty days after its passage, and shall be entitled to all its privileges thereof without reincorporating: *Provided*, That all such companies or associations, organized in the state prior to the passage of the act of which this act is amendatory, shall only be required to deposit all their securities in the manner provided by the act of which this act is amendatory, but shall not be required to deposit any other or further securities than are provided by this section as hereby amended. Deposit of securities.

SEC. 2. That all of said section 33 not included in said section as hereby amended is hereby repealed.

SEC. 3. Whereas, building and loan associations organized in good faith prior to the passage of the law hereby amended are prevented from continuing in business until this law takes effect, therefore an emergency exists, and Emergency. this law shall take effect upon its passage.

Approved March 7, 1891.

CHAPTER CVI.

[H. B. No. 205.]

TO AMEND AN ACT TO PROVIDE FOR PRINTING AND DISTRIBUTION OF BALLOTS.

AN ACT to amend section 17 of an act entitled "An act providing for printing and distributing ballots at public expense, and to regulate voting at state and other elections," approved March 19, 1890.

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

SECTION 1. That section 17 of an act entitled "An act providing for printing and distributing ballots at public expense, and to regulate voting at state and other elections," approved March 19, 1890, be amended to read as follows: Sec. 17. All ballots prepared under the provisions of this act shall be white and of a good quality of paper, and the names shall be printed thereon in black ink. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been specified or filed according to the provisions of this act, and no other names. All nominations of any party or group of petitioners shall be placed under the title of such party or petitioners, as designated by them in their certificate of nomination or petition, and the name of each nominee shall be placed under the designation of the office for which he has been nominated. At the end of the lists of candidates for each office shall be left a blank space large enough for the name of a candidate to be written in. There shall be a blank space on each side of every column of nominees at least a half an inch in width, and a reasonable space between the names printed thereon, so that the voter may clearly indicate in the way hereinafter provided the candidate or candidates for whom he wishes to cast his ballot. The arrangement of the ballot shall, in general, conform as nearly as possible to the plan hereinafter given. The list of candidates of the republican party shall be placed in the first column on the left hand side of said ballot; of the democratic party, in the second column; and of any other parties in such order as the clerk of the board of county commissioners shall determine.

Color of ballot.

Arrangement
of names.

REPUBLICAN TICKET.	DEMOCRATIC TICKET.								
<p><i>For Governor:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Rep.</td> <td style="padding-left: 10px;">A. B.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Rep.	A. B.		_____	<p><i>For Governor:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Dem.</td> <td style="padding-left: 10px;">G. H.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Dem.	G. H.		_____
Rep.	A. B.								

Dem.	G. H.								

<p><i>For Lieutenant Governor:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Rep.</td> <td style="padding-left: 10px;">C. D.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Rep.	C. D.		_____	<p><i>For Lieutenant Governor:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Dem.</td> <td style="padding-left: 10px;">I. J.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Dem.	I. J.		_____
Rep.	C. D.								

Dem.	I. J.								

<p><i>For Senator:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Rep.</td> <td style="padding-left: 10px;">E. F.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Rep.	E. F.		_____	<p><i>For Senator:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center; width: 10%;">Dem.</td> <td style="padding-left: 10px;">K. L.</td> </tr> <tr> <td style="border: 1px solid black; height: 20px; width: 10%;"></td> <td style="padding-left: 10px;">_____</td> </tr> </table>	Dem.	K. L.		_____
Rep.	E. F.								

Dem.	K. L.								

Whenever the secretary of state has duly certified to the clerk of the board of county commissioners any question to be submitted to a vote of the people, the clerk of the board of county commissioners shall have printed on the regular ballots the question in such form as will enable the electors to vote upon the question so presented in the manner hereinafter provided; the clerk of the board of county commissioners shall also prepare the necessary ballots, whenever any question is, by law, to be submitted to the vote of the electors of any locality, and not to the state generally: *Provided, however,* That in all questions submitted to the voters of a municipal corporation alone, it shall be the duty of the municipal clerk to provide the necessary ballots.

Approved March 7, 1891.

CHAPTER CVII.

[H. B. No. 219.]

REGULATING THE MANUFACTURE OF JUTE FABRICS
AND BRICK AT THE STATE PENITENTIARY.

AN ACT regulating the manufacture and sale of jute fabrics and brick at the state penitentiary, and making an appropriation for the purchase of material.

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

SECTION 1. In the manufacture of jute fabrics and brick the directors of the state penitentiary shall employ such skilled labor as is found necessary and as many convicts as possible.

SEC. 2. In ascertaining the cost of the jute fabrics and brick the directors shall include the cost of material at the penitentiary, the cost of the skilled labor employed, the cost of the fuel, interest on investment at six (6) per cent., and such other expenses as are incident to the manufacture of jute fabrics and brick; and none of the jute fabrics and brick shall be sold for less than the actual cost of production based upon items above enumerated, fuel and repairs, without special authority from the legislature.

Regulation of price.

Terms of sale.

Duty of directors.

SEC. 3. In selling jute fabrics and brick the directors shall provide that they be sold only to actual consumers for cash on delivery, in the order, as near as may be, of the making of applications therefor; and it shall be a misdemeanor punishable by a fine and removal from office for said directors to knowingly dispose of said jute fabrics to others than actual consumers, and shall keep a correct account of all sales made and to whom made and the amount received, and submit such account to the legislature at each meeting thereof.

Appropriation.

SEC. 4. The sum of thirty thousand dollars (\$30,000) is hereby appropriated out of any money in the treasury not otherwise appropriated to provide and maintain a permanent revolving fund for the purchase and delivery at the state penitentiary of jute, clay and other material, to be drawn out of the state treasury only upon vouchers issued for the payment of the cost of material actually purchased.

Funds; how managed.

All money taken from the revolving fund shall be used exclusively in the purchase of jute, clay and other material, to

be delivered at the state penitentiary to be used in the manufacture of jute fabrics and brick thereat; and so much of the money received from the sale of manufactured jute fabrics and brick as may be necessary to maintain the sum of thirty thousand dollars (\$30,000) in the said revolving fund shall be returned thereto before any of the proceeds from the sale of jute fabrics and brick are used for any other purpose than the purchase of jute, clay and other material: *Provided*, That no money shall be drawn under this act in pursuance thereof, except in payment of material actually purchased.

SEC. 5. Payments from the revolving fund shall be made by the state treasurer upon warrants drawn by the state auditor, upon the certified accounts of the directors of the state penitentiary. Payments; how made.

SEC. 6. On or before the fifth day of each month, the directors shall pay into the state treasury, to be placed in the revolving fund, the proceeds of the sale of jute fabrics and brick, and shall at the same time report to the state auditor the amount so paid in.

Approved March 7, 1891.

CHAPTER CVIII.

[H. B. No. 54.]

TO PROVIDE FOR THE COLLECTION, EXHIBITION AND MAINTENANCE OF THE PRODUCTS OF THE STATE OF WASHINGTON AT THE WORLD'S COLUMBIAN EXPOSITION OF 1893.

AN ACT to provide for the collection, exhibition and maintenance of the products of the State of Washington at the World's Columbian Exposition of 1893, and making an appropriation therefor.

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

SECTION 1. That for the purpose of exhibiting the resources, products and general development of the State of Washington at the World's Columbian Exhibition of 1893, Commission; how constituted.

a commission is hereby constituted, to be designated the Washington World's Fair Commission, which shall consist of the following citizens of this state: Adams county, F. P. French, of Ritzville; Asotin county, I. S. Waldrip, of Asotin City; Chehalis county, F. A. Hart, of Aberdeen; Clallam county, Charles Peters, of Port Angeles; Clarke county, P. C. Kauffman, of Vancouver; Columbia county, M. R. Hanger, of Dayton; Cowlitz county, James Wallace, of Kelso; Douglas county, A. L. Rogers, of Waterville; Franklin county, W. P. Gray, of Pasco; Garfield county, H. C. Hutchison, of Pomeroy; Island county, D. J. Zent, of Oak Harbor; Jefferson county, S. B. Conover, of Port Townsend; Klickitat county, D. W. Pierce, of Goldendale; Kittitas county, L. R. Grimes, of Ellensburg; King county, Percy W. Rochester, of Seattle; Kitsap county, L. L. Locker, of Olalla; Lewis county, N. B. Coffman, of Chehalis; Lincoln county, Edward Ramm, of Davenport; Mason county, J. E. Sligh, of Shelton; Okanogan county, C. H. Ballard, of Ruby; Pacific county, S. S. McEwing, of Willapa City; Pierce county, Ezra Meeker, of Puyallup; San Jaun county, Rev. S. R. S. Gray, of East Sound; Skagit county, G. V. Calhoun, of La Conner; Skamania county, George Stevenson, of Cascades; Snohomish county, E. C. Ferguson, of Snohomish City; Spokane county, Jay Graves, of Spokane Falls; Stevens county, Charles H. Montgomery, of Chewelah; Thurston county, Thomas H. Cavanaugh, of Olympia; Wahkiakum county, William W. Colwell, of Skamokawa; Walla Walla county, N. G. Blalock, of Walla Walla; Whatcom county, J. C. Moffatt, of Fairhaven; Whitman county, W. L. La Follette, of Ewartsville; Yakima county, T. M. Vance, of North Yakima.

Meeting and organization of commission.

SEC. 2. The commission shall meet at Olympia within twenty days after the passage of this act and shall organize by the election of a president, a vice president, a secretary, a treasurer and an executive committee of nine. The treasurer of said commission shall give a bond to the state in the sum of fifty thousand dollars, with two or more sureties, to be approved by the state auditor, for the proper performance of his duties. Ten members of said

Treasurer's bond.

commission shall constitute a quorum for the transaction of business. The commission shall have power to make Rules. rules and regulations for its own government and for the government of the executive committee: *Provided*, Such rules and regulations shall not conflict with the regulations adopted under the act of congress for the government of said World's Columbian Exposition. Any member of the commission may be removed at any time by the governor Removal for cause. for cause. Any vacancy which may occur in the membership of said commission shall be filled by the commission.

SEC. 3. The commissioners shall serve without salary, but each may be allowed \$100 per year for his expenses: Expenses. *Provided*, That the executive committee may expend in addition not to exceed \$5,000 a year for their expenses.

SEC. 4. The world's fair commission is authorized and Executive commissioner. directed to appoint an executive commissioner and to fix his salary, not to exceed \$150 per month, which shall be payable monthly out of the funds hereinafter provided for, and said executive commissioner shall be authorized and required to assume and exercise, subject to the supervision of said commission, all such executive powers and functions Duties and powers. as may be necessary to secure a complete and creditable display of the interests of the state at the World's Columbian Exposition of 1893; and as the executive agent of said commission he shall have personal charge of the solicitation, collection, transportation, arrangement and exhibition of the objects sent under the authority of the state to the World's Columbian Exposition of 1893, and of such objects sent by individual citizens of the state as may be by them placed in his charge. He shall make a Monthly reports. report to the commission monthly, or as often as by them required, and shall hold office at the pleasure of the commission.

SEC. 5. The world's Columbian commissioners and the Ex-officio members. board of lady managers of the world's Columbian commission from the State of Washington, and their respective alternates, and the world's Columbian commissioner-at-large and alternate from the state, if any there be, shall be *ex-officio* members of the world's fair commission for the State of Washington.

SEC. 6. The said commission shall have charge of the interests of the state and its citizens in the preparation and exhibition, at the World's Columbian Exposition of 1893, of the natural and industrial products of the state, and of objects illustrating its history, progress, moral and material welfare and future development, and in all other matters relating to the said World's Columbian Exposition; it shall communicate with the officers of the state and obtain and disseminate throughout the state all necessary information regarding said exposition, and in general have and exercise full authority in relation to the participation of the State of Washington and its citizens in the World's Columbian Exposition of 1893. The state mining bureau are hereby authorized to cooperate with this said Washington world's fair commission and to forward to the Columbian exposition all the mineral collections and cabinets belonging to the state, the exhibition of which shall be under the control of the said commission, and the expenses of said exhibition of minerals shall be paid from the funds herein appropriated.

State mining bureau to cooperate.

Report to the governor.

SEC. 7. The said commission shall make a detailed report of its proceedings and expenditures from time to time to the governor, and at any time upon his written request, to be by him transmitted to the legislature, together with such suggestions as he may deem important regarding provisions for a complete and creditable representation of the state at the World's Columbian Exposition of 1893.

Appropriation.

SEC. 8. To carry out the purposes and provisions of this act the sums of \$50,000 for the year 1891, and \$50,000 for the year 1892, are hereby appropriated out of any money in the state treasury not otherwise appropriated, and the state treasurer is directed to pay the money to the treasurer of said commission from time to time, on the requisition of said commission, signed by its president and secretary, and approved by the state auditor, and accompanied by estimates of the expenses to the payment of which the money so drawn is to be applied; and the state printer is hereby authorized to do what printing may be required by the said commission, not to exceed the amount of one thousand dollars. Said sum to be paid out of the appropriations

Printing.

herein made: *Provided*, That any portion of the appropriation made for the year 1891 and not expended during that year shall be available for the year 1892 the same as if appropriated for the year 1892.

Approved March 7, 1891.

CHAPTER CIX.

[H. B. No. 259.]

IN RELATION TO DIRECTORS AND TRUSTEES OF STATE INSTITUTIONS.

AN ACT in relation to directors, trustees and commissioners of state institutions.

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

SECTION 1. That the directors, trustees and commissioners of state institutions in this state, serving as such without any compensation, shall not be precluded by reason of holding such offices from receiving compensation for services not official rendered without being procured or brought about by use of such official position, or by reason thereof, but such officers shall be allowed to receive such reasonable compensation for services not official or connected with their respective offices as they would otherwise be allowed were they not such officers.

Approved March 7, 1891.

CHAPTER CX.

[H. B. No. 254.]

TO PROTECT PERSONS WHO HAVE PLANTED OYSTERS
UPON TIDE OR SHORE LANDS PRIOR TO MARCH 26,
1890.

AN ACT to protect persons who have planted oysters upon tide and shore lands in this state prior to March 26, 1890.

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

Limit of time
for removal.

SECTION 1. That any person who has prior to the 26th day of March, A. D. 1890, planted oyster beds upon any of the tide or shore lands of this state, shall be granted a period of not less than six months nor more than three years after said land has been sold by the state, to remove the same; the time to be determined by the commissioner of public lands. And any person shall have the exclusive possession of said tide or shore lands during the time that he has to remove the said oysters under the provisions of this act: *Provided*, That in case any planter of oysters shall fail within the time allotted to remove the said oysters, he shall be deemed to forfeit the same to the purchaser or owner of said lands: *Provided*, That this shall not apply to tide lands within two miles of an incorporated city.

Rights for-
feited by de-
fault.

SEC. 2. Wherever the word person is used in this act it shall be deemed to mean person, persons, firm or corporation.

Approved March 7, 1891.

CHAPTER CXI.

[H. B. No. 160.]

TO APPROPRIATE MONEY FOR SUPPLYING WATER FOR
THE EASTERN WASHINGTON HOSPITAL FOR INSANE.

AN ACT to appropriate money for the water supply plant for the Eastern Washington hospital for insane.

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

SECTION 1. That there be and is hereby appropriated out of any money in the state treasury not otherwise ap-

propriated the sum of thirty thousand dollars (\$30,000), or so much thereof as may be necessary, to furnish the Eastern Washington hospital for the insane with water supply and plant necessary for the maintenance of the same.

SEC. 2. That said money shall be expended for the purpose above specified under the direction of the board of commissioners of the Eastern Washington hospital for the insane, in the manner as provided for the completion and furnishing of said hospital in an act entitled "An act to provide for the completion and furnishing of the hospital for the insane at Medical Lake, Washington, and making an appropriation therefor," approved January 31st, 1890: *Provided, however,* That any advertising done prior to the approval of this act may be considered as if done thereafter.

SEC. 3. Before any work shall be commenced or hereby expended, under the provisions of this act, the said commissioners shall procure the water rights necessary to provide water for said hospital and the right-of-way for the necessary water pipes.

Approved March 7, 1891.

CHAPTER CXII.

[H. B. No. 220.]

TO APPROPRIATE MONEY FOR IMPROVEMENT OF THE STATE PENITENTIARY.

AN ACT appropriating money for the improvement of the state penitentiary.

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

SECTION 1. The sum of forty-five thousand dollars (\$45,000), or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the construction at the

state penitentiary of a cell wing, a hospital, a kitchen and a bakery, the increase of the water supply and the improvement of the brick yard, in the manner provided by an act entitled "An act to provide for the further construction of penitentiary buildings at Walla Walla," etc., approved February 1, 1888.

Approved March 7, 1891.

CHAPTER CXIII.

[H. B. No. 155.]

TO APPROPRIATE MONEY TO SUPPORT AND EDUCATE FEEBLE MINDED PUPILS IN THE SCHOOL FOR DEFEC- TIVE YOUTH.

AN ACT appropriating money for the support and education of the feeble minded pupils of the Washington school for defective youth.

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 appropriated the sum of seven thousand five hundred dollars (\$7,500), to defray the expenses of supporting and educating the feeble minded pupils of the Washington school for defective youth from the first day of January, A. D. 1892, to the 31st day of March, A. D. 1893, said money to be paid to the treasurer of the board of trustees of said school as follows, to wit: One thousand and five hundred [dollars] (\$1,500) on the first day of April, A. D. 1892, one thousand and five hundred dollars (\$1,500) on the first day of July, A. D. 1892, one thousand and five hundred dollars (\$1,500) on the first day of October, A. D. 1892, and one thousand five hundred dollars (\$1,500) on the first day of January, A. D. 1893, and one thousand five hundred dollars (\$1,500) on the 31st day of March, A. D. 1893.

Appropriation;
how paid.

SEC. 2. That the state auditor is hereby directed to

draw his warrant upon the state treasurer in favor of the treasurer of the board of trustees of the said Washington school for defective youth, at the times and for the amounts specified 'and set forth in section one (1) of this act, and the state treasurer is hereby directed to pay the same: *Provided*, That the money hereby appropriated shall only be expended in accordance with the provisions of the act entitled "An act to establish a school for the deaf mute, blind and feeble minded youth of Washington Territory," approved February 3, 1886: *Provided further*, That the trustees of said institution shall render a full and detailed statement of the expenditure of all moneys appropriated by this act to the governor at the next meeting of the legislature of the State of Washington, or at any time he may demand the same.

Detailed report
to the governor.

Approved March 7, 1891.

CHAPTER CXIV.

[S. B. No. 266.]

TO EMPOWER THE COMMISSIONERS OF THE MEDICAL LAKE INSANE ASYLUM TO SELL, EXCHANGE OR CONDEMN LANDS.

AN ACT empowering the board of commissioners of the hospital for insane at Medical Lake to purchase, sell or exchange lands, to condemn other lands for state purposes, and declaring an emergency.

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

SECTION 1. The board of commissioners of the hospital for the insane in Eastern Washington, located at Medical Lake, is hereby empowered to purchase, sell or exchange such lands as may be necessary for the use of the said hospital for the insane.

To purchase,
sell or ex-
change.

SEC. 2. Said board of commissioners is hereby empowered to proceed, in the name of the State of Washington, for the condemnation of such lands as may be required for

To condemn
and appropriate
lands.

right-of-way for pipe lines, for frontage on lakes or for other requirements of the hospital for the insane at Medical Lake.

Emergency. SEC. 3. The hospital for the insane at Medical Lake is uninhabited for want of water; therefore, an emergency exists, and this act shall be in force from and after its passage and approval by the governor.

Approved March 7, 1891.

CHAPTER CXV.

[S. B. No. 222.]

IN RELATION TO SUMMARY PROCEEDINGS TO OBTAIN POSSESSION OF REAL PROPERTY IN CERTAIN CASES.

AN ACT in relation to summary proceedings for obtaining possession of real property in certain cases, and declaring an emergency.

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

SECTION 1. That any person who shall, without the permission of the owner and without having any color of title thereto, enter upon the lands of another, and shall refuse to remove therefrom after three days' notice, shall be deemed guilty of unlawful detainer and may be removed from such lands.

Complaint. SEC. 2. The complaint in all cases under the provisions of the act shall be upon oath, and then [there] shall be embodied therein or amended thereto an abstract of the plaintiff's title, and the defendant shall, in his answer, state whether he makes any claim of title to the lands described in the complaint, and if he makes no claim to the legal title

Answer. but does claim a right to the possession of such lands, he shall state upon what grounds he claims a right to such possession.

SEC. 3. It shall not be necessary for the plaintiff, in proceedings under this act, to allege or prove that the said lands were, at any time, actually occupied prior to the de-

defendant's entry thereupon, but it shall be sufficient to allege that he is the legal owner and entitled to the immediate possession thereof: *Provided*, That if the defendant shall, by his answer, deny such ownership and shall state facts showing that he has a lawful claim to the possession thereof, the cause shall thereupon be entered for trial upon the docket of the court in all respects as if the action were brought under the provisions of chapter XLVI of the code of eighteen hundred and eighty-one.

Allegation of ownership sufficient.

SEC. 4. All persons in actual possession of any portion of the several subdivisions of any section of land, according to the government surveys thereof, may be made defendants in one action: *Provided*, That they may, in their discretion, make separate answers to the complaint, and if separate issues are joined thereupon, the same shall nevertheless be tried as one action, but the verdict, if tried by jury, shall find separately upon the issues so joined, and judgment shall be rendered according thereto.

Defendants.

Separate issues joined.

SEC. 5. There being no law now in force adequately providing for the removal of persons unlawfully entering upon the unoccupied lands of another, an emergency is declared to exist, and this act shall take effect from and after its approval by the governor.

Emergency.

Approved March 7, 1891.

CHAPTER CXVI.

[S. B. No. 206.]

TO AMEND AN ACT RELATING TO CORPORATIONS.

AN ACT to amend section 2421 of chapter CLXXXV of the Code of 1881, relating to corporations, as amended by an act approved February 3, 1886.

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

SECTION 1. That section 2421 of chapter CLXXXV of the code of 1881, relating to corporations, as amended by an act approved February 3, 1886, be amended to read as

follows: Corporations for manufacturing, mining, milling, wharfing and docking, mechanical, banking, mercantile, improvement and building purposes, or for the building, equipping and managing water flumes for the transportation of wood and lumber, or for the purpose of building, equipping and running railroads, or constructing canals, or engaging in any other species of trade or business, may be formed according to the provisions of this chapter; such corporations and the members thereof being subject to all the conditions and liabilities herein imposed, and to none others: *Provided*, That no such corporation shall commence business or institute proceedings to condemn land for corporate purposes until the whole amount of its capital stock has been subscribed: *And provided further*, That the provisions of the foregoing proviso shall not apply to corporations engaged exclusively in loaning money on real estate.

Proceedings to
condemn land.

Approved March 7, 1891.

CHAPTER CXVII.

[H. B. No. 227.]

TO AMEND AN ACT TO PROVIDE FOR PROSECUTIONS BY INFORMATION.

AN ACT to amend section one of an act entitled "An act to provide for prosecuting public offenses on information," approved January 29, 1890.

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

SECTION 1. That section one of an act entitled "An act to provide for prosecuting public offenses on information," be and the same is hereby amended to read as follows: "All public offenses may be prosecuted in the superior courts by information in the following cases: 1. Whenever any person is in custody or on bail on charge of felony or misdemeanor, and the court is in session and the grand jury is not in session or has been discharged. 2. Whenever

an indictment presented by a grand jury has been quashed, and the grand jury returning the same is not in session or has been discharged. 3. When a cause has been appealed to the supreme court and reversed on account of any defect in the indictment. 4. Whenever a public offense has been committed, and the party charged with the offense is not already under indictment therefor, and the court is in session and the grand jury is not in session or has been discharged. 5. Whenever the court is in session, or not in session, and any person has been committed by any committing magistrate for any felony or misdemeanor not within the exclusive jurisdiction of a justice's peace court.

Approved March 7, 1891.

CHAPTER CXVIII.

[H. B. No. 306.]

TO APPROPRIATE MONEY FOR ARTESIAN WELLS.

“AN ACT to appropriate money for the prosecution of the artesian well authorized and commenced under an act passed by the legislature of the Territory of Washington,” and approved on the 2d day of February, A. D. 1888.

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

SECTION 1. The sum of twenty-five hundred dollars (\$2,500) is hereby appropriated out of any moneys in the treasury of the State of Washington not otherwise appropriated, for the further prosecution of the artesian well heretofore authorized and commenced under and by virtue of an act passed by the legislature of the Territory of Washington, and approved on the 2d day of February, A. D. 1888, and entitled “An act appropriating one thousand dollars for the purpose of sinking an artesian well in Yakima county, upon condition that the county commissioners of said county appropriate a like sum, and providing for the disbursement thereof.”

SEC. 2. The auditor of the State of Washington shall

draw a warrant in favor of the contractor prosecuting the work hereinafter described, in the manner hereinafter provided for, payable out of any moneys in the treasury in [of] the state not otherwise appropriated.

Conditions of appropriation.

SEC. 3. This act shall not be of any effect unless the county of Yakima appropriate the sum of twenty-five hundred dollars (\$2,500) to be used in common with the fund hereby appropriated by the state for the prosecution of said work. And the county commissioners of Yakima county are hereby empowered to make such an appropriation, if they deem the same advisable.

SEC. 4. When the county commissioners of Yakima county make the appropriation hereinbefore mentioned, they shall advertise for bids for the further continuance of the boring of the artesian well heretofore located and commenced under and by virtue of the provisions of the act hereinbefore described, and shall let said work to the lowest bidder; and they shall from time to time as the work progresses, make duplicate estimates of the said work, and file one copy of the same in the office of the auditor of the county, and one copy thereof with the auditor of the state. Whereupon, the auditor of the county shall draw his warrant upon the county treasurer for one-half of the said estimate, in favor of the contractor, and the auditor of the state shall draw his warrant for one-half of the said estimate upon the state treasurer, till the amount herein appropriated shall have been exhausted.

Duties of county auditor and treasurer.

Limit for compliance.

SEC. 5. Unless the county commissioners of said county make the appropriation to be made by them, and hereinbefore provided for, before the first day of January, 1892, this appropriation shall be considered as canceled and thereafter of no effect.

SEC. 6. When a stream of water satisfactory to the county commissioners of said county has been struck, so much of this appropriation as has not been used shall be returned into the state treasury.

Approved March 7, 1891.

CHAPTER CXIX.

[H. B. No. 299.]

DEFINING THE BOUNDARIES OF ISLAND COUNTY.

AN ACT defining the boundaries of Island county.

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

SECTION 1. That the boundaries of Island county shall include all of the islands known as Whidby, Camano, Smith's, Deception and Ure's, and shall extend into the adjacent channels to connect with the boundaries of adjoining counties as defined by statute.

Approved March 7, 1891.

CHAPTER CXX.

[H. B. No. 217.]

REGULATING THE BUSINESS OF LOGGING.

AN ACT regulating the business of logging, and declaring an emergency.

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

SECTION 1. That it shall be lawful for any person or company interested in logging to make such improvements on any stream used for logging within the State of Washington as may be necessary to carry on said logging business; that such improvements may consist in clearing out obstructions and straightening the channel by cutting across sand or gravel bars, and that side dams and sheer booms may be used in making such improvements.

SEC. 2. Vetoed by the governor.

SEC. 3. That owners of land or their agents shall have the right to fence across all unmeandered streams at any time when such streams are not used for a public highway, or by making a fence that will not be an obstruction.

SEC. 4. Whereas, the season when logs are cast upon land will not for this year otherwise have passed before

this act would go into effect, an emergency now exists for the immediate taking effect of this act; the same shall be in force from and after its passage.

Approved March 7, 1891.

CHAPTER CXXI.

[H. B. No. 300.]

APPROPRIATION FOR EXPENSES OF STATE GOVERNMENT.

AN ACT making appropriations for sundry civil expenses of the state government for the fiscal term beginning April 1st, 1891, and ending March 31st, 1893, and for other purposes.

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

SECTION 1. That the following sums, or so much thereof as shall severally be found necessary, be and the same are hereby appropriated, out of any moneys in the several funds of the state treasury, for the purposes hereinafter expressed, for the fiscal term beginning on the first day of April, eighteen hundred and ninety-one, and ending on the thirty-first day of March, eighteen hundred and ninety-three, viz.: For salary of the governor at four thousand dollars a year, eight thousand dollars (\$8,000); for salary of a private secretary of the governor at \$1,800 per year, three thousand six hundred dollars (\$3,600); for stenographer and typewriter at \$1,200 per year, twenty-four hundred dollars (\$2,400); for salary of a messenger, who shall also be janitor in the office of the governor, at \$480 per year, nine hundred and sixty dollars (\$960); for rent of governor's office at \$50 per month, twelve hundred dollars (\$1,200); for furniture for office of governor (\$500) five hundred dollars; for fuel, light, postage, telegraphing, stationery, miscellaneous and incidental expenses of the governor's office at \$1,000 per year, two thousand dollars (\$2,000). For salary of the lieutenant governor at \$1,000 per year, two thousand dollars (\$2,000); for rent of lieu-

Governor.

Lieutenant
governor.

tenant governor's office at \$300 per year, six hundred dollars (\$600); for expenses in maintaining office of lieutenant governor at \$125 per year, two hundred and fifty dollars; for furniture for lieutenant governor's office, two hundred dollars (\$200). For salary of secretary of state ^{Secretary of state.} at \$2,500 per year, five thousand dollars (\$5,000); for salary of chief clerk of secretary of state at \$1,800 per year, three thousand six hundred dollars (\$3,600); for salary of recording clerk for secretary of state at \$1,000 per year, two thousand dollars (\$2,000); for additional clerk hire, to be paid only upon certified vouchers, six hundred dollars a year (\$600), twelve hundred dollars (\$1,200); for stenographer at \$1,200 per year, two thousand four hundred dollars (\$2,400); for rent of secretary of state's office, twelve hundred dollars (\$1,200); for fuel, light, water and janitor for secretary's office, one thousand dollars (\$1,000); for postage for office of secretary of state three hundred dollars per year, six hundred dollars (\$600); for incidental expenses of office of secretary of state, six hundred dollars (\$600) for two years; for traveling expenses of clerk of insurance department at \$400 per year, eight hundred dollars (\$800); for distributing session laws, codes and journals, three hundred dollars (\$300); for salary of clerk of insurance department at \$1,800 per year, three thousand six hundred dollars (\$3,600). For salary of state auditor at \$2,000 per year, four thousand dollars (\$4,000); for salary of deputy for state auditor at \$1,800 per year, three thousand six hundred dollars (\$3,600); for salary of clerk in office of state auditor at \$1,000 per year, two thousand dollars (\$2,000); for rent of office of state auditor at \$30 per month seven hundred and twenty dollars (\$720); for extra clerical assistance in office of the auditor when necessary, two thousand dollars (\$2,000); for messenger and janitor at \$30.00 per month, seven hundred and twenty dollars (\$720); for fuel, light, telegraphing and incidentals, twelve hundred dollars (\$1,200); for one cabinet filing case and furniture, three hundred dollars (\$300); for expressage and expenses in distributing revenue forms, one thousand dollars (\$1,000); for postage at \$30.00 per month, seven hundred and twenty dollars ^{State auditor.}

($\$720.00$); for deficiency in appropriation for 1889-90, eight hundred and fourteen $\frac{70}{100}$ dollars ($\$814\frac{70}{100}$). For salary of state treasurer at $\$2,000$ per year, four thousand dollars ($\$4,000$); for salary of clerk of state treasurer at $\$1,500$ per year, three thousand dollars ($\$3,000$); for extra clerical assistance in the office of the state treasurer, to be paid only upon vouchers properly certified, six hundred dollars ($\$600$); for rent, fuel, stationery, postage and incidentals at $\$900$ per year eighteen hundred dollars ($\$1,800$). For the public printing, for the public binding, and for paper and material used for the public printing, as provided by an act entitled "An act to provide for the state printing and binding, fixing the compensation of the state printer, prescribing his duties, and to provide for the purchase of printing and binding materials," approved February 19, 1890, sixty thousand dollars ($\$60,000$). For salary of superintendent of public instruction at $\$2,500$ per year, five thousand dollars ($\$5,000$); for salary of clerk of superintendent of public instruction at $\$500$ per year, one thousand dollars ($\$1,000$); for traveling expenses of superintendent of public instruction at $\$800$ per year, one thousand six hundred dollars ($\$1,600$); for rent of office of superintendent of public instruction at $\$360$ per year, seven hundred and twenty dollars ($\$720$); for fuel and lights of office of superintendent of public instruction and janitor at $\$220$ per year, four hundred and forty dollars ($\$440$); for record books and miscellaneous stationery for office of superintendent of public instruction, three hundred dollars ($\$300$); for postage and express charges of office of superintendent of public instruction at $\$500$ per year, one thousand dollars ($\$1,000$); for incidental expenses and furniture, two hundred and fifty dollars ($\$250$). For salary of state land commissioner at $\$2,000$ per annum, four thousand dollars ($\$4,000$); for clerk hire, six thousand dollars ($\$6,000$), to be paid only on vouchers as actually needed; for office rent, one thousand dollars ($\$1,000$); for office furniture, three hundred dollars ($\$300$); for incidental expenses, three hundred dollars ($\$300$); for postage, five hundred dollars ($\$500$); for fuel, light, water and janitor, six hundred dollars ($\$600$).

State treasurer.

State printer.

Superintendent of public instruction.

State land commissioner.

For expenses of state board of education, \$1,000 per year, two thousand dollars (\$2,000). For a deficiency for publishing notices of the opening of normal schools (see page 284 laws 1889 and 1890), ten dollars (\$10). For salary of attorney general at \$2,000 per annum, four thousand dollars (\$4,000); for clerk to act as assistant to the attorney general at \$2,000 per year, four thousand dollars (\$4,000); for traveling expenses at \$1,000 per year, two thousand dollars (\$2,000); for office rent at \$500 per year, one thousand dollars (\$1,000); for stationery, fuel and postage at \$200 per year, four hundred dollars (\$400); for stenographer work and printing briefs, two thousand dollars (\$2,000). Attorney general's office: For assistants to protect the interests of the state in cases before the local land offices and superior courts in the state in which the title of the state to any of its school or granted lands is involved or contested, as follows: At Seattle, not to exceed \$750 per year; at Olympia, not to exceed \$300 per year; at Walla Walla, not to exceed \$300 per year; at North Yakima, not to exceed \$300 per year; at Spokane Falls, not to exceed \$300 per year; at Vancouver, not to exceed \$300 per year; at Waterville, not to exceed \$300 per year; and no expenditure for this purpose shall be allowed, unless approved by the attorney general. For salaries supreme judges at \$4,000 each per annum, forty thousand dollars (\$40,000); for salary of clerk of supreme court at \$2,000 per annum, four thousand dollars (\$4,000); for contingent expenses of supreme court at \$5,000 per annum, ten thousand dollars (\$10,000); for the purchase of books for state library, to be paid out of special library fund, for the year ending March 31, 1892, four thousand dollars, and for the year ending March 31, 1893, three thousand dollars; for salary of reporter supreme court at \$3,000 per year, six thousand dollars (\$6,000). Mining bureau and state geologist: For salary of state geologist at twelve hundred dollars (\$1,200) per year, two thousand four hundred dollars (\$2,400); for chemicals at two hundred and fifty dollars per year (\$250), five hundred dollars (\$500); for contingent and traveling expenses at one thousand dollars per year (\$1,000), two

State board of education.

Attorney general.

Supreme judges.

Supreme court.

State library.

Supreme court reporter.

Mining bureau.

thousand dollars (\$2,000); for rent of office six hundred dollars per year (\$600), twelve hundred dollars (\$1,200); for rent of cabinet room for mining bureau, five hundred dollars (\$500); for traveling and incidental expenses, three thousand dollars (\$3,000); for making geological and mineralogical survey of state, and making and publishing maps and reports of the same, fifty thousand dollars (\$50,000). For salary of fish commissioner at two thousand dollars per year (\$2,000), four thousand dollars (\$4,000); for salaries of deputies at seven hundred and fifty dollars (\$750), fifteen hundred dollars (\$1,500); for traveling expenses of fish commissioner and deputies, thirty-five hundred dollars (\$3,500). For salaries of superior judges, seventy-four thousand dollars (\$74,000); for traveling expenses of judges of the superior courts, in counties where a judge is a judge of more than one county, in traveling between the county seats within his jurisdiction, to be paid upon the certificate of said judges, six thousand dollars (\$6,000). For defraying the expenses of commission to locate agricultural college, experiment stations and school of science, one thousand dollars (\$1,000). For watchman of state library at sixty dollars per month (\$60), fifteen hundred dollars (\$1,500); for salary of state librarian at one thousand dollars per annum (\$1,000), two thousand dollars (\$2,000); for salary of assistant librarian from February 20, 1891, at \$60 per month, fifteen hundred and eighteen dollars (\$1,518); for furniture and shelving for state library, four hundred dollars (\$400); for fuel, lights, postage, cartage, expressage and stationery at two hundred and fifty dollars (\$250) per year, five hundred dollars (\$500). For the maintenance of the soldiers' home, fifteen thousand dollars (\$15,000). For expenses in transportation of insane persons to the state hospital for the insane, thirty thousand dollars (\$30,000). For expenses in transporting state convicts to the state penitentiary, twenty-six thousand dollars (\$26,000); for cost bills in convictions for felony before the superior courts chargeable against the state, sixty-five thousand dollars (\$65,000); for extradition expenses, two thousand five hundred dollars (\$2,500); for official proclamations of the governor, one

Fish commis-
sioner.Superior
judges.Agricultural
college.

State librarian.

Soldiers' home.

Insane.

Penitentiary.

Criminals.

Extradition.

Proclamations.

thousand five hundred dollars (\$1,500). For preparing and indexing senate journal for public printer, two hundred and fifty dollars (\$250); for preparing and indexing house journal for public printer, three hundred dollars (\$300). For a deficiency in the amount due board of pilot commissioners for the Columbia river and bar for per diem and mileage, twenty-seven dollars (\$27). For the maintenance of the harbor lines commission, to be paid out of the tide land funds, forty thousand dollars (\$40,000), to include nineteen hundred and seventy-nine and $\frac{5}{100}$ dollars for extra expenses incurred in defending suits in court and completing survey and maps of Seattle harbor; for the maintenance of the tide land commission, to be paid out of the tide land fund, twenty thousand dollars (\$20,000); for deficiency of tide land commission not appropriated last season, one thousand three hundred and nine dollars and seventy cents (\$1,309 $\frac{7}{100}$), from the tide land funds. For indexing session laws of the present session of the legislature, to be done by W. Lair Hill, three hundred dollars (\$300). For the maintenance of hospital for insane, Western Washington, one hundred and fifty thousand dollars (\$150,000); for the water supply and fire service, thirteen thousand dollars (\$13,000); for a new brick wing for male patients, for furniture for the same, for remodeling the boiler and laundry building, for an extra boiler, painting and other repairs, sixty thousand dollars (\$60,000). The sum of one thousand dollars (\$1,000), or so much thereof as may be requisite and necessary for the purpose of paying to any person entitled thereto, for the arrest and conviction of any person found guilty of placing any obstruction upon any railroad track, or who shall misplace any switch, rails or ties on any railroad within the State of Washington, whereby the life of any person passing over said road might be endangered, and for arresting each and every person engaged in robbing or attempting to rob any person upon or having in charge, in whole or in part, any stage coach, wagon, railroad train or other conveyance, engaged in carrying passengers, or any private conveyance, within this state, pursuant to the provisions of section 1290 of the code of Washington. For the maintenance of the state penitentiary at Walla Walla

Journals.

Pilot commis-
sion.Harbor line
commission.Tide land com-
mission.Western hos-
pital for insane.

Rewards.

- from January 1, 1891, to March 31, 1891, thirteen thousand five hundred dollars (\$13,500); from April 1, 1891, to March 31, 1892, fifty-two thousand dollars (\$52,000); from April 1, 1892, to March 31, 1893, sixty thousand dollars (\$60,000). For the maintenance of the state university at twelve thousand five hundred dollars (\$12,500) per year, twenty-five thousand dollars (\$25,000); for expenses of board of regents of state university at eight hundred dollars (\$800) per year, sixteen hundred dollars (\$1,600). For the maintenance of the Washington school for defective youth from April 1, 1891, to March 31, 1892, eighteen thousand one hundred and eighteen dollars (\$18,118); from April 1, 1892, to March 31, 1893, twenty-one thousand three hundred and thirty-two dollars (\$21,332).
- For survey of school lands and subdivide same into lots and blocks where within two miles of limits of incorporated cities and towns, thirty-five thousand dollars (\$35,000); for survey and subdividing school lands, under provisions of section 5 of law for the sale and leasing of school lands, twenty thousand dollars (\$20,000). For examination of foundations of state house and all repairs thereof, two thousand dollars (\$2,000). For support of Cheney normal school, eighteen thousand three hundred dollars (\$18,300).
- For support of Ellensburg normal school, fifteen thousand dollars (\$15,000). For the transportation of arms at the trouble with Okanogan Indians, four hundred and four dollars and $\frac{7}{100}$ (\$404 $\frac{7}{100}$). For the relief of M. J. Fleming: Costs of M. J. Fleming, sheriff of Clarke county, in bill of costs for the hanging of Edward Gallagher, disallowed by the state auditor; seventy days for death watch at two dollars and fifty cents per day, one hundred and seventy-five dollars (\$175); on amount charged for erecting gallows, fifty dollars (\$50), two hundred and twenty-five dollars (\$225).
- The sum of one hundred thousand dollars (\$100,000) is hereby appropriated out of the state treasury from funds not otherwise appropriated, for current expenses of the hospital for the insane at Medical Lake; the sum of twenty-six thousand dollars (\$26,000) is appropriated for the construction of barns and outbuildings, for the purchase of teams and milch cows, and for fencing and improvement

of the hospital grounds; the sum of ten thousand dollars (\$10,000) is appropriated for the purchase of lands necessary for the support and accommodation of said hospital; the sum of sixteen thousand one hundred and eighty dollars (\$16,180) is appropriated for the purchase of an organ, for the scenery and stage improvements, carpets, covering for pipes, additional hydrants and other necessities not otherwise provided for; the sum of five hundred dollars (\$500) is appropriated for iron guards for the main stairway of said hospital; the compensation of all trustees of hospitals for the insane of this state shall be five dollars (\$5) per day when actually employed in the service of the state, and they shall be allowed mileage at the rate of five cents (.05) per mile for the distance actually traveled in the discharge of their official duty, all of which expenditure shall be subject to approval by the state auditor. The sums herein mentioned shall be expended in the same manner as may or hereafter may be provided by law for the expenditure of money for the maintenance and improvement of state institutions, and subject to approval by the state auditor. For payment of expenses in secretary of state's office for testing weights and measures, two hundred $\frac{6}{100}$ dollars (\$200.06). For salary of two coal mine inspectors, as per senate bill number 68, at one thousand five hundred dollars (\$1,500) per year, each, six thousand dollars (\$6,000). For the agricultural college, experiment station and school of science, sixty thousand dollars (\$60,000): *Provided*, The amount herein appropriated shall be returned to the state treasury from the proceeds of the first sale of lands donated to the state for agricultural college, experiment station and school of science.

Weights and measures.

Coal mine inspectors.

Agricultural college.

Approved March 7, 1891.

Sig. 15.

CHAPTER CXXII.

[H. B. No. 228.]

TO PREVENT DESTRUCTION OF FORESTS BY FIRE.

AN ACT to prevent the destruction of forests by fire on public lands.

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

SECTION 1. Any person or persons who shall willfully and deliberately set fire to any wooded county or forest belonging to this state or the United States within this state, or to any place from which fire shall be communicated to any such wooded county or forest, or who shall accidentally set fire to any such wooded county or forest or to any place from which fire shall be communicated to any such wooded county or forest, and shall not extinguish the same or use every effort to that end, or who shall build any fire for lawful purposes or otherwise in or near any such wooded county or forest and through carelessness or neglect shall permit said fire to extend to and burn through such wooded county or forest, shall be deemed guilty of a misdemeanor, and on conviction before a court of competent jurisdiction shall be punishable by fine not exceeding one thousand dollars or imprisonment not exceeding one year, or by both such fine and imprisonment: *Provided*, That nothing herein contained shall apply to any person who in good faith shall set a back fire to prevent the extension of a fire already burning. All fines collected under this act shall be paid into the county treasury for the benefit of the common school fund of the county in which they are collected.

Penalty.

Approved March 7, 1891.

CHAPTER CXXIII.

[H. B. No. 301.]

IN RELATION TO DISSECTION OF DEAD BODIES.

AN ACT for the dissection of dead bodies.

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

SECTION 1. Any physician or surgeon of this state, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his possession human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction.

SEC. 2. Any sheriff, coroner, keeper of a county poor-house, public hospital, county jail or state prison, must surrender the dead bodies of such persons as are required to be buried at the public expense to any physician or surgeon, to be by him used for the advancement of anatomical science, preference being always given to medical schools by law established in this state, for their use in the instruction of medical students. But if such deceased person during his last sickness requested to be buried, or if within forty-eight hours after his death some person claiming to be of kindred or a friend of the deceased requires the body to be buried, or if such deceased person was a stranger or traveler who suddenly died before making himself known, such dead body must be buried without dissection. Subjects.

SEC. 3. Every physician or surgeon before receiving the dead body must give to the board or officer surrendering the same to him a certificate from the medical society of the county in which he resides, or if there is none, from the board of supervisors of the same, that he is a fit person to receive such dead body. He must also give a bond with two sureties, that each body so by him received will be used only for the promotion of anatomical science, and that it will be used for such purpose in this state only, and so as in no event to outrage the public feeling. Certificate necessary.

SEC. 4. Any person violating any provision of this act Bond.

Penalty. shall upon conviction thereof be fined in any sum not exceeding five hundred dollars.

Approved March 7, 1891.

CHAPTER CXXIV.

[H. B. No. 57.]

IN RELATION TO MALICIOUS TRESPASS.

AN ACT to amend section 842 of the Code of Washington, relating to malicious trespass.

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

SECTION 1. That section 842 of the code of Washington be and the same is hereby amended so as to read as follows: Every person who shall wilfully and maliciously cut, break, injure or destroy any bridge, mill dam, canal, flume, aqueduct, reservoir, or other structure erected to create hydraulic power, or to conduct water for mining or agricultural purposes, or to conduct water for the purpose of floating or carrying therein logs, timber, earth or sand, or any embankment necessary to the same, or either of them, or shall wilfully or maliciously make or cause to be made any aperture in such dam, canal, flume, aqueduct, reservoir, embankment or structure, with intent to injure or destroy the same, shall on conviction thereof be fined in any sum not more than one thousand dollars, or be imprisoned in the penitentiary at hard labor not more than two years, or both such fine and imprisonment.

Offense defined.

Penalty.

Approved March 7, 1891.

CHAPTER CXXV.

[S. B. No. 235.]

RELATING TO THE STATE UNIVERSITY.

AN ACT providing for the establishment, location, maintenance and support of the university of Washington.

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

SECTION 1. The governor, one member of the board of regents of the university of Washington, to be elected by the board of regents, and three citizens of the State of Washington, not more than two of whom shall be from the same political party, to be appointed by the governor to serve four years, are hereby constituted a board of university land and building commissioners. The governor shall be *ex-officio* president of the said board, shall preside at its meetings and sign all official documents when present, and the board may elect a president *pro tem.*, who shall sign all official documents in the absence of the governor. Three members shall constitute a quorum, and a majority of the members present must concur and their names must be entered in the minutes, in deciding any measure requiring expenditure of money or the disposal of real property. The board may elect a secretary, who shall keep correct records of the proceedings of the board, countersign all official documents and affix the seal of the board thereto, and shall perform such other duties as may be required of him by the board. He shall be paid for his services as secretary a sum not exceeding one hundred and fifty dollars (\$150) per month. The board is authorized to design and use an official seal, to procure an office in the city of Seattle, and to expend not to exceed two hundred and fifty dollars in furnishing the same, and to pay all other incidental expenses out of the university fund, in the manner herein specified for the expenditure of that fund. If it be found by the board that clerical help other than that afforded by the secretary is necessary, the board is authorized to hire such additional help at an expense not to exceed \$500 per year, or so much thereof as may be necessary. Each member of the board except the governor shall be paid not to exceed five dollars a day for each and every

Land and building commissioners.

day he is actually engaged in the performance of the duties of his office, and each member of the board shall receive the same mileage for the travel necessary in attending to those duties as is allowed members of the legislature. He shall certify his account on honor from time to time to the state auditor, who shall audit the same and draw his warrant on the state treasurer for the payment thereof, and the state treasurer shall pay the same out of the university fund.

SEC. 2. It shall be the duty of the board of university land and building commissioners to meet in the city of Seattle at 1 p. m. on the first Monday in April, A. D. 1891, and after taking and subscribing to an oath to support the constitution and laws of the State of Washington, and to faithfully perform the duties, they shall complete their organization.

Vacancies.

SEC. 3. Vacancies in the board shall be filled in the manner provided in section 1 for making the first appointments.

Duty of board.

SEC. 4. The board of university land and building commissioners are hereby authorized and directed to ascertain how much land is left of the grant made to the State of Washington for university purposes by the act of congress commonly called the enabling act, approved February 22, A. D. 1889, how much has been selected and remains unsold, how much remains to be selected, and shall select the quantity yet to be selected as rapidly as possible in the manner prescribed by law, and make a detailed printed report of their investigations and actions in relation to the granted lands and all other matters to the governor on the first Monday in December, A. D. 1892.

SEC. 5. As soon as practicable after the original donors, their successors or assigns, and the corporate authorities of the city of Seattle have executed and delivered to the board of university land and building commissioners deeds in proper form forever, quit-claiming and releasing to the State of Washington all claims of right, title, interest and estate, of every name and nature, they may have as the successors in interest, or otherwise, of the town of Seattle or any other party in and to a certain tract of land contain-

ing ten acres, more or less, in the city of Seattle, now known and occupied as the site of the university of Washington, which said ten acre tract was conveyed to the Territory of Washington by A. A. Denny and wife, C. C. Terry and wife, and Edward Landes, in April, 1861, which deeds shall be duly recorded in the records of the county of King, said board of university land and building commissioners shall proceed to locate the university of Washington on a tract of land not exceeding one hundred and sixty acres of the fractional school section described as follows, to wit: Section 16 in township 25, north of range 4 east, which said fractional school section is within a radius of six miles of the present site of the university of Washington in the city of Seattle, and said one hundred and sixty acres of section 16, township 25, north of range 4 east, is hereby forever reserved from disposal or sale, and it is dedicated exclusively to educational purposes, but the legal title thereof shall remain vested in the state forever, and interest at the rate of 6 per cent. per annum shall be paid into the common school fund upon the appraised value of said one hundred and sixty acres, and on said one hundred and sixty acres and not elsewhere shall be erected and perpetually maintained, in the manner prescribed by law, all necessary and proper buildings for the university. The erection or occupancy on the land dedicated to educational purposes by this act of residences or other buildings designed for other than educational purposes, except such as may be necessary for the accommodation of the faculty, instructors and employes, and the proper dormitories, boarding and other structures for students, is forever prohibited.

SEC. 6. As soon as practicable after the quit-claim deeds mentioned in Sec. 5 of this act have been filed as herein provided, the board of university land and building commissioners may sell at public auction or private sale as they Sale of old site. deem most advantageous, the ten acres described in said deed, as a whole, or it may cause the same to be subdivided into lots and blocks, and the board shall dedicate streets and alleys to the public use, conforming to the plan of the said city adjoining. No part of the said ten acre tract shall be sold until the value thereof, less the improvements,

shall be appraised by three appraisers, one to be appointed by the governor, one by the mayor of Seattle, and one by the board, who shall be paid five dollars per day for their services out of the university fund. No public auction shall be held, and no sale, public or private, of any part of the said ten acres shall be made until after the board has given notice of the time, place and terms of the sale by publication for four successive weeks in one paper at Spokane Falls, one in Walla Walla, one in Olympia, one in Port Townsend, one in Whatcom, two in Tacoma and two in Seattle, the cost of publication to be paid out of the university fund. At the time appointed for the sale the board shall publicly open and announce all bids received by mail or otherwise and invite other bids. The highest bid made on the day of sale shall be accepted unless it is less than the appraised value of the parcel of land bid for, in which event the board shall postpone the sale and readvertise. The successful bidder must pay to the state treasurer at least one-third cash within twenty-four hours after the bid is awarded to him, and upon such payment shall be entitled to a certificate of purchase, to be issued by the board, stating the amount bid, the amount paid and the balance remaining due and when payable; the balance due shall be paid in two equal installments, with interest at six per cent. per annum, the first installment to be paid in one year after the date of said certificate, and the second installment two years after said date. Upon full payment the purchaser shall receive a deed to the property, to be executed by the governor, attested by the secretary of state with the seal of the state thereto affixed, which deed shall convey to him the title of the state to the property described in the deed. The purchaser may at any time prior to maturity pay said balance remaining due, or any part thereof, with interest to date of payment, whereupon interest on the amount paid shall cease. The state retains a lien upon the property sold for all unpaid balances of the purchase price, and in case of any default by the purchaser the whole of the balance of the purchase price shall be due and the lien may be foreclosed and the equity of the purchaser in the land barred and sold as in suit upon foreclosure of

mortgages. In case any one making the highest bid and being awarded the tract bid for fails to make the first payment within the time specified, the board may award the tract to the next highest bidder or readvertise and resell the land as to them seems best, but the purchaser of the said ten acre tract, or any part thereof, shall not be entitled to the possession of the property purchased by him or them until the first day of March, A. D. 1893, unless specially authorized by the board to take possession: *Provided*, That the sale of that portion of said land upon which the first regiment armory is now located shall be subject to the lease of the same heretofore made by the board of regents of said university with the first regiment armory association: *Provided further*, That the bids hereinbefore mentioned, in order to be considered, must be accompanied by a certified check for \$100, which check shall be forfeited to the regents of the university should the bid accompanying be accepted and the party making such bid fail to make the first payment within the prescribed time.

SEC. 7. There shall be kept by the state treasurer a separate and permanent fund, to be known as the university fund, into which shall be paid all moneys received from the sale of all university lands, and all appropriations made by the state for the support and maintenance of the university of Washington herein established, and all other moneys paid or received for the use of said university from other sources, and payments out of the said university fund shall be made only on warrants issued by the state auditor upon accounts certified to him by the board of university land and building commissioners, or as otherwise provided by law. University fund.

SEC. 8. It shall be the duty of said board, as soon as the site for the university of Washington is selected and secured, as hereinbefore provided, and after the title thereto has been approved by the attorney general, to proceed with the construction on said site of a university building of such dimensions as may be suited to the wants of the state, and of such other buildings as may be necessary for the use of the officers, professors, students and employés of said university, and said board may adopt suitable plans

for said buildings, and for that purpose may employ an architect and offer premium for designs and plans, and said board shall let contract for labor and material necessary for said buildings to the lowest responsible bidder, in the manner hereinafter provided, and said board may also employ a skillful builder to superintend the work of all construction and to take care that all contracts for construction and material are faithfully fulfilled: *Provided*, Such architect, contractors and superintendents employed or furnishing competitive plans shall be citizens of the State of Washington. The main university building shall be built of brick or stone, or brick and stone, as may be provided for in the plans adopted, and shall be a durable and permanent structure, and shall be provided with water, and the latest and most approved apparatus for heating and lighting the same.

Material of
building.

SEC. 9. All contracts and all work of whatever nature shall be under the general supervision and control of said board, and no contract shall be entered into for material or labor in the construction of said buildings until approved by said board, after said board shall have given notice by publication in one paper in Seattle, one in Tacoma and one in Spokane Falls and one in Walla Walla, for four consecutive weeks, inviting proposals for performing the labor and the furnishing of necessary materials for the fulfillment of said contracts, and in all cases contracts shall be awarded by the board to the lowest responsible bidders, who shall give bonds to the state in such amount and with such sureties as shall be approved by said board, which bond shall be conditioned for the faithful performance of all the stipulations of said contract, and said board may reject at its discretion all bids deemed too high and may again from time to time advertise for new proposals in the manner above provided.

SEC. 10. All accounts shall be audited by the state auditor, and no money shall be paid by the state treasurer for any purpose connected with the construction of said buildings except on a warrant or warrants drawn on him by the auditor upon the university fund for the payment of bills certified to be correct by said board, and every such

Disbursement
of money.

warrant shall express upon its face whether the amount therein stated is for material furnished or services rendered, or for labor performed, and said board shall in no case certify any bills, or otherwise sanction the payment of any money, unless the labor has been performed or the material has been furnished in accordance with the contract entered into under the provisions of this act, for which such payment is contemplated, and it shall be the duty of the treasurer to pay all warrants drawn by said auditor as herein provided out of any money in the "university fund" not otherwise appropriated.

SEC. 11. The university buildings now used in the city of Seattle, together with so much of the ground as may be absolutely necessary, shall continue to be used for university purposes under the directions of the board of regents until on or before the first day of March, 1893, when the university and all its movable belongings shall be moved to the new university buildings.

SEC. 12. The attorney general shall be the legal adviser of the board of university land and building commissioners.

SEC. 13. There being great necessity for the immediate erection of buildings for the university of Washington and for the selection of university lands, an emergency is hereby declared to exist, and therefore this act shall be in force from and after its approval by the governor. Emergency.

Approved March 7, 1891.

CHAPTER CXXVI.

[S. B. No. 393.]

REGULATING DISBURSEMENT OF PUBLIC MONEYS.

AN ACT to regulate the disbursement of all moneys by the officers of the State of Washington and all district, county and precinct officers and commissions of the State of Washington, and declaring an emergency.

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

SECTION 1. That all precinct, county, district and state officers and all commissions of the State of Washington

charged with the disbursement of public moneys or certifying indebtedness to the state auditor, or other disbursing officer, shall take fully itemized vouchers for such disbursements; said vouchers shall be taken in duplicate, one to be filed with the auditor of state, the other to be retained by the officer making the disbursement or certifying the indebtedness. Said vouchers shall contain a certificate by the disbursing officer, certifying on honor that the materials furnished, labor performed, or services rendered, for which such disbursement is made have been actually delivered, rendered or performed: *Provided*, That all county, district or precinct officers shall file such vouchers with the county auditor.

SEC. 2. That all persons furnishing materials, rendering service or performing labor, or receiving certificates of indebtedness from any disbursing or other officer of the state, or any county, district or precinct officer or commission shall furnish a certificate, certifying on honor, that he has furnished materials, rendered services or performed labor, as described in said voucher, which said certificate shall be a part of such voucher or attached to the same.

SEC. 3. Any officer or person violating 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 less than one hundred dollars, or more than five hundred dollars, and may be imprisoned in the county jail not less than ten days or more than six months.

SEC. 4. There being no law in force in this state providing for the system of vouchers as provided for in this act, and as moneys are daily paid out by disbursing officers without sufficient record of the same being kept, an emergency is hereby declared to exist, and this act shall take effect within ten days after the same shall be signed by the governor.

Approved March 7, 1891.

CHAPTER CXXVII.

[S. B. No. 140.]

AMENDING SCHOOL LAW.

AN ACT to amend sections three, four, eleven, twelve, fourteen, sixteen, nineteen, twenty, twenty-four, twenty-eight, thirty, thirty-four, thirty-five, thirty-seven, thirty-eight, fifty-two, fifty-three, fifty-four, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, seventy-one and eighty-eight of an act entitled "An act to establish a general uniform system of common schools in the State of Washington, and declaring an emergency," approved March 27, 1890.

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

SECTION 1. That section three (3) of an act entitled "An act to establish a general uniform system of common schools in the State of Washington, and declaring an emergency," approved March 27, 1890, be amended to read as follows:

Sec. 3. The 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 years 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, and his powers and duties shall be as hereinafter enumerated: *First:* He shall have supervision over all matters pertaining to the common schools of the state. He shall receive an annual salary of twenty-five hundred dollars, payable quarterly, upon warrant of the state auditor drawn upon the state treasurer, in the same manner as other state officers are paid. *Second:* He shall report to the governor biennially on or before the first day of November preceding the regular session of the legislature. The governor shall transmit said report to the legislature, and three thousand copies thereof shall be printed and delivered to the superintendent of public instruction, who shall furnish two copies to be deposited in the state library, one copy to each county superintendent of schools, to be held by him as public property and delivered to his successor in office, and one copy to each district clerk within the state, for the district library. Said report shall contain a statement of the general condition of the common schools of the state, with full statistical tables, by counties, showing the number of schools and the attendance; the state and county school fund ap-

Supt. of public instruction.

Reports.

portioned, amount received by special tax or from other sources, amount expended for salaries of teachers, the salaries paid by the several counties to the superintendent of schools, the amount they are paid for visiting schools, and the mileage they draw for same; building and providing school houses, the amount of bonded or other school indebtedness, with rate of interest paid; a list of the school officers of the state, the reports of all state educational institutions, or such portion of them as he may think advisable, together with such other facts as he 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, forms
and rules.

Third: He shall prepare and superintend the printing and distribution to county superintendents of such blanks, forms, registers and blank books as may be necessary to the proper discharge of the duties of county superintendents, teachers and all other school officers charged with the administration of the laws relating to common schools; also the rules and regulations for the use and government of the common schools, and the questions prepared for the examination of teachers. *Fourth:* To travel in the different counties of the state where common schools are taught, as far as possible, without neglecting his other official duties as superintendent of public instruction, for the purpose of visiting schools, of consulting the county superintendents, and addressing public assemblages on subjects pertaining to common schools; also to open such correspondence as may enable him to obtain all necessary information relating to the system of common schools in other states. He shall

Traveling ex-
penses.

submit quarterly a statement of expenditures for traveling expenses, which shall be audited by the state auditor, who shall issue a warrant on the state treasurer for the payment of such amounts as shall be found to have been properly incurred: *Provided*, That said expenditures shall not exceed eight hundred dollars in any one year: *And provided further*, That the postage, stationery and other office expenses shall be paid for in the same manner as in case of other state officers. *Fifth:* He shall cause to be printed, with an appendix of appropriate forms and instructions for carrying into execution, the laws relating to common schools,

and distribute to each county superintendent a sufficient number of copies to supply each school and district officer, and shall cause the same to be reprinted and distributed as often as any change in the laws is made of sufficient importance, in his opinion, to justify the same. *Sixth:* He shall be General duties. *ex-officio* president of the board of education. *Seventh:* He shall biennially, on or before the first day of May following the election of county superintendents, call a convention of county superintendents of this state, at such time and place as he may deem most convenient, for the discussion of questions pertaining to the supervision and administration of the school laws, and such other subjects affecting the welfare and interests of the common schools as may be properly brought before it. *Eighth:* He shall, between the first and tenth days of March and September of each year, apportion the state common school funds, subject to apportionment, among the several counties of the state, in proportion to the number of children in each county between the ages of five and twenty-one years, as the same shall appear by the reports of the several county superintendents for the school year last closed: *Provided,* That in case no report of the enumeration of any county for the school year last closed has been received, the apportionment shall be made on the basis of the number of children in said county as shown by the last census received from said county. He shall certify said apportionment to the state auditor, and upon said certification the state auditor shall draw his warrant on the state treasurer in favor of the county treasurer of each county for the amount apportioned to said county, and transmit the same to the several county treasurers. The superintendent of public instruction shall also certify to the county superintendent of schools of each county the amount apportioned to that county. It shall be the duty of the state auditor to notify the superintendent of public instruction on or before the first day of March and September of each year the amount of the state common school fund subject to apportionment. *Ninth:* He shall annually, on or before the fifteenth day of August, require of the president, manager or principal of every seminary, academy and private school, and of the president, principal

or manager of every state 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 made the duty of every such president, manager or principal to fill up and return such blanks within such time as the state superintendent may direct. *Tenth:* He shall keep in his office a directory of all school officers, 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.

SEC. 2. That section four (4) of said act be amended to read as follows: Sec. 4. The superintendent of public instruction shall have his office at the capital of the state, where he shall keep all books and papers appertaining to the business of his office, and shall 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. 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 papers. He shall 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 shall publish his rulings and decision 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. He shall, at the expiration of his term of office, deliver over to his successor all records, books, maps and documents, and papers of whatever kind belonging to his office, or which may have been received by him for the use of his office.

Duties and powers of county superintendents.

SEC. 3. That section eleven (11) of said act be amended to read as follows: Sec. 11. Each county superintendent shall have the power, and it shall be his duty—*First:* To exercise a careful supervision over the schools of his county

and to see that all the provisions of this act are observed and followed by teachers and school officers. *Second:* To visit each school in his county not less than one nor more than three times in each year: *Provided,* That he shall receive mileage in going to and returning from said school for not more than two trips annually: *And provided further,* That in incorporated cities and towns, where city superintendents are employed, he shall receive pay for only one visit in each year. *Third:* To distribute promptly all reports, laws, forms, circulars and instructions which he may receive for the use of the schools and the teachers. *Fourth:* To enforce the course of study adopted by the board of education and to enforce the rules and regulations required in the examination of teachers. *Fifth:* To keep on file and preserve in his office the biennial report of the superintendent of public instruction. *Sixth:* To keep in a good and well-bound book, to be furnished by the county commissioners, a record of his official acts. *Seventh:* To carefully preserve all reports of school officers and teachers, and at the close of his term of office 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. *Eighth:* To administer oaths and affirmations to school directors, teachers and other persons, in all official matters connected with or relating to schools, but shall not make or collect any charge or fee for so doing. *Ninth:* To keep in a suitable book an official record of all persons examined for teachers' certificates, showing the name, age, nationality, date of the examination and grade of certificate issued. He shall also retain, for six months, a list of the questions and the written answers to the same of all applicants, and hold the same subject to the order of the superintendent of public instruction, and in case any teacher or applicant shall feel aggrieved at the result of an examination, or in case a certificate is revoked by the county superintendent, the right of appeal to the superintendent of public instruction shall not be denied the teacher or applicant: *Provided,* That said appeal be taken within thirty days from the date of the notice of such grievance, revocation or refusal.

Tenth: 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 30th, 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. The county superintendent shall retain a copy of said report and file the same in his office. *Eleventh:* To keep in his office a full and correct transcript of the boundaries of each school district in the county. In case the boundaries of 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. *Twelfth:* To appoint directors and district clerks to fill vacancies; to appoint directors and district clerks for any new districts: *Provided,* That when any new district is organized, such of the directors and district clerk of the old district as reside within the limit of the new one shall be directors and district clerk of the new one, and the vacancies in the old district shall be filled by appointment. *Thirteenth:* To apportion, within five days after he shall receive the quarterly certificate of the county treasurer showing the amount of funds on hand subject to apportionment, the county school fund and such state common school funds as have been apportioned to his county, in the following manner: He shall apportion one-fourth of the total amount to be apportioned to each district, in proportion to the number of teachers employed therein, and shall determine the number of teachers by allowing one teacher for every seventy school census children and fraction thereof over thirty: *Provided,* That each school district shall be entitled to at least one teacher, except that to joint districts he shall give such proportionate amount as will be just and equitable. The remaining

three-fourths to be apportioned to each district in proportion to the number of census children as shown by the reports of the district clerks for the school year last closed. He shall certify the result of the apportionment to the county treasurer, and also notify each district clerk of the amount apportioned to that district. *Fourteenth:* To appoint, for one year, two persons holding the highest grade certificate in his county, and such persons, with the county superintendent, shall constitute a board of examiners for the examination of teachers. It shall be the duty of the county board of examiners in all counties to be at the county seat on the second Thursday of the months of February, May, August and November of each year for the purpose of examining teachers. The superintendent shall give ten days' notice of the same 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. Such examination shall be conducted according to the rules prescribed by the state board of education, and no other questions shall be used except those furnished by the said board.

SEC. 4. That section twelve (12) of said act be amended to read as follows: Sec. 12. There shall be three grades of Teachers' certificates. certificates, first, second and third. Unless revoked for cause, first grade certificate shall entitle the holder to teach for five years; second grade for two years, and third grade for one year; but the issuing of more than one third grade certificate to any person shall be left to the discretion of the county board of examiners. No first grade certificate shall be granted until the applicant shall have filed with the county superintendent satisfactory written evidence of having taught successfully one school year of nine months. Boards of examiners may, in their discretion, issue certificates without examination to the graduates of the normal department of the state university of Washington, or to the graduates of any state normal school, or to the holder of a state certificate or life diploma from any state or territory. Those holding first grade county certificates, and who shall have been actually engaged in teaching for three years, shall be eligible to examination for state certificates.

Any teacher to whom certificate has been granted by any county board of examiners in this state, or by lawful examiners in any other state or territory, the requirements to obtain which shall not have been less than the requirements to obtain a certificate in this state, or any teacher holding a diploma or certificate of graduation from any state or territorial normal school or university, or from the normal department of the university of Washington, may present the same or a certified copy thereof, to the county superintendent of any county in this state where said teacher desires to teach, and it shall be the duty of said county superintendent, upon such evidence of fitness to teach, to grant to said person a temporary certificate which shall entitle him to teach in the common schools of the county wherein it is granted until the next examination of teachers: *Provided*, That the provisions of this clause shall apply only to such teachers as were not residents of the county at the time of the last preceding examination, or were unable, by reason of sickness or other unavoidable cause, to attend said examination: *And provided further*, That the county superintendent may require of such person a written statement of such facts, verified by affidavit: *And provided further*, That the county board may, at their discretion, endorse certificates from other counties in this state for the unexpired term thereof. All applicants for certificates shall be at least seventeen years of age, shall have attended a teachers' institute and shall be examined in reading, penmanship, orthography, written and mental arithmetic, geography, English grammar, physiology and hygiene, history and constitution of the United States, school law and constitution of the State of Washington, and the theory and art of teaching; but no person shall receive a first grade certificate who does not pass a satisfactory examination in the additional branches of natural philosophy, English literature and algebra.

SEC. 5. That section fourteen (14) of said act be amended to read as follows: Sec. 14. The county commissioners shall provide the county superintendent with a suitable office at the county seat, and all necessary blanks, books, stationery, postage and other expenses of his office shall be paid by

the county treasurer out of the county fund upon a sworn statement made quarterly, and allowed by the board of county commissioners. 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 teachers' registers are kept in accordance with law and the instructions of the superintendent of public instruction, and that the records of school district clerks are properly kept. He shall report to the superintendent of public instruction within fifteen days after the close of each examination the names of all applicants examined, and the result of the examination in each case, and he shall, within fifteen days after the close of each teachers' institute, furnish the superintendent of public instruction a schedule showing the names and attendance of all teachers enrolled. He shall require the oaths of office of all school district officers to be filed in his office, and shall furnish a directory of all such officers to the superintendent of public instruction and to the county treasurer of his county, upon blanks to be 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. He shall keep his office open for the transaction of official business such days 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.

SEC. 6. That section sixteen (16) of said act be amended so as to read as follows: Sec. 16. Any person or board of directors aggrieved by any decision or order of the county superintendent may, within thirty days after the rendition of such a decision or making of such order, appeal therefrom to the superintendent of public instruction. The basis of the proceeding shall be an affidavit by the party aggrieved, filed with the superintendent of public instruction within the time for taking the appeal. The affidavit shall set forth the errors complained of in a plain and concise manner. The superintendent of public instruction shall, within five days after the filing of such affidavit in his office, notify the county superintendent in writing of the taking of such appeal, and the county superintendent

shall, within twenty days after being thus notified, file in the office of the superintendent of public instruction a complete transcript of the record and proceedings relating to the decision complained of, which shall be certified to be correct by the county superintendent. The superintendent of public instruction shall examine the transcript of such proceedings and render a decision thereon, but no new testimony shall be admitted, and his decision shall be final unless set aside by a court of competent jurisdiction. When an applicant for a certificate at a regular examination shall feel aggrieved at the decision of the county board of examiners, and shall appeal to the superintendent of public instruction, the questions used and the answers given shall be examined by him, and if the decision of the county board of examiners be reversed, the superintendent of public instruction shall issue to the appellant a certificate of such grade as the answers to the questions used shall warrant, and said certificate shall be valid in the county where the applicant was examined the same as county certificates of like grades: *Provided*, That the superintendent of public instruction may require the filing in his office of evidence of a good moral character before issuing said certificate to the appellant.

New district.

SEC. 7. That section nineteen (19) of said act be amended so as to read as follows: Sec. 19. 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 children of school age residing within the boundaries of such proposed new district at date of presenting said petition. The county superintendent shall give notice to parties interested by posting notices 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, or if there be no school house, then in one of the most public places of said old district, and shall, on the

day fixed in the notice, 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: *Provided*, That when in the formation or alteration of any school district, or in the refusal of a county superintendent to form or alter a school district as prayed for, any person affected by such formation or alteration or by such refusal to form or alter a school district as prayed for, shall feel aggrieved by the action of the county superintendent, he may appeal to the board of commissioners of his county. Said appeal shall be filed with the clerk of the board of county commissioners within twenty days after the action complained of, and shall state in a clear and concise manner the matters complained of, which statement shall be verified by the affidavit of the appellant or appellants. Copies of the notice of appeal shall be filed with the county superintendent and with the clerk of each school district affected by the appeal, at the time of filing said notice with the clerk of the board of county commissioners. The county commissioners shall, at their next regular meeting, hear and determine said appeal, and shall have power to summon witnesses, and their action shall be final.

SEC. 8. That section twenty (20) of said act be amended to read as follows: Sec. 20. 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 on [in] the territory which it is proposed to transfer or include, 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 residing on [in] the territory to be transferred. The county superintendent shall file said petition in his office, and shall give notice to parties interested by posting notices at least twenty days prior to the time appointed by him for considering said petition, one of which shall be in a public place in the territory which it is proposed to be annexed or transferred, and one

Changing
boundaries.

on the door of the school house in each district affected by the change, or if there be no school house in such district, then in some public place in such district or districts; and at the time stated in said notices he shall proceed to hear said petition, and if he deem it advisable, he shall grant the same and make an order fixing the boundaries of the districts affected by his action, and shall certify his action to the board of county commissioners at their next regular meeting: *Provided*, That an appeal may be taken, as provided for in section seven of this act.

Compulsory
maintaining
school.

SEC. 9. That section twenty-four (24) of said act be amended to read as follows: Sec. 24. No school district shall be entitled to receive any apportionment of school moneys which shall not have maintained school for at least three months during the pending year: *Provided*, That any new district formed by the division of an old one, 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 three months: *Provided further*, That the legal voters of any school district may, at the annual meeting or at any special meeting, determine the length of time in excess of the minimum length of time required by law that school shall be maintained.

SEC. 10. That section twenty-eight (28) of said act be amended to read as follows: Sec. 28. Any board of directors shall have power to make arrangements with the directors of an adjoining district for the attendance of such children in the school of either district as may be best accommodated therein, and to transfer the school money due by apportionment to such children to the district in which they may attend school: *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 moneys 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.

SEC. 11. That section thirty (30) of said act be amended to read as follows: Sec. 30. 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 a district or in their own names as directors 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, or to the directors thereof, shall be made to the board of directors of the district, and to their successors in office; said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district; and it shall be the duty of the directors of every school district to issue and sign warrants, as such directors, for the payment of all demands audited and allowed against their district, and to sign, execute and acknowledge, as such directors, deeds for the conveyance of all real estate sold by them as in this section provided. Any board of directors may, in 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 of the minimum length of term prescribed by law, that school shall be maintained in the district during the school year, or to determine whether or not the district shall purchase any school house site or sites, and 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 sell any real or personal property belonging to the district, borrow money, or to determine whether or not the district shall establish and maintain a school district library. 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. 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, and 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 electors present, he shall, within ten days thereafter, file the record of the proceedings of the meeting, duly certified, with the clerk of the district, and said record shall become a part of the records of the district, and be preserved as other records; and it shall be the duty of every board of directors to carry out the directions of the electors of their district as expressed at any such meeting.

SEC. 12. That section thirty-four (34) of said act be amended to read as follows: Sec. 34. The duties of the district clerk shall be as follows: 1. To attend all meetings of the board 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. 2. 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. 3. To take, annually, between the first and twentieth of June 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 upon the first day of June of that year; and he shall designate the number of weeks each

child between the ages of six and twenty-one years has attended school during the school year; the names and sex of all children subject to enumeration, together with the names and residences of their parents or guardians: *Provided*, That Indian children not living under the guardianship of *white* persons, or who have not severed their tribal relations, or Mongolian children not native born, shall not be included in said census. He shall also note all defective youth between the ages of five and twenty-one years, and he shall, on or before the first day of July, make to the county superintendent a full and complete report of all children enumerated, together with a complete statistical report of the affairs of the district, which report shall be verified by affidavit. Said report shall be made upon blanks to be furnished by the superintendent of public instruction, and shall contain such items of information as said superintendent 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 June last past, together with the number of weeks each has attended school during the last school year; the names and residences of the parents or guardians of all such children; the number of schools or departments taught during the year, and the branches taught; the number of children, male and female, enrolled in 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; the textbooks used, and the number of volumes, if any, in the school district library; the aggregate amount paid teachers during the year; the number of school houses in district, and the value of them; the aggregate value of all school furniture and apparatus belonging to the district; the amount raised by special tax during the year, for the support of schools, and for buildings, sites and furniture; the amount raised by subscription or by other means than taxation; the amount of bonded indebtedness of the district, and the rate of interest paid; the amount of all other indebtedness, and such other items as the superintendent of public instruction may deem of importance, and as may be provided

for in the blanks furnished for said report, and the clerk shall record a copy of said report in his record book. 4. To keep an accurate account of all the 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 school district fund. 5. 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. 6. 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 superintendent of public instruction. 7. To issue and countersign all warrants ordered to be issued by the board of directors.

SEC. 13. That section thirty-five (35) be amended so as to read as follows: Sec. 35. 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 out and transmit to the clerks of such districts as have made all reports as required by law, on or before the last Saturday of the months of February, May, August and December of each year, the certificates required by this section.

Qualified
teachers.

SEC. 14. That section thirty-seven (37) of said act be amended to read as follows: Sec. 37. No person shall be accounted as a qualified teacher, within the meaning of the school law, who has not first appeared before the board of

examiners of the county in which he proposes to teach, and received a certificate setting forth his qualifications; or has not a state certificate or a life diploma from the state board of education, or a temporary certificate granted by the county superintendent.

SEC. 15. That section thirty-eight (38) of said act be amended to read as follows: Sec. 38. Every teacher employed in any common school shall make a report to the county superintendent at the time of the contract to teach such school, the number of the district in which he is to teach, the grade of his certificate, date it expires, and the proposed length of term, and at the close of any school to report to the county superintendent on the blanks prescribed by the superintendent of public instruction. Any 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 service until the reports herein required shall have been made and received: *Provided*, That in all schools acting under the direction of a city superintendent, the report of such superintendent shall be accepted by the county superintendent and the directors in lieu of the teachers' report; and that when there is no city superintendent, the report of the principal shall be accepted in lieu of the teachers' report.

SEC. 16. That section fifty-two (52) of said act be amended to read as follows: Sec. 52. In addition to the provisions for the support of the common schools hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy an annual tax, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, and said levy shall not be less than four mills on a dollar, and not more than ten mills on a dollar, of the as-

Duty of teacher.

County school taxes.

essed value of all taxable property, real and personal, within the county; which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected. For the support of the common schools there shall also be set apart by the county treasurer all moneys paid into the county treasury arising from fines for breach of any penal law of the state, unless otherwise provided by law, and it is hereby made the duty of all county clerks, justices of the peace or other officers receiving any money arising from such fines or licenses, unless otherwise provided by law, or any other moneys belonging to the school fund as above provided, to turn the same over to the county treasurer within thirty days after the date of its collection, taking his receipt therefor; and all such officers shall make a report to the county superintendent, quarterly, on or before the tenth day of January, April, July and October of each year, of all moneys so collected. The provisions of this section shall be construed to apply to the entire county and not a portion thereof.

Special school
taxes.

SEC. 17. That section fifty-three (53) of said act be amended to read as follows: Sec. 53. The board of directors may, when in their judgment it is necessary, for the purpose of furnishing additional school facilities for their district, or for the payment of teachers' wages, or for the building of one or more school houses, or for the repairing of any school house or houses, or for the building of additions thereto, or for the purchase of fuel, supplies, globes, maps, charts, books of reference or other appliances or apparatus for teaching, or for any or all of those purposes, levy a special tax on the taxable property of their district, not to exceed ten mills on the dollar: *Provided*, That no tax exceeding five mills on the dollar shall be levied until such levy shall have been ordered by a majority vote of the legal electors of the district, at a special election called for that purpose. Such election shall be called and conducted in the manner provided for calling and conducting annual school elections. At such elections the ballots shall contain the words "Tax, yes," or "Tax, no." The officers of the election shall certify the result of the election

to the clerk of the district, who shall file said certificate as a part of his records. Whenever a special tax is ordered to be levied, the clerk of the district shall, on or before the first day of September of the year in which such special tax is ordered to be levied, make to the county auditor a certified statement of the number of mills of such special tax which has been ordered to be levied in such district. The county auditor shall extend the same against all the taxable property within said district upon the general assessment roll of the county, and certify the same to the county treasurer. The county treasurer shall proceed to collect the tax in the same manner, and at the same time, and with the same power and authority to enforce payment of the same as in the case of county and state taxes. The county treasurer shall place any tax so collected to the credit of the district to which it belongs.

SEC. 18. That section fifty-four (54) of said act be amended to read as follows: Sec. 54. The election of directors and district clerks shall be held on the first Saturday of September of each year, at the district school house, if there be one, or if there be none, or if there be 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 school elections. Elections.

SEC. 19. That section sixty-one (61) of said act be amended to read as follows: Sec. 61. Whenever the residents of two or more school districts may wish to unite for the purpose of establishing a union or graded school, the clerks of said 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, call a meeting of the voters of such districts at some convenient place, by posting written or printed notices in like manner as is provided for calling annual school district elections, and if a majority of the voters of each district shall vote to unite for the purpose herein stated, the boards of directors of the several districts so voting to unite, shall constitute the board of directors of such union district, and shall within ten days thereafter meet and organize by electing Union schools.

one of their number president of the board, and selecting a clerk for such union 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 the election of president and clerk shall occur annually thereafter on the second Saturday next succeeding the annual school district election.

SEC. 20. That section sixty-two (62) of said act be amended to read as follows: Sec. 62. The board of directors and clerk provided for in the preceding section shall, in all matters relating to the union or graded schools of such districts, possess all the powers, discharge all the duties and be governed by the laws herein provided for school district officers, and the clerk of such union district shall, immediately upon his election, inform the county superintendent of the organization of the district.

SEC. 21. That section sixty-three (63) of said act be amended to read as follows: Sec. 63. The directors of such union districts shall determine what grade or grades of pupils shall attend such union schools, and shall determine the course of study that shall be pursued in such schools: *Provided*, That such course of study shall not be inconsistent with the laws of this state; and all expenses of such union school shall be borne by the districts so uniting in proportion to the amount of funds apportioned to each district by the county superintendent, and the board of directors of each district shall issue the warrants of their districts for such amounts.

SEC. 22. That section sixty-four (64) of said act be amended to read as follows: Sec. 64. Each incorporated city or town in this 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 or town district a reasonable distance beyond the limits of such city or town: *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 or town, except in cases of the incorporation of cities or towns lying partly in two or more

Incorporated
city districts.

school districts organized prior to the incorporation of such city or town, or of the extension of the boundaries of cities or towns beyond the limits of the school districts in which they are situated, or in cases where two or more cities or towns unite as provided by law; and in all such city or town districts where the number of children of school age is sufficient to require the employment of more than one teacher the board of directors shall designate one of such teachers as principal, and such principal shall have general supervision over the several departments of his school. The school or schools in such city or town districts shall be graded in such manner as the directors thereof shall deem best suited to the wants and conditions of such districts: *Provided*, That the course of study established for such district shall not be inconsistent with the laws of this state.

SEC. 23. That section sixty-five (65) of said act be amended to read as follows: Sec. 65. The directors of such city or town districts wherein two or more schools are maintained shall elect one city or town superintendent, who may be a teacher in the schools of such district, and such city or town school superintendent shall have general supervision over the schools of his district, subject to the concurrence of the board of directors; and it shall be the duty of the principal or city school superintendent to report to the superintendent of public instruction such facts relative to the grading, course of study, enrollment, attendance and other matters pertaining to such schools as he may require, on blanks furnished for that purpose.

City superintendents.

SEC. 24. That [section] sixty-six (66) of said act be amended to read as follows: Sec. 66. When two or more school districts are united by the provisions of this act, or where two or more districts are united by the uniting of two or more incorporated cities or towns, as provided by law, all the directors of the several districts so united 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 officers, until the next annual school election in said district, at which time there shall be elected three directors and one clerk for said district, in the manner provided by law, who

Consolidated districts.

shall hold their respective offices as provided for the officers of new districts; and the county superintendent of any county in which new districts are formed by the uniting of two or more cities or towns, 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 clerk or by the board of directors of such new district, proceed to designate such new district by number and to make a record of the boundaries thereof, and he shall certify such facts to the board of county commissioners, the county treasurer and the clerk of the new district thus formed.

SEC. 25. That section sixty-seven (67) of said act be amended to read as follows: Sec. 67. All school districts formed by the uniting of two or more city or town districts, as provided for in this act, shall be entitled [to] the funds and other public property of the several school districts so united, and the county superintendent shall apportion all funds to the new district in accordance with this provision and shall certify such apportionment to the county treasurer.

SEC. 26. That section sixty-eight (68) of said act be amended to read as follows: Sec. 68. Whenever two or more school districts shall be united by the provisions of this act, the boards of directors of the several districts so united shall, within thirty days thereafter, meet and organize the new board by the election of one of their number president of the board. They shall also 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 new district.

SEC. 27. That section seventy-one (71) of said act be amended to read as follows: Sec. 71. The county treasurers of the several counties of this state shall be *ex-officio* treasurers of the several school districts of their respective counties, and it shall be the duty of each county treasurer:

1. To receive and hold all moneys belonging to such school districts, and to pay them out upon warrants or orders of

the boards of directors or boards of education of the districts to which they belong. 2. To certify to the county superintendent of common schools of his county, within twenty days after the day on which taxes become delinquent each year, and quarterly thereafter, the amount of all school moneys in his possession subject to apportionment, which certificate shall specify the source or sources from which said moneys were derived. 3. To make, annually, on or before the fifteenth day of July, a report to the county superintendent 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 funds disbursed upon orders or 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 school year, subject to be paid out upon warrants of school district officers, 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. 4. 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 day 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 is 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 draw interest at the same rate as county warrants, until there shall be sufficient funds for its payment; 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 manner in which he is required to advertise county warrants, and after the date fixed in said notice said warrants shall cease to draw interest.

SEC. 28. That section eighty-eight (88) of said act be amended to read as follows: Sec. 88. It shall be the duty of the county auditor to report to the superintendent of public instruction the name and postoffice address of the county superintendent as soon as his election or appointment is determined. He shall also, on or before the first day of September of each year, report to said superintendent the amount paid to the county superintendent of his county as salary, mileage and per diem in visiting schools during the last school year, and the amount paid to county examiners of teachers as mileage and per diem in the examination of teachers during the last year. He shall also, on or before the first day of September of each year; report to the superintendent of public instruction the number of mills on the dollar levied by the county commissioners of his county for the support of schools for the current school year.

SEC. 29. Nothing in this act, or the act of which this is amendatory, shall operate or be construed to repeal any of the provisions of an act entitled "An act to establish a system of common schools in cities of ten thousand or more inhabitants, and to provide for properly maintaining, [governing] and grading the same," approved March 26, 1890.

Approved March 7, 1891.

CHAPTER CXXVIII.

[H. B. No. 248.]

AUTHORIZING CITIES AND TOWNS TO BORROW MONEY
AND TO ISSUE BONDS.

AN ACT to authorize cities and towns to borrow money for municipal purposes and to issue negotiable bonds therefor.

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

SECTION 1. Each and every incorporated city or town in this state, and each and every city or town that may hereafter be incorporated in this state, is hereby authorized and empowered, by and through its council, to contract indebtedness or borrow money for strictly municipal purposes on the credit of such corporation, and to issue negotiable bonds therefor, whenever the council of such city or town deems it advisable, not exceeding an amount, together with the existing indebtedness of such city or town, of one and one-half per centum of the taxable property of such city or town, to be ascertained by the last assessment for city or town purposes previous to the incurring of such indebtedness: *Provided, however,* That such council shall not create, audit, allow nor permit to accrue any debts or liabilities in excess of such amount except as hereinafter provided.

Limit of
amount.

SEC. 2. Whenever the council of any such city or town shall deem it advisable that such city or town of which they are such officers shall, for strictly municipal purposes, create an indebtedness or borrow money and issue its negotiable bonds therefor in an amount which, taken together with the existing indebtedness of such city or town, exceeds the amount specified in the preceding section, the council shall provide therefor by ordinance, which ordinance shall state the amount of such indebtedness so desired to be created, or the amount of money so desired to be borrowed, as the case may be, and the same shall be submitted for the ratification or rejection to the qualified electors of such city or town at a special election, of which fifteen days' notice shall be given in the paper doing the city printing, by publication in each issue of said paper during said time.

Submitted to
vote.

SEC. 3. Said election shall be conducted consistent with

the general election laws of this state. If the question submitted at such election be that of creating an indebtedness, other than that of borrowing money, the ballots used shall contain in substance the following: "Shall the city of, or town of (as the case may be), for [here state purpose], incur an indebtedness of \$——? Indebtedness, yes. Indebtedness, no." The elector shall so prepare said ballot by striking therefrom the words "Indebtedness, yes," or, "Indebtedness, no," so that the remaining portion of said ballot shall express his vote on said question. If the question submitted at such election be that of borrowing money and issuing negotiable bonds therefor, the ballots used shall contain in substance the following: "Shall the city of, or town of (as the case may be), for municipal purposes, borrow \$——, and issue its negotiable bonds therefor? Bonds, yes. Bonds, no." The elector shall so prepare said ballot, by striking therefrom the words "Bonds, yes," or, "Bonds, no," so that the remaining portion of said ballot shall express his vote on said question.

SEC. 4. If three-fifths of the legal ballots cast on said question of incurring such indebtedness be in favor of "Indebtedness, yes," the council of such city or town must incur such indebtedness in due and legal form. If three-fifths of the legal ballots cast on said question of issuing bonds be in favor of "Bonds, yes," said city or town shall be deemed to be authorized to borrow the amount of money so voted for, and issue its negotiable bonds therefor, and it shall be the duty of the council of such city or town so to do; subject, however, to the condition that the total indebtedness herein provided for shall not exceed in amount, together with the existing indebtedness of such city or town, five per centum of the taxable property of such city or town, to be ascertained by the last assessment of such city or town for city or town purposes previous to the incurring of such indebtedness: *And provided further*, That no portion of the money by this act authorized to be borrowed shall ever be used for other than strictly municipal purposes.

Limiting use of money.

SEC. 5. All bonds, whether issued by authority of the council alone, as in section one of this act such council is empowered to do, to the amount therein provided, or issued

in pursuance of the special election herein provided for, 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 payable at such place as may be designated in said bonds. The bonds and each coupon shall be signed by the mayor, and attested by the clerk under the seal of the city or town.

Denomination
and terms of
bonds.

SEC. 6. Said bonds shall be printed, or engraved or lithographed on good bond paper, and a copy of this act, together with the ordinance of the city or town authorizing and directing such special election when such bonds are issued in pursuance of an election, shall be printed on each bond, together with a statement signed by the mayor and clerk of such city or town, showing the result of such election: *Provided*, That where bonds are issued by the council pursuant to section one of the act, and without an election, a copy of this act, together with the ordinance authorizing the borrowing of such money and the issuing of such bonds, shall be printed on each bond; which ordinance shall contain a statement showing the assessed valuation of all the taxable property of such city or town, to be ascertained by the last assessment for city or town purposes previous to the date of the passage of such ordinance, together with the amount of the existing indebtedness of such city or town at the date of the passage of such ordinance, which indebtedness shall include the amount for which such bonds are issued, and also a statement signed by the mayor and clerk of such city or town showing that such ordinance was passed by the votes of at least four councilmen, and also the date of the approval and publication of such ordinance.

SEC. 7. Such bonds shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town. The treasurer of such city or town shall keep a register of all bonds, which register shall show the number, date, amount, interest, name of payee, and when

Bond register.

and where payable, of each and every bond executed, issued or sold under the provisions of this act.

Special tax.

SEC. 8. There shall be levied each year upon the taxable property of such city or town, as the case may be, in addition to the tax for other purposes in said city or town, a tax sufficient to pay the interest on such bonds as the same accrues, and before seven years prior to the maturity thereof, an annual sinking fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and collectible as other taxes.

SEC. 9. If the council of any city or town which has issued bonds under the provisions of this act shall fail, neglect or refuse to make the levy necessary to pay such bonds and interest coupons at maturity, and the same shall have been presented to the treasurer of such city or town, and payment thereof refused because of such failure, neglect or refusal to make such levy, the owner may file such bond, together with all unpaid coupons, with the auditor of the county in which such city or town is situated, taking his receipt therefor, and the same shall be registered in the auditor's office of such county in like manner and form as the same was originally registered by the treasurer of the city or town issuing the same; and the county commissioners of such county shall, at their next session thereafter at which they shall levy the annual county tax, and each annual levy thereafter, add to the county tax to be levied in said city or town a sufficient rate to realize the amount of principal and interest past due and to become due prior to the next annual levy, and the same shall be collected as part of the county tax and paid into the county treasury and passed to the credit of such city as a bond tax, and shall be paid by the treasurer of the said county, on warrants drawn by the county auditor as the payments mature, to the holder of such bond, as shown by the register of the county auditor, until the same shall be fully satisfied and discharged; *Provided*, That nothing in this section shall be construed to limit or postpone the right of any holder of any such bonds to resort to any other remedy which such holder might otherwise have.

SEC. 10. The provisions of this act shall not be con-

strued as applying to borrowing money and issuing bonds by any city or town for the purpose of supplying such city or town with water, artificial light and sewers, or either or both or all such water works, artificial light or sewers, where the works for supplying such water, light and sewers shall be owned and controlled by such city or town; but in all things relating to such named purposes, the provisions and amendments thereto of an act entitled "An act authorizing cities and towns to construct internal improvements and to issue bonds to pay therefor, and declaring an emergency," which said act was approved March 26, 1890, shall be and remain in full force and effect.

Limit of construction of this act.

SEC. 11. The provisions of this act shall not be construed as in any manner applying to cities of the first class.

SEC. 12. That sections thirty-nine, one hundred and twenty, one hundred and twenty-one, one hundred and fifty-seven and one hundred and fifty-eight, of an act entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency," which act was approved March the 27th, 1890, be and the same are hereby repealed; and all other acts and parts of acts in conflict with any of the provisions of this act are also hereby repealed.

Repealing clause.

SEC. 13. There being no law in this state authorizing cities and towns to borrow money and issue negotiable bonds for municipal purposes, other than those for sewer, water and light, and many needed municipal purposes are being seriously delayed thereby, an emergency exists; therefore, this act shall take effect and be in force from and after its approval by the governor.

Emergency.

Approved March 7, 1891.

CHAPTER CXXIX.

[H. B. No. 262.]

ESTABLISHING A STATE FISH HATCHERY.

AN ACT to establish a state fish hatchery, and making an appropriation therefor.

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

Board of fish
commissioners.

SECTION 1. The governor, state treasurer and fish commissioner are hereby created a board of fish commissioners *ex-officio*, whose duties shall be as hereinafter prescribed, and for the performance of which duties they shall receive no extra compensation, save and except their actual expenses while engaged in the work hereinafter prescribed.

Location of
hatchery.

SEC. 2. The fish commission, as created in section 1 of this act, shall, on or before the first day of September, A. D. 1891, acquire such an amount of land by donation or purchase, upon the banks of the Okanogan, Methow or Similkameen rivers, as may be necessary to erect a state fish hatchery.

Duty of fish
commissioner.

SEC. 3. The fish commissioner of the State of Washington shall have charge and control of such hatchery under the direction of the board of fish commissioners herein created, and shall have power to employ such labor as may be necessary to carry out the full intents and purposes of this act.

Payment of ex-
penses.

SEC. 4. All accounts for expenses incurred in the erection of such hatchery, and otherwise, shall be audited and approved by said board of fish commissioners, and when so audited and approved the state auditor is instructed to issue his warrants in payment therefor, and the state treasurer is directed to pay the same out of any funds appropriated or accruing for this purpose.

Appropriation.

SEC. 5. For the purposes of this act the sum of fifteen thousand (\$15,000) dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

Approved March 7, 1891.

CHAPTER CXXX.

[H. B. No. 263.]

RELATING TO PAYMENT OF SALARIES OF STATE OFFICERS.

AN ACT relating to the payment of salaries of state officers.

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

SECTION 1. The salaries of all state officers shall hereafter be paid monthly on the last day of each month, as provided by law.

SEC. 2. All acts and parts of acts in conflict with [this] act are hereby repealed.

Approved March 7, 1891.

CHAPTER CXXXI.

[S. B. No. 180.]

RELATING TO INDEBTEDNESS OF CITIES AND TOWNS.

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

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

SECTION 1. Any city or town now having a corporate existence in this state may ratify in the manner prescribed in this act, the attempted incurring of any indebtedness of such city or town by the issuing of warrants, making of contracts or creations of other evidences of indebtedness on the part of such 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 city or town, exceeded one and one-half per centum of the taxable property in such

city or town, ascertained by the last assessment for city or town purposes previous to the attempted incurring of such indebtedness, 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.

SEC. 2. Whenever the city council or other legislative body of any such city or town shall deem it advisable that the ratification authorized by this act shall be obtained, the corporation shall provide therefor by ordinance, 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 comprised in each such distinct class, and shall provide for the holding of an election for that purpose, of which thirty days' notice, to be provided for in such ordinance, shall be given in the official newspaper or newspapers of such city or town at which the attempted incurring of such indebtedness shall be submitted to the voters in such city or town for ratification or disapproval. 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.

Submitting to
vote.

SEC. 3. If at an election held as provided for in section two of this act three-fifths of the voters in such 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 providing for such election, then such indebtedness so ratified shall thereby become and is hereby declared to be validated and a binding obligation upon such 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 city or town, exceeded one and one-half per centum of the taxable property in such city or town, ascertained by the last previous assessment for city or town purposes: *Provided*, That neither anything in this act contained, nor the vote cast at any such

In case of ex-
cess of author-
ity.

election, shall be deemed to validate or authorize any indebtedness which, together with all other indebtedness of such 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 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. Inasmuch as there is no existing statute of this state to enable cities and towns to validate indebtedness attempted to be incurred on the part of such cities and towns, by the corporate authorities thereof, in excess of their legal authority, and inasmuch as the legal authority has been so exceeded, in good faith, in sundry cities and towns of this state, an emergency exists for the immediate Emergency. effect of this law; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 7, 1891.

CHAPTER CXXXII.

[S. B. No. 181.]

RELATING TO FUNDING INDEBTEDNESS OF CITIES AND TOWNS.

AN ACT authorizing cities and towns to submit to the voters therein propositions to fund indebtedness of such cities and towns by the issuing of bonds therefor, at the same election at which the previous attempted incurring of such indebtedness, or any part thereof, may be ratified.

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

SECTION 1. At any election which may be held in any city or town in this state in accordance with the constitution and laws thereof, for the purpose of voting upon the question of ratifying any indebtedness of such city or town, theretofore attempted to be incurred by such city or town,

Submitting to
vote.

such city or town may submit to the voters thereof any proposition to fund such indebtedness so sought to be ratified, or any existing indebtedness of such city or town, or both. The proposition to ratify such indebtedness and the proposition to fund the same may be submitted to the voters in such city or town by the corporate authorities thereof in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted.

SEC. 2. If at any such election any such indebtedness so proposed to be ratified shall be validated in accordance with the requirements of the constitution and statutes of this state, any vote cast at such election in accordance with the requirements of section one of this act, upon a proposition to fund such indebtedness so validated, by the issuing of bonds therefor, shall have the same effect as an assent to or dissent from the funding of such indebtedness, as if such indebtedness had been validated previously to the passage of the ordinance submitting such proposition to fund the same.

Emergency.

SEC. 3. Inasmuch as there is no existing statute of this state to enable cities and towns to submit to the voters therein, at the same election, propositions to ratify the previously attempted incurring of indebtedness of such cities and towns, and propositions to fund such indebtedness, an emergency exists for the immediate effect of this law; therefore, this act shall take effect and be in force from and after its approval by the governor.

Approved March 7, 1891.

CHAPTER CXXXIII.

[H. B. No. 297.]

CREATING A COMMISSION TO LEASE ACCOMMODATIONS
FOR STATE OFFICERS.

AN ACT to create a commission *ex-officio*, composed of state officers, for the purpose of leasing suitable accommodations for the state officers, and for the preservation and safe keeping of the state archives, and making an appropriation therefor.

Whereas, General T. I. McKenny, a citizen of Olympia, has submitted a proposition to lease a building to the State of Washington for state uses, as follows :

“OLYMPIA, Washington, February 24, 1891.

“To the Legislature of the State of Washington:

“GENTLEMEN—I have the honor herewith to submit a proposition to lease to the State of Washington for six years, with the privilege of two years additional, the second, third and fourth stories of my building, situated on the corner of Fourth and Main streets, Olympia. Said building is 60x120 feet, and contains, as at present designed, 63 rooms, aggregating over 21,000 superficial feet. The building will contain vaults, a first class elevator, and all the modern applications for heating, lighting (gas and electric), etc., etc.; janitor service, water and heating to be included in the rental, for the annual rental of six thousand six hundred [dollars] (\$6,600), payable in quarterly installments. If desired, the plan of the rooms will be altered to suit.

“Very truly, your obedient servant,

“T. I. MCKENNY.”

Therefore,

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

SECTION 1. The governor, state auditor and state treasurer are hereby created a commission *ex-officio*, to perfect and sign, on behalf of the state, a lease of said building of General T. I. McKenny, in accordance with the terms as expressed in the preamble of this bill, for the use of the various state officers, the state library and the supreme court, and are hereby authorized to perform all other duties connected therewith. Said lease shall be approved by the attorney general of the state. Members of commission.

SEC. 2. For the purpose of carrying out the provisions of this act the sum of thirteen thousand five hundred dollars (§13,500) is hereby appropriated out of any money in the general fund not otherwise appropriated, to be expended as follows: For rental from the first day of June,

1891, to the twenty-eighth day of February, 1893, the sum of eleven thousand five hundred dollars (\$11,500); for shelving for state library and for other necessary state work, one thousand nine hundred and fifty dollars (\$1,950).

SEC. 3. Upon vouchers being properly audited and allowed by the commission, as provided in section one of this act, the state auditor is instructed to draw his warrant, and the state treasurer is instructed to pay the same, for rental and other expenses incidental to the proper carrying out of the purposes of this act: *Provided*, That the sum so expended shall not exceed the amount appropriated by this act: *Provided*, That the rent allowed the different state officers in the general appropriation bill shall be applied as a part of the appropriation here made: *Provided*, This shall not apply to the mining bureau.

Approved March 7, 1891.

CHAPTER CXXXIV.

[S. B. No. 46.]

TO REGULATE WAREHOUSE MEN, WHARFINGERS, COMMISSION MEN AND OTHERS.

AN ACT to regulate warehouse men, wharfingers, commission men and others of like character and employment, and to declare the effect of warehouse receipts, and providing penalties for violations of this act.

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

SECTION 1. That it shall be the duty of every person keeping, controlling, managing or operating, as owner or agent or superintendent of any company or corporation, any warehouse, commission house, forwarding house, mill, wharf or other place where grain, flour, pork, beef, wool or other produce or commodity is stored, to deliver to the owner of such grain, flour, pork, beef, wool or produce or commodity, a warehouse receipt therefor, bearing the full

name of those operating said houses, which receipt shall bear the date of its issuance, and shall state from whom received, the number of sacks, if sacked, the number of bushels or pounds, the condition or quality of the same, and the terms and conditions upon which it is stored.

SEC. 2. No person shall issue any receipt or other voucher, as provided for in section 1 of this act, for any grain, flour, wool, pork, beef or other produce or commodity, not actually in store at the time of issuing such receipt, or issue any receipt in any respect fraudulent in its character, either as to its date or the quantity, quality or grade of such property, or duplicate or issue a second receipt for the same, while any former receipt is outstanding for the same property, or any part thereof, without writing across the face thereof the word duplicate.

SEC. 3. No person operating any warehouse, commission house, forwarding house, mill, wharf or other place where grain, flour, pork, beef, wool or other produce or commodity is stored, shall mix any grain, flour, beef, pork, wool or other produce or commodity of different grades together, or deliver one grade for another, or in any way tamper with the same while in his possession or custody, with a view of securing any profit to himself or any other person, and in no case mix different grades together while in store: *Provided*, That nothing in this act shall be construed to prohibit any person operating any warehouse, commission house, forwarding house, mill, wharf or other place where grain, pork, wool or other produce or commodity is stored, from keeping, piling or storing any produce or commodity offered for storage separate and apart from other produce or commodity, by marking such produce or commodity in such a manner that it can be identified and delivered on presentation of the warehouse receipt or voucher which was given for same; in which case the receipt given shall designate the mark on the produce or commodity so stored.

Preserving
identity of
property.

SEC. 4. No person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage, shall sell, incumber, ship, transfer, or in any manner remove or permit to be shipped, transferred or removed from the place of storage at which the receipt is given, any

grain, flour, beef, pork, wool or other produce or commodity for which a receipt has been given by him as aforesaid, whether received for storing, shipping, grinding or manufacturing or other purposes, without the written consent of the holder of the receipt.

Written consent of owner.

Checks and receipts negotiable.

SEC. 5. That all checks or receipts given by any person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage, for any grain, flour, pork, beef, wool or other produce or commodity, stored or deposited, and all bills of lading, and transportation receipts of every kind, are hereby declared negotiable, and may be transferred by indorsement of the party to whose order such check or receipt was given or issued, and such indorsement shall be deemed a valid transfer of the commodity represented by such receipt, and may be made either in blank or to the order of another.

SEC. 6. That on the presentation of the receipt given by any person operating any warehouse, commission house, forwarding house, mill, wharf or other place of storage, for any grain, flour, beef, wool, pork or other produce or commodity, and on payment of all the charges due thereon, the owner shall be entitled to the immediate possession of the commodity named in such receipt, and it shall be the duty of such warehouse man, wharfinger, mill man or other person having the possession thereof, to deliver such commodity to the owner of such receipt without further expense to such owner, and without unnecessary delay.

Duty of agent.

Offense defined.

SEC. 7. That any person who shall violate any of the provisions of this act shall be liable to indictment, and upon conviction shall be fined in any sum not exceeding five thousand dollars, or imprisonment in the penitentiary of this state not exceeding five years, or both; and in case of a corporation the person acting for said corporation shall be liable for a like punishment upon indictment and conviction. And all and every person or persons aggrieved by a violation of this act may have and maintain an action at law against the person or persons, corporation or corporations violating any of the provisions of this act, to recover all damages, immediate or consequential, which he or they may have sustained by reason of such violation,

Penalty.

before any court of competent jurisdiction, whether such person shall have been convicted under this act or not.

SEC. 8. The receipt required in section 1 of this act shall be in form as follows:

Form of receipt.

No. _____ [Name of firm or company.] [Place and date.]

Received in store from [name of consignor], [quantity], gross, _____ lbs., tare, _____ lbs., net, _____ lbs. No. _____ [give here grade and name of commodity] at owner's risk of unavoidable damage, to be delivered at this warehouse, upon return of this receipt, properly endorsed, and payment of charges. This receipt negotiable when duly endorsed by consignor. Storage to [here give amount and date].

Signed, [Name of firm or company].
[Name of agent] Agent.

Approved March 7, 1891.

CHAPTER CXXXV.

[S. B. No. 59.]

APPROPRIATION FOR DEFICIENCY FOR NATIONAL GUARD.

AN ACT appropriating eighteen thousand seven hundred and seventy-eight dollars and sixty-nine cents on account of a deficiency in the fund for the support of the National Guard of Washington, for the years 1889-90.

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

SECTION 1. That there is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of "eight thousand three hundred and ninety-one dollars and fifty-five cents, and out of the military fund of any year the sum of ten thousand three hundred and eighty-seven dollars and fifty-five cents," to pay a deficiency now existing in the fund for the support and maintenance of the National Guard of Washington.

SEC. 2. Upon presentation of proper vouchers, duly audited and allowed by the board of military auditors, the

state auditor shall draw warrants for the amounts thereof and the state treasurer shall pay the same.

Approved March 7, 1891.

CHAPTER CXXXVI.

[S. B. No. 253.]

AUTHORIZING USE OF GROUNDS OF SOLDIERS' HOME FOR MILITIA ENCAMPMENT.

AN ACT to authorize the use of the grounds of the soldiers' home by the state militia for their annual encampment.

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

SECTION 1. That the state militia are hereby authorized to use the grounds of soldiers' home in Pierce county, Washington, for the purposes of an annual encampment.

SEC. 2. This act shall not be construed to permit the use of any part of the grounds of said institution that may be, at the time of such encampment, used as paths, gardens, orchards, lawns or ornamental grounds, or that shall be in actual cultivation.

SEC. 3. The military board are hereby authorized to enact [erect] and make upon such grounds such improvements as may be necessary for the purposes above specified, and when the same are not in use by the state militia the governor of the soldiers' home shall have charge of the same, and shall protect the same from injury or destruction, under the direction of the adjutant general.

Approved March 7, 1891.

CHAPTER CXXXVII.

[H. B. No. 315.]

CONSTITUTIONAL AMENDMENT.

[AN ACT] to provide for voting on a constitutional amendment at the general election to be held in November, 1892.

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

That at the general election held in November, 1892, there shall be submitted to the qualified voters of the State of Washington, for their approval, the following amendment to section 1 of article VIII of the constitution of the State of Washington.

SECTION 1. The state may, for the purpose of constructing public buildings and other works, and for the acquisition of lands, and for other expenses incident to said construction, contract debts in any amount not to exceed in the aggregate one per cent. of the value of the taxable property within the state, as shown by the assessment for county and state purposes last preceding the incurring of any such debts; and may further contract, for any public purposes, debts not exceeding in the aggregate five hundred thousand dollars, and the moneys arising from the loans creating such debts shall be applied to the purposes for which they were obtained, or to repay the debts so constructed [contracted], and to no other purpose whatever, which shall be in the following form, viz.: “For constitutional amendment raising the limit of state indebtedness, yes.” “Against constitutional amendment raising the limit of state indebtedness, no.” And if it shall appear upon counting the ballots of the said electors, at said election, that a majority of said electors have voted to ratify said amendment, the same shall become a part of the constitution of the State of Washington.

SEC. 2. The secretary of state shall cause the foregoing amendment to be published for three months next preceding said election in some weekly newspaper in every county wherein such newspaper is published throughout the state.

Approved March 7, 1891.

CHAPTER CXXXVIII.

[S. B. No. 179.]

DESIGNATING STATE FISCAL AGENT.

AN ACT making the state treasurer *ex-officio* fiscal agent for the State of Washington, defining his duties.

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

SECTION 1. The state treasurer shall be *ex-officio* the fiscal agent of the state.

Duties.

SEC. 2. It shall be the duty of the fiscal agent of the state to receive all moneys due the state from any other state or from the general government, to take all necessary steps for the collection of such sums, and to apply the same to the funds to which they may by law belong.

SEC. 3. It shall be the duty of the fiscal agent to issue the necessary receipts for all moneys collected under the provisions of this act, and such receipts shall show the date when paid, the amount, from whom received, and on what account the same was collected; one or more copies of such receipt shall be given to the person or persons from whom the money was received, and one copy shall be given to the state auditor.

SEC. 4. The fiscal agent of the state shall proceed at once to collect from the general government the money now due the state by virtue of section thirteen (13) of the act of congress enabling this state into the Union, and which reads as follows: "Five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all of the expenses incident to the same, shall be paid to said states, to be used as a permanent fund, the interest of which only shall be expended, for the support of common schools within said states respectively;" and said agent shall continue to collect from time to time all moneys that may accrue to the state by virtue of the act above quoted, or from any other source not otherwise provided for by law.

Approved March 7, 1891.

CHAPTER CXXXIX.

[S. B. No. 69.]

AMENDING MUNICIPAL CORPORATION LAW.

AN ACT to amend section 165 of an act entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency."

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

SECTION 1. That section 165 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, be so amended as to read as follows: Sec. 165. Nothing in this chapter contained shall be construed to prevent any town having a bonded or other indebtedness contracted under laws heretofore passed from levying and collecting such taxes for the payment of such indebtedness and the interest thereon, as are provided for in such laws, in addition to the taxes and limit herein authorized to be levied and collected: *Provided*, That if such indebtedness shall exceed the limit in this chapter prescribed, it shall not require a vote of the people to authorize the payment of such indebtedness by the town council: *And provided further*, That any ordinance duly passed by the town council of any town prior to the passage of this act authorizing the payment of said indebtedness, shall be and the same is hereby declared valid (and legal and binding): *Provided further*, All moneys received from licenses, street poll tax, and for fines, penalties and forfeitures, shall be paid into the general fund.

SEC. 2. There being no law allowing towns having an indebtedness other than a bonded indebtedness to bond the same, and there being a necessity therefor, therefore an emergency exists, and this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1891.

CHAPTER CXL.

[S. B. No. 259.]

REVENUE LAW.

AN ACT to provide for the assessment and collection of taxes in the State of Washington, and declaring an emergency.

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

All property subject to assessment and taxation unless expressly exempted.

SECTION 1. That all real and personal property now existing, or that shall be hereafter created or brought into this state, shall be subject to assessment and taxation for the support of the state government, and for county, school, municipal, or such other purposes as shall be designated by law, upon equalized valuations thereof, fixed with reference thereto on the first day of April at 12 o'clock, meridian, in each and every year in which the same shall be listed, except such property as shall be expressly exempted therefrom by the provisions of law.

Real property defined.

SEC. 2. Real property for the purposes of taxation shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, trees, or other fixtures of whatsoever kind, thereon, and all rights and privileges thereto belonging, or in any wise appertaining, and all quarries and fossils in and under the same, which the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent or meaning of the law, for the purposes of taxation.

Personal property defined.

SEC. 3. Personal property for the purposes of taxation, shall be construed to embrace and include, without specially defining or enumerating it, all goods, chattels, moneys, stocks or estate; all improvements upon lands, the fee of which is still vested in the United States, or in the State of Washington, or in any railroad company or corporation, and all and singular of whatsoever kind, name, nature and description, which the law may define or the courts interpret, declare and hold to be personal property, for the purpose of taxation, and as being subject to the laws, and under the jurisdiction of the courts of this state, whether the same be in any marine craft, as ships and vessels, or in other

property holden under the laws and jurisdiction of the courts of this state, be the same at home or abroad.

SEC. 4. The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, gold and silver certificates, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust, and residing in this state, is entitled to withdraw in money on demand. The term "tract" or "lot," and "piece or parcel of real property," and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as, the property of the same claimant, person or company. Every word importing the singular number only may be extended to or embrace the plural number, and every word importing the plural number may be applied and limited to the singular number, and every word importing the masculine gender only may be extended and applied to females as well as males. Whenever the word "oath" is used in this act, it may be held to mean affirmation, and the word "swear" in this act may be held to mean affirm. The term "person," wherever used in this act, shall be construed to include firm, company or corporation. The words "county auditor," when used in this act, shall be construed to mean register or recorder, whenever it shall be necessary to use to the proper construction of this act.

SEC. 5. All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say: First, all public school houses, state colleges, state university and state normal schools, with the books and furniture therein, and the grounds attached to such buildings necessary for the proper occupancy; second, all lands used exclusively for public burying grounds or cemeteries, all church property used exclusively for public worship to an amount not exceeding five thousand (\$5,000.00) dollars; third, all property, whether real or personal, belonging exclusively to the state or to the United States; fourth, all buildings belonging to counties, used for holding courts, for jails, for county offices or county hospitals, with the ground on which such buildings are erected; fifth, all lands,

Definition of terms.

Special exemptions from taxation.

houses and other buildings belonging to any county, township or town, used exclusively for the accommodation or support of the poor; sixth, all fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe-keeping thereof, and for the meeting of fire companies, whether belonging to any town or any fire company organized therein; seventh, all free public libraries, hospitals for the care of the sick, whether supported in whole or in part by charity, orphanage and orphan asylums, institutions for the reformation of fallen women, and homes for the aged and infirm; eighth, the personal property of each householder and head of a family, liable to assessment and taxation under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding three hundred dollars: *Provided*, That each person shall list all of his personal property for taxation, and the county assessor shall deduct the amount of the exemption authorized by this section from the total amount of this assessment, and assess the remainder.

LISTING PROPERTY.

All property listed annually.

SEC. 6. *When to be Listed.*—All real and personal property in this state, subject to taxation, shall be listed and assessed every year, with reference to its value, on the first day of April preceding the assessment.

Change of residence—assessment how and when made.

SEC. 7. The owner of personal property removing from one county to another between the first day of April and the first day of July shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state between the first day of April and the first day of July shall list the property owned by him on the first day of April of such year in the county in which he resides: *Provided*, If such person has been assessed, and can make it appear to the assessor that he is held for tax for the current year on the property in another state or county, he shall not be again assessed for such year.

Manner of listing personal property, and by whom listed.

SEC. 8. Personal property shall be listed in the manner following: First, every person of full age and sound

mind, being a resident of this state, shall list all his moneys, bonds or stock, shares of stock, of joint stock or other companies (when the property of such company is not assessed in the state), franchises, royalties and other personal property; second, he shall also list separately, and in the name of his principal, all moneys deposited subject to his order; third, the property of a minor child shall be listed by his guardian or by the person having such property in charge; fourth, the property of an idiot or lunatic, by the person having charge of such property; fifth, the property of a person for whose benefit it is held in trust by the trustee of the estate of the deceased person, or by the executor or administrator; sixth, the property of corporations whose assets are in the hands of receivers, by such receivers or their agents; seventh, the property of a body politic or corporate, by the president or proper agent or officer thereof; eighth, the property of a firm or company, by a partner or agent thereof; ninth, money and property in litigation, in possession of any county officer must be assessed to the custodian thereof, and the taxes thereon paid by the custodian thereof under the direction of the court.

SEC. 9. Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county where the owner or agent resides. If there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on.

Place where listed.

SEC. 10. The personal property of express, transportation and stage companies shall be listed and assessed in the county where the same is usually kept. All vessels of every class which are by law required to be registered, licensed or enrolled, must be assessed and the taxes thereon paid only in the county where the owner, or managing owner or agent thereof resides: *Provided*, That such interest shall be taxed but once. Vessels registered, licensed or enrolled out of, and plying in whole or in part in, the

Same.—Taxes paid where assessed.

waters of this state, the owners, managing owners or agents of which reside in this state, must be assessed in this state, and in the county in which the owners, managing owners or agents reside, to the value of the respective share or shares owned by said person or persons. All boats and small craft not required to be registered must be assessed in the county where the same are kept.

Same.—Gas and water mains defined.

SEC. 11. The personal property of gas and water companies shall be listed and assessed in the town or city where the same is located. Gas and water mains and pipes laid in roads, streets or alleys, shall be held to be personal property.

Street railroad, etc., defined.

SEC. 12. The personal property of street railroad, plank road, gravel road, turnpike or bridge companies, shall be listed and assessed in the county, town or city where the same is located, and the track, road or bridge shall be held to be personal property.

Property of non-resident, where listed.

SEC. 13. When the owner of live stock or other personal property connected with a farm does not reside thereon, the property shall be listed and assessed in the county or place where the farm is situated.

Doubt as to listing—how settled.

SEC. 14. In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the auditor of state; and when fixed in either case, shall be as binding as if fixed by this act.

Owners or agents to verify statement of listed property.

SEC. 15. Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which by the provisions of this act he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; no person shall be required to list for taxation in his statement to the assessor any share or portion of the capital stock, or of any

of the property of any company or corporation, which such person may hold in whole or in part, where such company, being required so to do, has listed for assessment and taxation its capital stock and property with the auditor of state, or as otherwise required under the laws of this state.

SEC. 16. *Detailed Lists, What to Contain.*—The auditor of state shall prepare and furnish county auditors with suitable blank forms of detail lists or schedules, to be used by the assessors for the listing of property, and upon which shall be entered by the assessor, or by the owner or holder, the agent or attorney, the partner, trustee, assignee, receiver, guardian, executor or administrator, or by the president, secretary or principal accounting officer of any company or corporation, a full, true and accurate statement or listing of all property, real and personal, as being owned, held or controlled as aforesaid, and as in such detail list directed, with any and all other property that may not be specified therein, if any such there be, that may be liable to assessment and taxation, and including all property that may or shall be deducted therefrom under exemptions. Such listing shall be verified under the oath of the owner or holder of any such listed property, or by the duly authorized agent making the same, and the true and fair value of such property having been determined and fixed by the assessor, such valuation shall be entered opposite each and every item as therein listed and verified. Such detail list shall show the following schedule of property made in accordance with the auditor's form marked No. 1, which is made a part and parcel hereof, but to which, however, may, and shall be, added by the auditor, assessor or his deputy, any and all other taxable property that may at any time be hereafter created or discovered, not at present appearing therein, so that no property shall escape assessment and taxation. Said detail list shall be substantially in the following form:

DETAIL LIST OF PERSONAL PROPERTY.

A schedule of the numbers and amounts of all personal property in the possession or under control of ———, belonging to ———, on the first day of April, 189—, listed by ———, of the town of ———, county of ———, and State of Washington, as required by the gen-

State auditor to
prepare forms,
etc.

Detail list, what
to contain.

Form of list.

eral revenue laws now in force in this state. Residence No. — street; school district No. —; road district No. —. (If residing in town or city, give name and number of street.)

<i>Items of Property.</i>	No.	Assessor's Val.
1. Horses: { One year old.....		\$.....
{ Two years old.....		\$.....
{ Three years old and over.....		\$.....
{ Work horses.....		\$.....
{ Stallions.....		\$.....
2. Cattle: { One year old.....		\$.....
{ Two years old.....		\$.....
{ Cows.....		\$.....
{ All other cattle two years old and over.....		\$.....
3. Mules and asses of all ages.....		\$.....
4. Sheep of all ages.....		\$.....
5. Hogs of all ages.....		\$.....
6. Wagons and carriages of whatever kind.....		\$.....
7. Sewing and knitting machines.....		\$.....
8. Watches and clocks.....		\$.....
9. Melodeons and organs.....		\$.....
10. Pianofortes.....		\$.....
11. Household and office furniture, full value.....		\$.....
12. Agricultural tools, implements, machinery.....		\$.....
13. Gold and silver plate and plated ware.....		\$.....
14. Diamonds and jewelry, and fire arms.....		\$.....
15. Royalties and patent rights.....		\$.....
16. Steamboats, sailing vessels, wharf boats, barges, etc.....		\$.....
17. Goods and merchandise, lumber, saw-logs, wood, coal, wool, hides, etc.....		\$.....
18. Manufacturers' materials and manufactured articles.....		\$.....
19. Manufacturers' tools, implements and machinery, including engines and boilers.....		\$.....
20. Moneys of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
21. Credits of banks (whose capital is not represented by shares of stock), bankers, brokers or stock jobbers.....		\$.....
22. Moneys other than of banks, bankers, brokers or stock jobbers, gold dust or bullion on hand or deposit.....		\$.....
23. Bonds and stocks (other than bank stock).....		\$.....
24. Shares of bank stock (including state and national), also of gas, wharf or water stock.....		\$.....
25. Shares of capital stock of insurance or other companies and associations not incorporated by the laws of this state.....		\$.....
26. Stock and furniture of sample rooms, saloons and eating houses, including billiard, bagatelle and similar tables.....		\$.....
27. Hay, wheat, oats, corn, barley or other farm products.....		\$.....
28. The value of all elevators, warehouses and improvements on lands, the title to which is vested in any R. R. Co.....		\$.....
29. The value of all improvements on lands held under the laws of the United States.....		\$.....
30. Shares of stock of insurance or other companies or associations incorporated under the laws of this state.....		\$.....
31. Gas or water mains. Total number of feet and size.....		\$.....
32. Gas or water pipe other than mains. Total number of feet and average size.....		\$.....
33. Telegraph, telephone and electric light lines as per schedule marked "F" in addition to their personal property above listed.....		\$.....
34. Cable, horse and electric railways as per schedule marked "F" in addition to their personal property above listed.....		\$.....
35. The value of all other articles of personal property not included in the preceding items.....		\$.....
Total value of all personal property listed by assessor under section 16 of revenue law.....		\$.....
Total exemptions.....		\$.....
Total value of all personal property assessed by assessor under section 16 of revenue law.....		\$.....

DETAIL LIST OF REAL PROPERTY OF _____ OF _____ COUNTY,
WASHINGTON, 189—.

Resident road district. Resident school district. Character or designation of property. Description of lands and town property. (In describing lands state whether they are farming, grazing, mineral or timber lands; also if city or town property, give the name of the town and plat, or addition, and give accurate description of all other designated real estate under this head.) Town or city property. No. lot. No. block. No. of section. No. of township. No. of range. No. of acres in each tract or parcel except lots. No. of acres in each tract or parcel improved. Property, road district. Property, school district. Full cash value of each tract, parcel, lot, or block of land assessed. Full cash value of improvements on each tract, lot, or parcel of land assessed. Full cash value of all real property assessed. Poll. Road poll. Bridge.

Form of real property detail list.

RECAPITULATION.

Farm lands, unimproved, acres, ——. Grazing lands, [acres] ——. Timber lands, [acres] ——. Mineral lands, [acres] ——. Improved lands, [acres] ——. Total acreage, ——. Aggregate assessed value of real property, \$——. Aggregate assessed value of personal property (see next page), \$——. Total valuation of all property assessed, \$——. Total poll and road poll tax, \$——.

AFFIDAVIT OF PERSON LISTING THE WITHIN PROPERTY.

STATE OF WASHINGTON, COUNTY OF —, SS.

I, —, do solemnly swear that I am a resident of the county of —, that the within and foregoing detail lists contain full and correct statements of all property subject to taxation in this county which I or any firm of which I am a member, or any corporation, association or company of which I am president, cashier, secretary, managing agent, owned, claimed, possessed or controlled on the first day of April, 189—, at 12 o'clock, meridian, and which is not already assessed for said year, and that I have not in any manner whatever transferred or disposed of any property or placed any property out of said county or my possession for the purpose of avoiding any assessment upon the same, or of making this statement.

Affidavit of party listing property.

Residence, —.

Subscribed and sworn to before me this — of —, 189—.

—, County Assessor.

SEC. 17. When the assessor shall be of opinion that the person listing property for himself or for any other person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of the property he is required to list, and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person, or his principal, according to his best judgment and information.

Assessor may examine party on oath as to correctness of list.

Merchandise defined and how listed.

SEC. 18. Whoever owns, or has in his possession or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property within this state, with authority to sell the same, which has been purchased either in or out of this state, with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within the state, shall be held to be a merchant, and when he is by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant.

No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise, shall be listed and assessed as merchandise.

Exceptions.

Stock of nurserymen, etc., to be listed.

Manufacturer's property, how assessed.

SEC. 19. Every person who purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing, shall be held to be a manufacturer, and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining.

Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as part of his manufacturer's stock, the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of every kind used or designed to be used for the aforesaid purpose.

Stock and machinery of, to be listed.

SEC. 20. The president, secretary or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this act, shall make out and deliver to the assessor a sworn statement of its property, setting forth particularly: First, the name and location of the company or association; second, the real property of the company or association and where situated; third, the nature and value of its personal property. The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

Officers of companies and associations to deliver statements to assessor.

SEC. 21. Every individual, firm, corporation or association of persons, carrying on a general banking business in this state, whether the same has been organized under the banking laws of this state or of the United States, or conducted under the style of private bankers, shall be assessed and taxed in the county, town, city or village where such bank or banking association is located and not elsewhere, in the following manner: Annually, at such times as provided for listing property for taxation, every such bank or banking association as contemplated in this section, shall, by its accounting officer, furnish the county or city assessor a statement verified by oath giving the amount of paid-up capital stock, the amount of surplus or reserve fund and the amount of undivided profits of such bank or banking association. The aggregate amount of capital, surplus, and undivided profits shall be assessed and taxed as other like property in the state is assessed and taxed: *Provided*, At the time of listing the capital stock, the amount and description of its legally authorized investments in real estate shall be assessed and taxed as other real estate is assessed and taxed under this act, and the assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital, surplus and undivided profits, and the remainder then taxed as above provided.

Banks, etc., where assessed and taxed.

To furnish lists to assessor annually.

Capital, surplus and undivided profits, how taxed.—Proviso.

Foreign banks,
how taxed.

SEC. 22. Foreign banks and private bankers doing business in this state and having no fixed amount of capital paid in and used permanently in the conduct of such business, shall be assessed on an amount equal to a general average of money used as exhibited by daily or monthly balance sheets during the year preceding the time of rendering such tax list to the assessor. If such bank or banker shall refuse to make such return of capital as above provided, then the assessor shall proceed to make an arbitrary assessment, which shall be as fair and as equitable as he may be able to make from the best information he possesses.

Arbitrary assessments—
when.

Liability of
bank for shareholders' proportion of tax.

SEC. 23. Each bank and banking association shall be liable to pay any taxes assessed against them as the agent of each of its shareholders, owners or owner under the provisions of this act, and may pay the same out of their undivided profit account or charge the same to their expense account, or to the accounts of such shareholders, owners or owner in proportion to their ownership.

Property under
contract, to
whom taxed.

SEC. 24. Property held under a contract for the purchase thereof, belonging to the state, county or municipality, and school and other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same.

Improvements
on public lands
taxable.

SEC. 25. The assessor must assess all improvements on public lands as personal property until the settler thereon has made final proof. After final proof has been made, and a certificate issued therefor, the land itself must be assessed, notwithstanding the patent has not been issued.

County assessor
to procure lists
of taxable
lands.

SEC. 26. It shall be the duty of the county assessor of each county in this state to obtain each year, as soon as may be after the first day of April, from the state land office and from the United States district land office, a correct list describing all lands in such county upon which final proof has been made during the year, and certificate issued therefor, with the name of the party to whom the certificate was issued.

Railroads to
furnish schedules of taxable
property.

SEC. 27. Every person, company or corporation owning, operating or constructing a railroad in this state shall return sworn lists or schedules of the taxable property of

such railroads as hereinafter provided. Such property shall be listed and assessed with reference to the amount, kind and value, on the first day of April of the year in which it is listed.

SEC. 28. They shall in the month of April of the year eighteen hundred and ninety-one, and at the same time each year thereafter, make out and file with the county assessors of the respective counties in which the railroad may be located, a statement or schedule showing the property held for right-of-way in each county and in each city, town or village in the county through or into which the road may run, and describing each tract of land, other than a city, town or village lot, through which the road may run, in accordance with the United States surveys, where the land is surveyed, giving the width and length of the strip of land held in each tract, and the number of acres thereof. They shall also state the value of improvements and stations located on the right-of-way. New companies shall make such statement in April next after the location of their roads.

When schedules to be made out, what to contain, etc.

SEC. 29. All lands occupied and claimed exclusively as the right-of-way for railroads by railroad companies or corporations, with all the tracks and all the substructures and superstructures which support the same, must be assessed as a whole and as real estate, without separating the same into lands and improvements, at a certain sum per mile, which sum, like other lands, shall be full cash value thereof, and all such real estate situated in the state, occupied and claimed by any railroad company as such right-of-way, shall be deemed to be the property of such company for the purpose of taxation.

"Right-of-way" lands, etc., assessed as real estate at rate per mile.

SEC. 30. All railroad improvements, other than the track and the substructures and superstructures which support the same, whether situated upon the land occupied and claimed as the right-of-way or other lands, must be separately assessed as personal property.

Railroad improvements, when deemed personal property.

SEC. 31. The value of the "railroad track" shall be listed and taxed in the several counties in the proportion that the length of the main track in such county bears to the whole length of the road in the state, except the value

Values listed and taxed in each county relatively.

of the side or second track, and all turnouts, and all station houses, depots, machine shops, or other buildings belonging to the road, which shall be taxed in the county in which the same are located.

Movable railroad property treated as personal.

SEC. 32. The movable property belonging to a railroad company shall be held to be personal property, and denominated, for the purpose of taxation, "rolling stock." Every person, company or corporation owning, constructing or operating a railroad in this state shall, in the month of April, annually return a list or schedule to the county assessor of each county wherein they hold or own property, which shall contain a correct detailed inventory of the rolling stock belonging to such company, and which shall distinctly set forth the number of locomotives of all classes, passenger cars of all classes, sleeping and dining cars, express cars, baggage cars, house cars, cattle cars, coal cars, platform cars, wrecking cars, pay cars, hand cars, and all other kind of cars.

Lists, what to contain.

Rolling stock, how listed and taxed.

SEC. 33. The rolling stock shall be listed and taxed in the several counties in the proportion that the length of the main track used or operated in such county bears to the whole length of the road used or operated by such person, company or corporation, whether owned or leased by him or them in whole or in part. Said list or schedule shall set forth the number of miles of main track on which said rolling stock is used in the State of Washington, and the number of miles of main track on which said rolling stock is used elsewhere.

Other railroad personal property, how and when taxed.

SEC. 34. The tools, machinery, and materials for repairs, and all other personal property of any railroad company, except "rolling stock," shall be listed and assessed as personal property in the county wherever the same may be on the first day of April of each year. All the real estate, including the stations and other buildings and structures thereon, other than that denominated "railroad track," belonging to any railroad, shall be listed as lands or lots, as the case may be, in the county where the same are located.

SEC. 35. The proper officer of each railroad shall return to the assessor of the county a copy of the schedule or list

of the real estate and of the personal property pertaining to the railroad; and such real and personal property shall be assessed by the assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to railroads under the terms "lands," "lots" and "personal property."

Officers to return lists and schedules to assessor.

SEC. 36. At the same time that the "lists or schedules" as hereinbefore required to be returned to the county assessor, the person, company or corporation running, operating or constructing any railroad in this state shall return to the state auditor sworn statements or schedules as follows: First, of the property denominated as "railroad tracks," giving the length of the main and side or second tracks and turnouts, and showing the proportions in each county, and the total in the state, and a list of its lands and real estate other than railroad track; second, the "rolling stock," stating what is owned by the railroad company and what is used under lease and taxable to said company by the terms of lease, and from whom leased, giving the length of the main track in each county, the total in this state, and the entire length of the road, and a schedule of other personal property in each county; third, showing the number of ties per track per mile, the weight of iron or steel per yard used in main or side tracks, what fastenings are used in track, the ballasting of road, whether gravel or dirt, the number and quality of buildings or other structures on "railroad track," the length of time iron in track has been used, and the length of time the road has been built; fourth, a statement or schedule showing (1) the amount of capital stock authorized, and the number of shares into which such capital stock is divided; (2) the amount of capital stock paid up; (3) the market value, or if no market value, then the actual value of the shares of the stock; (4) the total amount of all indebtedness, except for current expenses for operating the road; (5) the total listed valuation of all its tangible property in this state. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the state auditor.

Lists and schedules to be returned to state auditor.

What to contain in detail.

SEC. 37. If any person, company or corporation own-

Duty of assessor when company fail to return lists.

ing, operating or constructing any railroad, shall neglect to return to the county assessors the statements or schedules required to be returned to them, the property so to be returned and assessed by the assessor shall be listed and assessed as other property. In case of failure to make returns to the state auditor, as hereinbefore provided, the state auditor, with the assistance of the county assessors, when he shall require such assistance, shall ascertain the necessary facts and lay the same before the state board of equalization. In case of failure to make such statements, either to the county assessor or state auditor, such corporation, company or person shall forfeit, as a penalty, not less than ten thousand dollars for each offense, to be recovered in any proper form of action in the name of the State of Washington, and paid into the state treasury.

Penalty of company for failure to make out statement.

Plat of lots, how designated.

SEC. 38. When any railroad company shall make or record a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat.

Telegraph and telephone companies to return lists of property to assessor and what lists to contain.

SEC. 39. Any person, company or corporation using or operating a telegraph, telephone or electric light line in this state, shall annually, in the month of April, return to the county assessor a schedule or statement, under oath, as follows: First, the amount of capital stock authorized, and the number of shares into which said capital stock is divided; second, the amount of capital stock paid up; third, the market value, or, if no market value, then the actual value of the shares of stock; fourth, the total amount of all indebtedness, except current expenses for operating the line; fifth, the length of the line operated in each county, and the total length in the state; sixth, the total assessed valuation of its tangible property in this state. Such schedule shall give the date, character, extent and value of such franchise, the number of poles per mile, the number of wires, and every electric light company shall give the kind of lights and the number of each kind supplied, the location and value of the electric plant, whether the ground is owned or leased, and, if leased, the owner's name, and the value of the plant separate from such ground. Such schedule shall be made in conformity

to such instructions and forms as may be prescribed by the state auditor, and with reference to amounts and values on the first day of April of the year for which the return is made, and it shall be the duty of the county assessor to transmit a copy of such schedule to the state auditor on or before the first Monday in October of each year. All property, real and personal, owned by such person, company or corporation and situated in this state must be listed and assessed for taxation, and shall be subject to the same levies as the property of individuals and the same rules that govern other companies and corporations.

State auditor to prescribe forms of schedules.

All property to be listed for taxation.

SEC. 40. If any person or corporation shall give a false or fraudulent list, schedule or statement required by this act, or shall fail or refuse to deliver to the assessor, when called on for that purpose, a list of the taxable personal property which he is required to list under this act, he or it shall be liable to a penalty of not less than ten dollars nor more than two thousand dollars, to be recovered in any proper form of action in the name of the State of Washington, on the complaint of any person; such fine when collected to be paid into the county treasury to the credit of the general fund.

Penalty for giving false statements.

SEC. 41. Whoever shall willfully make a false list, schedule or statement, under oath, shall, in addition to the penalty provided in the preceding section, be liable as in case of perjury.

Same.

SEC. 42. All life, life and accident, fire, fire and marine, plate glass and steam boiler insurance companies now doing business in this state, and all other insurance companies not herein mentioned, or that may hereafter do business in this state, must file with the state auditor annually, on or before the first day of April in each year, a statement, under oath, stating the amount of all premiums received by said companies during the year, and the amount of all losses paid, and shall pay into the state treasury a tax of two per cent. on all such premiums collected, less the amount losses paid. The auditor of state shall file such verified statement and schedule in his office and certify the amount of such gross receipts, less losses as aforesaid, to the state treasurer. Within ten days thereafter such in-

Insurance companies taxed on premiums.

insurance company shall pay or cause to be paid into the state treasury a tax of two per cent. upon all such gross receipts, less such losses paid in the State of Washington, which payment, when so made, shall be in lieu of all taxes upon the personal property of such company, and the shares of stock therein. Any insurance company failing or refusing to render such statement and to pay the required two per cent. tax thereon for more than thirty days after the time so specified, shall be liable to a fine of one hundred dollars for each additional day such statement and payment is delayed, and the taxes may be collected by distraint and the fine recovered by an action to be instituted by the attorney general, in the name of the state, in any court of competent jurisdiction, and such company be enjoined from doing business in this state until such payment of taxes, and fine, should any be imposed, is fully made, and notice thereof be given to the auditor of state, as required in all other instances, upon payment of taxes or other moneys to the state treasurer: *Provided*, That all real property, if any, of such company shall be listed, assessed and taxed the same as real property of like character of individuals.

Penalty for failure to pay tax.

Proviso.

SEC. 43. Vetoed by the governor.

Property must be assessed at its true value in money. How value to be determined.

SEC. 44. All property shall be assessed at its true and fair value in money. In determining the true and fair value of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon

which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair, voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a fair, voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof.

SEC. 45. The assessor shall make out in the real property assessment book, in numerical order, complete lists of all lands or lots subject to taxation, showing the names of owners, if to him known, and if unknown, so stated, opposite each tract or lot in pencil memorandum, the number of acres, and the lots or parts of lots, or blocks, included in each description of property. The assessment books and blank[s] shall be in readiness for delivery to the assessor on the first Monday of March of each year: *Provided*, That the numerical assessment shall not apply to the year 1891.

Real property assessed in numerical order.

Proviso.

SEC. 46. Every person elected or appointed to the office of assessor shall file with the board of county commissioners, within the time provided by law, his bond, payable to the State of Washington, with two or more good freehold sureties, to be approved by the said board, in a penal sum to be fixed by the board of county commissioners, conditioned that he will diligently, faithfully and impartially perform the duties enjoined to [on] him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond or fails to take the oath required within the time prescribed such failure shall be deemed a refusal to serve.

Assessor—Bond of and oath of office.

SEC. 47. Any assessor, who deems it necessary to enable him to complete the listing and the valuation of the property of his county within the time prescribed by law, may appoint one or more well qualified citizens of his county to act as his assistants or deputies, and assign them to such portion of his county as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined

Assessor may appoint one or more deputies.

upon, vested in or imposed upon, assessors by the provisions of this act; and each of such deputies shall receive for his services while actually employed in such work the sum of five dollars per day: *Provided*, That no assessor shall appoint any deputy unless the same be actually necessary, and then for no longer time than may be actually needed: *Provided further*, That the county commissioners may remove any deputy assessor when in their discretion it may become necessary.

Compensation.

May be removed.

Time within which assessor shall perform duties.

To list names of personal property owners.

Postoffice address.

How names shall be listed.

SEC. 48. The assessor shall perform the duties required of him during the months of April, May and June of each year, except in cases otherwise provided, and in the manner following, to wit: He shall actually view and determine, as nearly as practicable, the true and fair value of each tract or lot of real property listed for taxation, and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property. He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books opposite the name of the party assessed; and in making such entry in his assessment list, he shall give the name and the postoffice address of the party listing the property, and if the party reside in a city, the assessor shall give the street and number, or other brief description of his residence or place of business.

SEC. 49. The assessor shall call at the office, place of doing business or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property, in accordance with the provisions of this act; and every person so required, shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and shall deliver to the asses-

sor, who shall thereupon assess the value of such property and enter the same in his books: *Provided*, If any property is listed or assessed on or after the fourth Monday of June, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time: *Provided further*, That if from any reason the assessor shall fail to visit any such person, firm or corporation, said failure shall not impair or invalidate such assessment.

SEC. 50. If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice requiring such person to make out and leave at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice and the name of the person required to list the property, shall be noted by the assessor in his assessment book.

SEC. 51. In every case where any person whose duty it is to list personal property for taxation, has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused [to] list" or "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same, the assessor shall list the property of such person and enter opposite the name of such person, in an appropriate column, the words "absent or sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine upon oath any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property.

Provisos.

Notice to be left in case of absence or sickness of property owner.

Refusal or neglect to list property—Duty of assessors in case of.

May administer oaths.

School and road districts to be designated.

SEC. 52. It shall be the duty of assessors, when assessing real or personal property, to designate the number of the school district and road district in which each person assessed is liable for tax, which designation shall be made by writing the number of the districts opposite each assessment, in a column provided for that purpose in the assessment book. When the real and personal property of any person is assessable in several school districts and road districts, the amount in each shall be assessed separately, and the name of the owner placed opposite each amount.

Map of county to be furnished to assessor.

SEC. 53. The county commissioners of each county shall furnish the assessor with a map of the county, showing the boundaries of each road and school district therein numbered.

Failure to obtain lists, assessor's duty in case of.

SEC. 54. In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor.

Columns to be added showing footing on each page of assessment books.

SEC. 55. The assessor shall add up and note the amount of each column in his assessment books; he shall also make in each book, under proper headings, a tabular statement showing the footings of the several columns upon each page, and shall add up and set down, under the respective headings, the total amounts of the several columns; and on or before the first Monday of August he shall make return to the county auditor of his assessment books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such return shall be verified by his affidavit, substantially in the following form:

Certificate of assessor.

STATE OF WASHINGTON, ——— COUNTY, SS.

I, ———, assessor of ———, do solemnly swear that the book to which this is attached contains a correct and full list of all the real property (or personal property, as the case may be) subject to taxation in ——— county, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column,

opposite the several kinds and descriptions of property, is in each case the true and fair value of such property, to the best of my knowledge and belief, and that the footings of the several columns in said book, and the tabular statement returned herewith, are correct as I verily believe. — — —, Assessor.

Subscribed and sworn to before me this — day of —, 18—.
[L. s.] — — — Auditor of — County.

SEC. 56. If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person or his agent having charge of such property, may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the auditor shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor as provided herein; nor from any person unless he makes and files with the county auditor an affidavit that he was absent from his county, without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called on for that purpose.

Parties may return lists to auditor when.

Exception.

SEC. 57. The county auditor shall carefully examine the assessment books when returned to him by the assessor, and if he discovers that the assessment of any property has been omitted, shall enter the same upon the proper list and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform this duty, the auditor shall ascertain the value of such property and make the necessary corrections.

Auditor to examine assessment roll and add omitted property.

SEC. 58. Any oath authorized to be administered under this act may be administered by any assessor or deputy assessor, or by any other officer having authority to administer oaths.

Oaths.

SEC. 59. Every male inhabitant of the state over twenty-one and under fifty years of age must be assessed and annually pay a county poll tax of two dollars, save and except

Poll tax, age, qualification.

Exemption. paupers, idiotic and insane persons: *Provided*, That all active members of volunteer fire companies in actual service, who have been such for one year prior to the assessment shall be exempt from such poll tax.

Assessor to collect poll tax, when.

SEC. 60. The assessor must, at the time of making his annual assessment, demand a poll tax from each person liable therefor, and if such person shall refuse or neglect to pay his poll tax upon demand by the assessor or his deputy, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars, and may also be imprisoned in the county jail not exceeding one month. If such person is in the employ of another, the assessor after first making a demand for his poll tax must demand from the person, firm, corporation or company, or agent thereof, having said person in his or their employ, said poll tax, and from thenceforth said person, firm, corporation or company shall be liable to the county for said poll taxes, which, if not paid on demand, must be added to the assessment of said person, firm, corporation or company, and the amount thereof may be [de]ducted by said person, firm, corporation or company from the wages of the person liable therefor; and if any person in the employ of another person, firm, corporation or company shall refuse to give his true name and the name and place of business of his employer on demand of the assessor or his deputy, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars, and may also be imprisoned in the county jail for any time not exceeding one month.

How collection to be enforced.

Liability of corporations, etc., for.

SEC. 61. Any person, firm, corporation or company becoming liable for the poll taxes of any person as provided for in the preceding section of this act shall, either in his bill of time in settlement or on a separate piece of paper over the signature of said person, firm, corporation or company, furnish such person with a statement to the effect that the amount of his poll tax (giving the amount) for the year 18—, has been deducted from his wages, and such statement shall be a receipt and notice to all that said

poll tax has been paid for said year as specified in the time bill or notice of the deduction of his wages.

SEC. 62. The auditor of each county must furnish the assessor of his county annually with blank poll tax receipts for each year, numbered consecutively, and bearing the official seal of said auditor, which receipts shall have attached to them stubs containing corresponding years and numbers and amounts, upon which stubs the assessor must enter the names of all persons paying their poll taxes to him, and the assessor must return said stubs to the auditor at the time of settlement, together with an alphabetical list of the persons who have paid their poll tax.

Auditor to furnish assessor with blank poll tax receipts.

SEC. 63. The auditor must charge the assessor with two dollars for each blank poll tax receipt delivered to him, taking the assessor's receipt for the same, and must allow the assessor two dollars for each of said poll tax receipts returned to him in blank.

Receipts charged to assessor.

SEC. 64. Each assessor or collector of poll taxes shall be allowed ten per cent. on all moneys collected by him from poll taxes, and he may retain the amount out of the money so collected, and the auditor shall allow the same in settlement: *Provided*, When the poll tax is collected from any person, firm, corporation or company for any number of persons in their employ in excess of twenty-five, then the assessor shall be allowed five per cent. on such sum collected.

Percent. allowed assessor for collecting.

SEC. 65. On or before the fifteenth day of July in each year the assessor must pay to the county treasurer of his county all money collected by him for poll taxes, less the per cent. allowed him for collection, taking the treasurer's duplicate receipt therefor, which duplicate receipt he must file with the county auditor, who must credit the assessor with the amount shown by said receipt to have been paid, and charge the treasurer with said amount. The auditor shall then settle with the assessor, allowing him credit for all poll tax money paid to the treasurer, as shown by duplicate receipt, with ten per cent. commission and two dollars for each poll tax receipt returned; he shall then deliver to the assessor, when full settlement is made, his receipt for said blanks: *Provided*, Enough blank receipts be returned

Money to be paid to treasurer, when.

Settlement, how made.

Proviso.

to balance the account, otherwise the assessor's receipt shall be retained by the auditor until said account is properly balanced, and it shall be unlawful for any board of county commissioners to pay the assessor of its respective county for the month of July, for assessing the same, until said assessor shall have first settled his poll tax account with the county auditor.

Paid into
county fund.

SEC. 66. All poll tax money collected must be paid into the general fund of the county.

Uncollected
tax, how noted.

SEC. 67. The assessor of each county must return on his assessment books all uncollected poll taxes in the name of the person, firm, corporation or company liable to pay the same.

County board
of equalization,
how formed and
when to meet.

SEC. 68. The county commissioners, or a majority of them, shall form a board for the equalization of the assessment of the property of the county. They shall meet for this purpose annually, on the first Monday in August, at the office of the auditor, who shall act as clerk of said board, and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of property of the county, and proceed to equalize the same, so that each tract or lot of real property and each article or class of personal property shall be entered on the assessment list at its true and fair value, subject to the following rules: First, they shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, after five days' notice shall have been given in writing; second, they shall reduce the valuation of each tract or lot which in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof; third, they shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual, whenever they believe that such aggregate valuation is less than the true valuation

Duties of
county board
defined.

of the taxable personal property possessed by such individual, to such sum or amount as they believe was the true and fair value thereof, after five days' notice shall have been given in writing; fourth, they shall, upon complaint of any party aggrieved, being a non-resident of the county in which his property is assessed, reduce the valuation of each class of personal property enumerated in section 16 aforesaid, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individuals, who in their opinion have been assessed at too large a sum, to such sum or amount as they believe was the true and fair value of his personal property; fifth, they shall not reduce the aggregate value of the real property or the aggregate value of the personal property of their county below the aggregate value thereof as returned by the assessor, except manifest errors are shown to exist therein, with the additions made thereto by the auditor, as hereinbefore required; but they may raise the aggregate valuation of such real property and of each class of personal property of said county whenever they believe the same is below the true and fair value of said property, or class of property, to such aggregate amount as they believe to be the true and fair value thereof. The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, in a book kept for that purpose, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of the state, with the abstract of assessment hereinafter required. The county board of equalization may continue in session and adjourn from time to time during three weeks, commencing on the said first Monday of August, but after final adjournment the county commissioners shall not have power to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, but may correct errors in

Auditor to keep
journal of pro-
ceedings.

Errors may be
corrected.

description or double assessments: *Provided*, That no taxes shall be extended upon the tax rolls until the property valuations are equalized by the state board of equalization.

Auditor to note changes made by board of equalization.

Auditor to make abstracts of corrected lists and transmit to state auditor.

Auditor to transmit abstract of tax roll, etc., to state auditor, when.

Failure of auditor to transmit abstract, or county to pay due proportion to state tax, duties of state board relative to.

County assessors may meet annually to classify property, etc.

SEC. 69. The county auditor shall make due record of the changes of the assessment lists determined by the county board of equalization and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of such corrected lists, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state on or before the second Monday of September following each county equalization. The county auditor shall, also, on or before the fifteenth day of December in each year, make out and transmit to the auditor of state, in such form as may be prescribed, a complete abstract of the tax rolls of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the county; the aggregate amount of all taxable property in the county; the total amount as equalized, and the total amount of taxes levied in the county for state, county, town, and all other purposes, for that year. Should the auditor of any county fail to transmit to the state auditor the first abstract provided for in this section by the time the state board of equalization convenes, and if, by reason of such failure to transmit said abstract, any county shall fail to collect and pay to the state its due proportion of the state tax for any year, the state board of equalization shall, at its next annual session, ascertain what amount of state tax said county has failed to collect and the state auditor shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said sum shall be due and payable immediately by warrant in favor of the state on the general county fund of said county.

SEC. 70. The assessors of the several counties in this state shall meet at the state capital on the first Monday of February of each year for the purpose of classifying and

formulating an uniform schedule of values of all property (except real property), so far as may be, for the purposes of enlisting and assessment. The auditor of state shall act as chairman of such meeting, and may participate in the proceedings of the same, and one of such assessors shall act as clerk, who shall keep a minute of the proceedings of such meeting, and shall file such minutes or a copy thereof in the office of the auditor of state, and the said auditor of state shall furnish such forms as may be necessary to the several assessors and boards of county commissioners of the counties of the state. Said assessors shall not continue in session for longer than six days, and they shall be allowed by the boards of county commissioners of their respective counties their actual traveling expenses in going to and returning from such meeting, but no other or further allowance shall be made to them in addition to their regular salaries.

Six days limitations.

Traveling expenses allowed.

SEC. 71. The secretary of state, land commissioner, together with the auditor of state, shall constitute the state board of equalization. The auditor shall be president of the board and they shall have power to appoint one of their number secretary, and may remain in session not to exceed twenty days; may adjourn from day to day, and employ such clerical assistance as may be deemed necessary to facilitate its labors: *Provided*, That the expense of said board shall not exceed the sum of five hundred dollars in any one year. The said board shall meet annually, on the fourth Monday of September, at the office of the auditor of state, and shall examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and fair value. In the performance of their duties they shall be governed by the following rules: First, they shall classify all property, real and personal, and shall raise or lower the valuation of any class of property in any county to a value that shall be equal and uniform so far as possible in every part of the state; second, the secretary shall keep a full record of the proceedings of the board, and the same shall be published in the biennial report of the audi-

State board of equalization, who constitute.

When to meet.

Duties defined

tor of state; third, they shall have authority to adopt rules and regulations for the government of the board, and to enforce obedience to its orders in all matters in relation to return of county assessments and to the equalization of taxes by said board.

Transcript of proceedings transmitted to counties.

SEC. 72. When the state board complete their equalization, the auditor of state shall transmit to each county auditor a transcript of the proceedings of the board, within ten days after said board adjourns, specifying the rate to be added to or deducted from the valuation of the real property of each of the several counties, and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding, in each case, any fractional sum of fifty cents or more, and deducting, in each case, any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar; and shall also add to or deduct from such class of personal property in his county, the required amount on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting in manner as aforesaid any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar.

Duties of county auditor relative to.

Taxes, how levied.

SEC. 73. All taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property as equalized by the state board of equalization each year, except such general taxes as may be definitely fixed by law. The state tax shall be levied by the state board of equalization and the rate be ascertained by said board after concluding its labors of equalization: *Provided*, That the rate levied in any one year shall not, for general state purposes, exceed three mills on a dollar, property valuation. The rate of levy, as determined annually by the state board, shall be certified by the auditor of state to each county auditor on or before the first Monday of November of each year. The county taxes shall be levied by the county commissioners at the time of their meeting in November of each year. Such taxes shall

State tax by state board, and rate determined.

Amount certified to counties.

County levy by county board, on estimate amount of expenses.

be based upon an itemized statement of the estimated county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such estimated expenses, with an excess of fifteen per cent. of the same. The rate per centum of all taxes, except the state tax and such other taxes, the rates of which may be fixed by law or the county commissioners, shall be calculated and fixed by the county auditor according to limitations hereinafter prescribed.

SEC. 74. For the purpose of raising a revenue for state, county, school, road and other purposes, the board shall, at said November session, levy a tax on all taxable property in the county, as shown by the assessment roll, which tax shall be sufficient in amount to defray the state, county, school, road and other expenses of the county or state: *Provided*, The state tax shall not exceed three mills, as regulated by the state board of equalization. The county tax shall not exceed eight mills; the school tax shall not exceed six mills; the road tax shall not exceed five mills; the bridge tax shall not exceed two mills; and all other taxes in accordance with the state laws.

County board
to levy taxes at
November ses-
sion, and fix
rates.

SEC. 75. The county auditor shall make out the tax rolls according to the prescribed form. The rate per cent. necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the state board of equalization; but in calculating such rates, no rates shall be used resulting in any fraction other than a decimal fraction, or less than one-tenth of a mill; and in extending any tax, whenever it amounts to a fractional part of a cent, it shall be made one cent. The tax shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation, and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate per cent. of each tax at the head of the proper columns.

Auditor to
make out tax
rolls, method
of, etc.

SEC. 76. It shall be the duty of the county auditor to make in each tax book or list, a certificate in the following form, viz.:

Certificate to tax roll.

I, A _____ B _____, auditor of _____ county, State of Washington, do hereby certify that the following is a correct list of taxes levied on the real and personal property in the county of _____ for the year one thousand eight hundred and _____.

Witness my hand and seal this _____ day of _____.

_____, County Auditor.

Fiscal year.

SEC. 77. The fiscal year contemplated in this act shall commence on the first day of April and end on the thirty-first day of March in each year.

Tax roll delivered to county treasurer.

SEC. 78. The county auditor shall deliver the tax books of the county to the county treasurer on or before the first day of December in each year, with his warrant thereto attached, authorizing the collection of said taxes, taking his receipt therefor. The amount of said taxes due upon said books shall be charged to the treasurer, and said books, with the warrant for collection, shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied.

Treasurer receiver and collector of all taxes.

SEC. 79. The county treasurer shall be the receiver and collector of all the taxes extended upon the tax books of the county, whether levied for state, school, bridge, road or other purposes, and also of all fines, forfeitures or penalties, received by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds.

Notice given of taxes due.

SEC. 80. On receiving the tax books from the county auditor, the treasurer shall give notice by publication in some newspaper having general circulation in the county, once in each of three consecutive weeks, that the tax books have been turned over to him for the collection of taxes thereon. He shall, when requested, notify each tax payer in his county, by postal card, at the expense of the county, having printed on said card the name of each tax and the levy made on the same, of the amount of his real and personal property, and the total amount of tax due on the same; and from and after the taking effect of this act the county treasurer shall be the sole collector of all delinquent

On request, treasurer to notify each tax payer by postal card of taxes due.

taxes, and all other taxes due and collectible on the tax lists of the county, and all other county officers having tax lists in their possession, or authority to collect on the same, are hereby directed to deliver up said lists to the treasurer of their respective counties, to the end that such treasurer shall be the sole collector of all taxes levied therein.

SEC. 81. The county treasurer, upon receiving the payment of any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, city or town lot, or other real and personal property on which the tax so paid was levied according to its description in the treasurer's tax roll and the year for which such tax was levied. Such receipt shall be numbered consecutively for such year, and such number shall be entered upon the treasurer's tax roll opposite each and every piece of property therein. It shall contain the name of the party paying, with the amount and date of payment. Such receipt shall be made out with a stub, which shall be a summary of the receipt, and the stub filed with the county auditor, and prior to filing said stub he shall post such collections in a cash or collection register, provided for that purpose and for the distribution of collections to the respective funds, to thus keep an accurate account, not only of the gross amount of collections, but also the amounts collected upon each and every fund.

SEC. 82. All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due; and thereupon a penalty of ten per cent. shall attach and be charged upon all such taxes, and interest at the rate of twenty per cent. per annum from date of delinquency until paid. After the first day of March the county treasurer shall immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels belonging to the persons charged with such taxes, if found within the county, to pay the same, with the said penalty of ten per cent. and all accruing costs, and shall immediately proceed to advertise the same in three public places in the county, town or district where such property is taken, stating the time when and the place where such property will be sold; and if the taxes for which such prop-

Treasurer's receipt for taxes paid.

Receipt, what to specify.

Post collections to proper fund account.

Personal property tax, when delinquent.

Interest and penalties.

How collected, distraint of property, etc.

erty is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes and the cost of said distress and sale.

Sale of prop-
erty for.

In case of fail-
ure to collect,
to file list with
auditor, etc.

SEC. 83. If the county treasurer is unable, for the want of goods or chattels whereon to levy, to collect, by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, accounting officer, agent or factor, such treasurer shall file with the county auditor on the first day of June following, a list of such taxes, with an affidavit of himself or of the deputy treasurer entrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes, and was unable to make or collect the same. He shall note on the margin of such list the place to which any delinquent taxpayer may have removed, with the date of his removal, if he is able to ascertain such fact. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied cannot be collected. The county auditor shall then certify to the state auditor the amount of state tax thus found to be delinquent and uncollectible, which amount shall be deducted from the amount to be paid by such county to the state treasurer on or before September thirtieth of each year, as provided in section 91 of this act.

Proceedings
under.

Delinquent
taxes certified
to state auditor.

Amount de-
ducted from
amount due
state.

Further pro-
ceedings to en-
force collection
by judicial pro-
cess.

SEC. 84. Within ten days after the adjournment of the board of commissioners the auditor shall file a copy of such revised list with the clerk of the superior court of the county; and within ten days after the filing of such copy the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time reside or be, for service, a citation to each delinquent named on said list, stating the amount of tax and penalty, and requiring such delinquent to appear, within thirty days, before the superior court in the county and show cause, if any

there be, why he should not pay said tax and penalty; and if he fails to pay said tax, penalty and costs to the treasurer within thirty days, or show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty and costs. Within twenty days thereafter said clerk shall make a transcript of such judgment and file the same in the office of the auditor, and thereafter the same shall be a lien as other judgments in civil actions.

Judgment same as in civil actions.

SEC. 85. The clerk shall tax as fees for issuing such citation and perfecting judgment one dollar and fifty cents in cases not contested, and in contested cases such fees as are allowed by law in civil actions: *Provided*, That no costs shall be taxed against the county. Executions shall be issued upon such judgment at the request of the prosecuting attorney, and shall state that the judgment was obtained for delinquent taxes, and no property shall be exempt from seizure thereon, except as in this act provided.

Clerk's fees to be taxed.

Proviso.

SEC. 86. If any county treasurer shall refuse or neglect to collect any tax assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected, and the same shall be deducted from his salary and applied to the several funds for which they were levied.

Liability of treasurer for neglect or refusal to perform duties.

SEC. 87. The county auditor, within thirty days after receiving the delinquent list of personal property taxes, shall make out and forward to the treasurer of any county in this state to which any delinquent taxpayer may have removed, a statement or account of such delinquent taxes, specifying the value of property on which said taxes were levied, and the amount of taxes levied thereon, to which he shall add an amount equal to the sum of twenty-five per centum on the taxes levied, and if said delinquent taxpayer left the county in which said taxes were levied after the time required by law for the county auditor to deliver the tax list to the county treasurer; but if he left the county previous to the time required by law for the delivery of

In case of removal of delinquent taxpayer, duty of auditor to furnish list to county when ready.

said tax list to the county treasurer, then the said county auditor shall not add the twenty-five per centum.

Duty of treasurer to such taxes.

SEC. 88. On receipt of any such statement or account, the county treasurer to whom such statement or account shall be sent shall immediately proceed to collect the same of the person so charged with said taxes and per centum, for which service he shall be allowed the same fees that county treasurers shall be allowed by law for collecting delinquent taxes by process, as provided in section 89, to be collected of the person against whom said taxes were charged; and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and, at the same time, he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remain unpaid, the reason why said taxes could not be collected, certifying in his official capacity to the same.

Fees.

Collections to be remitted to proper county.

Fees, how taxed by treasurer.

SEC. 89. The county treasurer, or his deputy, shall tax the same fees for making distress and sale of goods and chattels for the payment of taxes as are allowed by law to constables for making levy and sale of property on execution; traveling fees to be computed from the county seat of the county to the place of making the distress.

Quarterly settlements by treasurer, when.

SEC. 90. On the first Mondays of January, April, July and October, respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes from the date of the last settlement up to and including each day mentioned, and the county auditor shall, within twenty days after each settlement, send an abstract of the same to the auditor of state, in such form as the said auditor of state may prescribe. At the April and October settlements the treasurer shall make complete returns of his collections on the current tax list, showing the amount collected on account of the several funds included in said list.

Abstract sent to state auditor.

Complete settlement, when.

Payment of state taxes, how and when made by treasurer.

SEC. 91. The county treasurer of each county shall pay over to the state treasurer, on or before April fifteenth of each year, seventy-five per cent. of the state tax levied for the preceding year, and shall pay over the remaining twenty-five per cent. on or before August first of each

year: *Provided*, Credit shall be given any county for the amount of state tax found delinquent as provided in section 83 of this act, and for such errors and double assessments as may appear on said roll.

Credit for delinquent state tax.

SEC. 92. On the first day of July of each year, the county treasurer shall balance up the tax rolls placed in his hands, and with which he stands charged. He shall then report

Annual balancing of tax rolls.

to the county auditor the amount of taxes he has collected and specify the amount collected upon each fund. He shall also report the amount of taxes that remain uncollected and delinquent upon the tax rolls, which, with his collections, should balance his account, as he stands charged.

Report of taxes still delinquent, of collections made, etc.

He shall then report in addition thereto, the amount of his collections on interest and penalty since the taxes became delinquent, and as added to the original amounts by him, when making such collections, and with which he is now to be charged by the auditor, such report to be duly verified.

The county auditor shall thereupon proceed to compare the stub tax receipts of the treasurer, filed in his office, with the treasurer's tax rolls, and note if the tax roll is properly marked opposite each tract or tax with the word "paid,"

Comparing and settling of accounts with auditor.

and the number of the treasurer's receipt, that he gave in discharge of any tax is properly entered opposite each tract or tax described in such receipts, and if the descriptions, amounts, name, numbers and funds agree; the auditor shall also compare said receipts with the treasurer's cash book, or collection register, upon which he is required to post them, and if so properly credited to the several funds, and also coincide in all respect with the tax rolls, he shall test the footings upon the treasurer's collection register, to see that no errors have been made, or frauds perpetrated. He shall then satisfy himself that the collections of the interest and penalty, required to be added after taxes have become delinquent, have been collected and properly accounted for, and if so, to charge the treasurer with the same. If the treasurer's receipts and books in all respects are correct and true and the collections fully and properly accounted for by cash on hand and proper vouchers for moneys disbursed, which vouchers the auditor must also examine and compare with the treasurer's warrant register, the auditor shall

When treasurer's accounts shall be balanced.

enter the credits and debits upon the treasurer's account and properly balance the same up to date.

Taxes imposed on real estate a lien thereon.

SEC. 93. *Lien, Unpaid Taxes on Real Estate.*—All taxes and levies which may hereafter be lawfully imposed or assessed shall be and they are hereby declared to be a lien respectively upon the real estate upon which they may hereafter be imposed or assessed, which liens shall include all charges and expenses of and concerning the said taxes which by the provisions of this act are directed to be made.

Priority of lien.

The said lien shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which said real estate may become charged or liable. All taxes upon real estate unpaid on the first day of March after the year for which they were assessed shall be on interest at the rate of twenty per cent. per annum until paid, to which shall be added the charge of ten per centum penalty.

Interest on real estate tax after March 1st.

Annual register of unpaid taxes, prepared by treasurer in duplicate.

SEC. 94. In the month of April annually the county treasurer shall, in duplicate books to be entitled "The register of unpaid taxes on real estate for the year 189—," cause to be registered all unpaid taxes for the preceding year, including the penalty aforesaid, with a column for accruing interest, and a fee of twenty-five cents for each and every separate assessment upon which the taxes remain unpaid. One of such registration books shall be deposited in the office of county auditor and the other shall remain on file in the office of the county treasurer. The said county treasurer shall furnish the county attorney a list of all registered taxes on real estate unpaid in the month of April every two years succeeding the year for which said taxes were levied, together with certified bills or statements which shall exhibit such registered unpaid taxes, penalty, interest and accrued expenses.

County treasurer's fees.

County attorney to be furnished list of registered taxes unpaid.

County attorney to enforce payment by process.

SEC. 95. Said county attorney under the direction of the county treasurer shall collect the same or enforce payment thereof in the manner hereinafter provided. Upon receipt thereof, or upon sale of the real estate upon which said registered taxes are a lien, the said county attorney shall pay quarterly to said county treasurer all moneys by him collected. The said county treasurer shall enter satisfac-

Pay over collections quarterly.

tion on the proper duplicate registers of unpaid taxes on real estate in the offices of county treasurer and auditor.

SEC. 96. All taxes registered as aforesaid and remaining unpaid shall cease to be liens after the expiration of five years from the first day of March of the year succeeding that in which they became due, unless suit be brought to recover the same as hereinafter provided, and such suits be prosecuted to judgment. All such judgments or decrees shall in all respects as to the lien thereof and mode of enforcement be and continue as other judgments and mode of procedure, and the procedure shall conform to the practice in such suits as prescribed by the practice regulating civil actions.

When tax lien shall expire.

Judgments, etc., to conform to practice in civil actions.

SEC. 97. There shall be an allowance of rebate to all payers of taxes who shall pay the same within the year for which they are assessed, as follows: Three per cent. if paid on or before the first day of January next ensuing; but if not paid on or before the 1st day of March, they shall then become delinquent and a penalty of ten per centum shall thereupon be added, and from the said first day of March said unpaid taxes and penalty shall bear an interest of twenty per centum per annum thereafter until paid.

Rebate allowance on taxes paid prior to January 1st next subsequent to levy.

Penalty for delinquency when to attach.

SEC. 98. All and every person being the owner or having an interest in an estate or claim to real estate against which taxes shall have been registered as unpaid may pay the same and satisfy the lien at any time before suit or sale of said real estate. The person or authority who shall collect or receive the same shall give a certificate that such taxes have been so paid to the person or persons entitled to demand such certificate. Upon neglect or refusal by such officer or authority to so certify the same within ten days after the receipt of such registered taxes, and to enter satisfaction thereof, such officer shall forfeit and pay to the party aggrieved by such neglect the sum of twenty-five dollars, to be recovered in any court having competent jurisdiction, and such court, when satisfied that such registered taxes have been paid, shall issue an order in writing directing the county treasurer and county auditor to enter satisfaction upon such duplicate register of the taxes so paid.

All parties in interest may pay delinquent taxes and satisfy liens before suit or sale of property.

Neglect of officer to perform duty, penalty for.

All property heretofore sold to counties for delinquent taxes to be registered in books by treasurer.

SEC. 99. All lots, tracts and parcels of land heretofore sold to counties for the delinquent taxes due and unpaid therefor shall be designated by the county treasurer in proper duplicate books of registration, and the said delinquent taxes, penalty, interest and expenses due and unpaid shall be entered as herein provided, as near as may be, and such registration shall have the same effect as though such delinquent or unpaid taxes had been registered under the provisions of this act: *Provided, however,* That the county treasurer may forthwith proceed to sell such real estate for the unpaid taxes so due as aforesaid, conformable to the provisions of this act.

Provision for collecting taxes thereon.

Holders of tax deeds may cite owner of property to show cause, etc.

SEC. 100. Persons holding tax deeds for lots heretofore sold by any county in the state for delinquent taxes are hereby authorized and empowered, if they so elect, to cite the owner or reputed owner of any tract against whom such taxes were levied or imposed, to show cause why said premises so purchased at any tax sale should not be decreed under the present act to such purchaser or purchasers.

SUITS TO ENFORCE COLLECTION OF UNPAID TAXES ON REAL ESTATE.

County attorney may bring suit to foreclose tax liens, etc.

SEC. 101. The county attorney, under the direction of the county treasurer, shall enforce the payment of registered unpaid taxes on real estate and such as hereafter may be registered, as herein provided. The said county attorney shall, when so directed, bring suit in the name of the proper county in the superior court having jurisdiction to foreclose the lien against the tracts, lots or parcels of real estate, returned and registered in said registers of unpaid taxes on real estate, naming as defendant or defendants the owner or reputed owner, or against an unknown owner, and all persons who have recorded interests, estates or incumbrances. The county attorney may include in one suit any or all parcels of land registered as belonging to the same owner or owners. Nothing herein contained shall prevent the board of county commissioners, in any case where taxes have been assessed on separate and distinct properties as one estate, at any time before the payment of

the said taxes, to apportion the same ratable upon the said several and distinct portions of the property so assessed together.

SEC. 102. In all cases in which unpaid taxes shall have been or may hereafter be registered against any lot or parcel of land, whether improved or unimproved, and it shall appear by affidavit of claimant or defendant or other proper evidence, that said lot in fact consists of two or more lots belonging to different persons, the proper court shall permit and require the claim, whether before or after any partial payment thereof, to be apportioned, that a due proportion thereof and no more shall be charged and recovered against and from the several lots included in the tax as originally assessed and registered, and upon the payment of such apportioned claim, the lot upon which the taxes have been paid shall be released, but such release shall not impair the validity nor in any way affect the claim upon the remainder of such lot or lots.

In case of joint owners to delinquent property, etc., court may permit division of interest and proportional payment of taxes due.

SEC. 103. In any suits to enforce the liens of such registered unpaid taxes, the county attorney may commence the same by filing with the clerk of the proper superior court a claim or statement exhibiting the items of such registered unpaid taxes, accrued taxes, expenses and costs, and the description of the real estate upon which they are a lien, attested and signed by him in his official capacity, which shall be a sufficient complaint and the only one required; but nothing herein contained shall prevent said attorney from filing a complaint should he so elect. The clerk shall thereupon issue a summons, citation or notice, in which shall be designated the lot or tract of land by its number or certain description, the name of owner, reputed owner or that the name of owner is unknown, amount of claim, time of hearing, citing such defendant or defendants to appear and show cause why the premises described, or so much thereof as may be necessary, shall not be sold to pay such taxes, accrued taxes and expenses of sale. Such notice or citation may be substantially in the following form :

How suits shall be instituted.

Form of notice
to delinquent.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON; FOR THE
COUNTY OF _____.

COUNTY OF _____, PLAINTIFF, VS. _____, DEFENDANT.

The State of Washington to _____, greeting: To _____, defendant—You [and each of you] are hereby required to appear in the superior court of the State of Washington, for the county of _____, within twenty days after the day of service of this summons upon you, if served in said county, or if served in any other county, then within thirty days after the day of service, then and there to show cause, if any there be, why that certain tract of land situated in said county of _____, and more particularly described as follows, to wit: [Here insert description as contained in bill of complaint filed] shall not be sold to pay registered unpaid taxes amounting [to] _____ dollars and _____ cents, together with costs of this action, and unless you so appear and show cause the said plaintiff will move for a decree foreclosing the lien of said unpaid taxes on said premises, and that the same may be sold to pay said registered unpaid taxes.

Witness my hand and the seal of the said court this _____ day of _____.

[SEAL.] _____,

County Clerk and Clerk of said Court.

Service of said notice shall be made as in other civil actions, except as herein modified or provided.

SEC. 104. Whenever it shall appear by affidavit filed that after diligent search and inquiry the registered owners of such real estate, against whom action has been commenced for the unpaid taxes due therefor, are non-residents of the county, or cannot be found therein, it shall be lawful for the sheriff to post a copy of said writ on a conspicuous part of the premises described, and by publishing a copy thereof three successive weeks in a newspaper published in the county, or of general circulation in the county, where such property is situated, and such posting and publishing is equivalent in all respects to a personal service of said writ on such registered owner or owners, which posting and publication being made, the plaintiff may proceed to recover judgment in default of appearance or answer, and the facts set forth in said affidavit, hereinbefore required to be filed, shall be conclusive, for the purposes of the case, as to the non-residence of the defendant or registered owner. In case an owner shall be unknown, or, for other causes, cannot be personally served, and the real estate proceeded against shall be improved, and an adult person or tenant may reside thereupon, a service of the summons on such

Proceedings
when personal
service on delinquent cannot be had.

tenant or adult resident shall be deemed a personal service on the owner, and, for the purposes of this act, such tenant or resident adult shall be deemed the agent of the owner, and service upon such agent shall be equivalent to personal service. All of which facts shall be established by the return of the officer and affidavit of publication.

SEC. 105. If no defense be made or cause shown, judgment shall be entered for the amount named in the complaint, to which shall be added a reasonable counsel fee, to be fixed by the court. In all such causes the certificate of the county auditor of the registration of said taxes shall be received as *prima facie* evidence of the amount of taxes due, together with interest thereon. Defendant may prove that such taxes so registered have been paid, or satisfied wholly or in part, in which case judgment shall be entered for the defendant or defendants, or for the county for such amount as shall remain due.

Judgment by default, when.

Proof of prior or partial payment.

SEC. 106. After the filing of said claim or complaint, and service of the process, as herein prescribed, the further proceedings shall conform to the procedure in foreclosures of liens and mortgages, as far as the same shall be applicable. Sales shall be governed and conducted in the same manner, and be subject to all the terms and conditions which regulate sales of real estate in suits of foreclosure. Whenever any lot or parcel of land, or part thereof, shall have been sold for more than the sum chargeable thereupon, including the costs of sale, the surplus shall all be paid to the county treasurer; but the officer conducting the sale shall take a separate receipt therefor, and file the same with the county auditor. At any time thereafter the owner, or his legal representative, on satisfying the board of county commissioners of the ownership of the sold premises, shall be entitled to a warrant refunding such surplus.

Proceedings shall conform to procedure for foreclosure of liens, etc.

Surplus of sales, how disposed of.

SEC. 107. Minors, insane persons, idiots, or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within two years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.

Minors, etc., right to redeem, etc.

Taxes paid by tenant, etc. how recovered.

SEC. 108. When any tax on any real estate is paid by or collected of any occupant or tenant, or any other person, which by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant or other person may recover by action the amount which such owner, lessor or party in interest ought to have paid, with interest thereon at the rate of ten per cent. per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real estate.

Mortgagee or lien holder may pay tax, etc.

SEC. 109. Any person who has a lien, by mortgage or otherwise, upon any real property on which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon; and the receipt of the county treasurer shall constitute an additional lien on such land, to the amount therein stated; and the amount so paid and the interest thereon, at the rate specified in the mortgage or other instrument, shall be collectible with, or as a part of, and in the same manner as the amount secured by the original lien.

When taxes on real property becomes a lien thereon.

SEC. 110. The taxes assessed upon real property shall be a lien thereon from and including the first day of April in the year in which they are levied, until the same are paid; but, as between a grantor and grantee shall [such] lien shall not attach until the first day of November of said year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed, from and after the time the tax books are received by the county treasurer.

When on personal property.

How lands may be described in advertisements.

SEC. 111. It shall be sufficient to describe lands in all proceedings relative to assessing, advertising or selling the same for taxes, by initial letters, abbreviations and figures to designate the township, range, sections or part of sections, and also the number of lots and blocks. Whenever the abbreviations "do", or characters ".,," or any similar abbreviations or characters shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial, letter or

letters, abbreviations, figure or figures as the last preceding such "do," ",", or other similar characters.

SEC. 112. The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all property required to be listed in his county, or has omitted or made an erroneous return of any property which is by law subject to taxation, or if it shall come to his knowledge that there is property of a non-resident of his county which is about to be removed from the state, which has not been listed for taxation for the current year, shall proceed, at any time before the final settlement with the county treasurer, to correct the return of the assessor, and to charge the owners of such property on the tax lists with the proper amount of taxes; to enable him to do which he is hereby authorized and empowered to issue compulsory process, and to require the attendance of any person whom he may suppose to have a knowledge of the articles or value of the property, and to examine such person on oath in relation to such statement or return, and the auditor in all such cases shall notify every such person, before making the entry on the tax list, that he may have an opportunity of showing that his statement or the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts or evidence upon which he made such corrections, but he shall in no case reduce the amount returned by the assessor without the written consent of the auditor of state, on a statement of the case submitted by the county auditor or the party aggrieved.

SEC. 113. If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceeding, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the next succeeding year.

SEC. 114. At the time of taking the assessment of real property the assessor shall enter each description of property exempt under the provisions of section five of this act,

Duty of county auditor in case of false statement made of personal property.

May require compulsory process, etc.

Property escaping taxation, amount may be added to amount for succeeding year.

Property exempt under section 5 must be listed and described.

and value and list the same in the manner and subject to the same rule as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used, to entitle it to exemption.

Auditor and assessor, penalties for neglect of duties.

SEC. 115. Every county auditor and every county assessor who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasions of its provisions, whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true cash value, shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction.

In civil actions against county officers, counsel fees may be allowed.

SEC. 116. Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor, or any other officer, for performing, or attempting to perform, any duty authorized or directed by any statute of this state for the collection of the public revenue, such treasurer, auditor or other officer may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed and paid out of the county treasury, reasonable fees of counsel and other expenses for defending such action: *Provided*, That if judgment is rendered against him, said fees, expenses, damages and costs shall be paid by such officer.

Proviso.

Lists of lands sold by local land officers, etc., to be procured by county auditor.

SEC. 117. The auditor of each county shall, on or before the first day of April of each year, obtain from the local land officers in the state, and from the several land grant railroad companies, lists of lands sold, or contracted to be sold, during the previous year in his county, and certify them for taxation, together with the various classes of state lands sold during the same year, to the assessor of the county in which such lands may be situated. He shall also, at the same time, obtain lists of lands reverting to the

railroad companies each year by reason of the forfeiture of contracts, for cancellation of taxes, and it shall be the duty of the railroad companies to report such sales and forfeitures on or before the first day of April, each year, to each county auditor of the county in which such lands are situated: *Provided*, That all forfeited lands not so reported shall be held for all taxes accruing thereon.

SEC. 118. The auditor of state shall prescribe the forms of all blanks and books required under the provisions of this act, and, except as hereinafter provided, shall have all detail lists, schedules, assessment and tax books to be used in connection with the assessment and collection of the public revenue printed, and, when necessary, bound at the expense of the state, and furnished in sufficient size and quantities to the several counties as may be required: *Pro-* Auditor of state to prescribe forms for assessment, tax books, etc.
vided, That counties having an assessment exceeding ten millions of dollars may provide their own assessment books and blanks, the expense of such books and blanks to be paid by the county. The assessment books and blanks shall be in readiness for delivery to the assessor on the last Saturday of March in each year. The auditor shall decide all questions that may arise in reference to the true construction or interpretation of this act, or any part thereof, in connection with the advice and opinion of the attorney general of the state, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction. Proviso.
Auditor to decide questions of construction of this act, etc.

SEC. 119. An act entitled "An act to provide for the assessment and collection of taxes in the State of Washington," enacted by the legislature of this state at the first session thereof, and delivered to the governor March 28, 1890 (chapter XVIII of session laws of 1889-90), is hereby repealed: *Provided*, That the repeal of said act shall not be construed to impair any existing right, or affect any proceeding pending at the time this act shall take effect; but all proceedings for the assessment of any tax or collection of any tax, or special assessment remaining incomplete, may be completed under the provisions of the above entitled act hereby repealed. Repealing clause.

Emergency
clause.

SEC. 120. Whereas, the existing laws of this state relating to the assessment and collection of taxes are defective and insufficient, this act shall take effect and be in force from and after its approval by the governor.

Approved March 9, 1891.

CHAPTER CXLI.

[S. B. No. 193.]

RELATING TO INTERNAL IMPROVEMENTS IN CITIES AND TOWNS.

AN ACT to amend section two of an act entitled "An act authorizing cities and towns to construct internal improvements and to issue bonds to pay therefor, and declaring an emergency," approved March 26, 1890.

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

SECTION 1. Section 2 of said act is hereby amended so as to read as follows: Sec. 2. Whenever the city council or board of trustees of any such city or town shall deem it advisable that the city or town of which they are such officers shall exercise the authority hereby conferred upon them in relation to water works, sewerage or works for lighting purposes, any or all thereof, the corporation 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 a special election, of which 30 days' notice shall be given in the newspaper doing the city printing, by publication in each issue of said paper during said time: *Provided*, That if the said city or town is to become indebted or issue bonds for such water works, or sewerage system or plant or works for lighting purposes, the said proposition and authority to become so indebted shall be adopted and assented to by three-fifths of the qualified voters of said city or town voting at said election, except as to the adoption

Submitting to
vote.

Limit of votes
necessary.

or rejection of the system or plan of internal improvements contemplated, which may be adopted by a majority vote. When the system or plan has been adopted, and the creation of an indebtedness assented to as aforesaid, the said corporation shall be authorized and empowered to construct and acquire the internal improvements contemplated, and to create an indebtedness and to issue bonds therefor as hereinafter provided, which said indebtedness and bonds shall not exceed five (5) per cent. of the taxable property, as shown on the last assessment roll of the city or town made for general municipal purposes; such indebtedness and bonds to be additional to all other outstanding indebtedness of the city or town created within constitutional limits.

Approved March 9, 1891.

CHAPTER CXLII.

[S. B. No. 391.]

CONCERNING APPROPRIATION OF WATER FOR IRRIGATION, MINING AND MANUFACTURING.

AN ACT concerning appropriation of water for irrigation, mining and manufacturing purposes, for supplying cities, towns and villages with water, and for the use of water works, and declaring an emergency.

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

SECTION 1. The right to the use of water in any lake, pond or flowing spring in this state, or the right to the use of water flowing in any river, stream or ravine of this state for irrigation, mining or manufacturing purposes, or for supplying cities, towns or villages with water, or for water works, may be acquired by appropriation, and as between appropriations the first in time is the first in right.

SEC. 2. Any person, persons, corporation or association Posting notice. desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended storage or diversion stating therein—*First:* That such appropriator

claims the water there lying, being or flowing to the extent of one cubic foot of water per second of time, or some multiple or some fractional portion thereof. *Second:* The purpose for which said water is appropriated and the place or places, as near as may be, of intended use. *Third:* The means by which it is intended to store or divert the same. *Fourth:* A copy of the notice must, within ten (10) days after it is posted, be filed for record in the office of the county auditor of the county in which it is posted.

SEC. 3. If said use is by storage the appropriator must, within three months after the notice is posted, commence the construction of the works by which it is intended to store the same. If said use is by diversion the appropriator must, within six months after the notice is posted, commence the excavation or construction of the works by which it is intended to divert the same; it being herein expressly provided that such works must be diligently and continuously prosecuted to completion, unless temporarily interrupted by the elements.

SEC. 4. By a strict compliance to the above rules the appropriator's rights to the use of the water actually stored or diverted relates back to the time the notice was posted; but a failure to comply therewith deprives the appropriator of the right to the use of the water as against a subsequent appropriator who faithfully complies with the same.

SEC. 5. Persons who have heretofore appropriated water and have not constructed works or have not diverted the water and applied it to some purpose, as herein stated, must, within thirty days after this act takes effect, proceed as in this act provided or their right ceases.

Transfer of
rights.

SEC. 6. The right to the use of water acquired by appropriation may be transferred like other property by deed. The county auditor of each county in this state must keep a book in which he must record the notices provided for in this act.

SEC. 7. Appropriations of water heretofore made for any of the purposes in this act provided are hereby recognized, but this act shall not be construed to interfere with vested rights.

SEC. 8. The provisions of sections 2, 3, 4 and 5 shall

only apply to appropriations of water made for irrigation, and shall not apply to appropriations for irrigation made prior to the passage of this act, nor to water rights existing at the date of the passage of this act: *Provided*, That in appropriations for irrigation begun but not completed prior to the passage of this act, the appropriator shall comply with the provisions of said sections 2, 3, 4 and 5: *And further provided*, That said sections shall not interfere with the vested rights of any irrigation district now organized.

SEC. 9. Water appropriated for any of the purposes in this act mentioned may be changed to any other purpose herein specified or to any other beneficial use, and the right to such use shall relate back to the original appropriation. Change of use.

SEC. 10. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 11. An emergency exists on account of the necessity for irrigation; it is, therefore, enacted that this act shall take effect and be in force from and after its approval by the governor.

Approved March 9, 1891.

CHAPTER CXLIII.

[S. B. No. 392.]

RELATING TO MUNICIPAL COURTS.

AN ACT to amend section one of an act entitled "An act creating and establishing municipal courts in cities of the State of Washington having more than twenty thousand inhabitants, defining and prescribing their jurisdiction, regulating their practice and procedure, and providing judges and clerks therefor, and declaring an emergency," approved February 28, 1891.

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

SECTION 1. That section 1 of the act designated in the title of this act be and the same is amended to read as follows: Sec. 1. There is hereby created in each incorporated city in this state having a population of more than twenty

thousand (20,000) persons a municipal court, which court shall be known and designated as "The municipal court of the city of _____," for which one judge shall be elected by the qualified electors of each of such cities at the general state election in the year eighteen hundred and ninety-two, and every four (4) years thereafter, and for which a clerk shall be elected or appointed in the manner hereinafter provided.

SEC. 2. Whereas, there are cities of the first class within this state having twenty thousand inhabitants, but which had not such population as shown by any national or state census, and whereas, there is now no existing law providing for municipal courts in such cities, and such courts are necessary for the proper preservation of law and order within such cities; an emergency is hereby declared to exist, and this act shall therefore take effect and be in force from and after its passage and approval by the governor.

Approved March 9, 1891.

CHAPTER CXLIV.

[H. B. No. 314.]

AUTHORIZING CHANGE OF COUNTY LINES.

AN ACT to provide for annexing certain county territory to a neighboring county to which it is contiguous.

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

SECTION 1. Where a port, harbor, inlet, bay or mouth of river shall be embraced within two adjoining counties, and upon the shore of said harbor, bay, inlet or mouth of river an incorporated city shall have been or may hereafter be located, and the harbor of the said city shall lie in such two counties, and it shall become necessary in order to place the said harbor or port within the limits of one county, or to extend the corporate limits of such city, to embrace the full extent of said shore line of such harbor,

port or bay, and the waters of said harbor, together with a strip of the adjacent and contiguous upland territory not exceeding three miles in width (to be measured back from high water mark) and six miles in length, and not being at a greater distance in any part of said strip from the court house in the county seat of the county to which said territory is proposed to be annexed, as said county seat and court house are now situated, than the distance of ten miles.

In all such cases when a majority of the qualified electors living upon any territory in any county of this state within which said harbor shall partly be embraced shall desire to have such territory stricken from the county of which it shall then be a part and added to and made a part of the county contiguous thereto, they may present a petition describing with proper certainty the bounds and area of such territory, with the reasons for making such application, to the board of county commissioners of the county in which such territory shall be, who shall proceed to ascertain if such petition contains the requisite number of petitioners, who shall be *bona fide* residents of the territory sought to be stricken off and transferred to the contiguous county, and if satisfied that the petition is signed by a majority of the *bona fide* electors of such territory, and that there will remain in the county from which such territory is taken more than four thousand inhabitants, the said board shall make an order that a special election shall be held within the limits of the territory described in the petition, upon a date to be named in the said order. Notices of such election shall contain a description of the territory proposed to be transferred, the names of the counties from and to which such transfer is intended to be made, and shall be posted and published as required for general elections.

SEC. 2. The said election shall be conducted in all respects as general elections are conducted under the law governing general elections, so far as they may be applicable, except that there shall be triplicate returns made, one to each of the respective county auditors, another to the office of the secretary of state. The ballots used at such election shall contain the words "For transferring territory," or "Against transferring territory." The votes shall be can-

Consent of occupants

Duty of county commissioners.

Special election.

Conduct of election.

Returns.

vassed, as by law required, within twenty days, and if three-fifths of the votes cast in said territory at such election are "For transferring territory," the territory described in such petition shall become a part of and be added to and made a part of the county contiguous thereto, and within thirty days after the canvass of the returns of the elections held under the provisions of this act the governor shall issue his proclamation of the change of said county lines.

Governor's
proclamation.

SEC. 3. All assessments and collection of taxes, and all judicial or other official proceedings commenced prior to the said governor's proclamation transferring such territory of the contiguous county, shall be continued, prosecuted and completed in the same manner as if no such transfer had been made.

Township, pre-
cinct and school
officers.

SEC. 4. All township, precinct, school and road district officers within such transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire, and until their successors are elected and qualified.

Liability for
debts of county.

SEC. 5. Every county which shall thus be enlarged from territory taken from another county shall be liable for a just proportion of the existing debts of the county from which such territory shall have been stricken, which such proportion of indebtedness shall be paid by the county to which such territory shall have been transferred at such time and in such manner as may be agreed upon by the boards of county commissioners of both counties interested: *Provided*, That the county to which such territory may be transferred and attached shall not be liable for any portion of the debt of the county from which such territory has been taken, incurred in the purchase of any county property, or the construction of any county building then in use or under construction, which shall fall within and be retained by the county from which such territory shall have been taken.

County au-
ditors.

SEC. 6. The county auditors of the respective counties interested in the transfer of territory, as in this act provided, are hereby constituted a board of appraisers and adjusters, to appraise the property, both real and personal,

owned by the county from which such territory shall have been taken, and to adjust the indebtedness of such county with the county to which such territory shall have been transferred, in proportion to the amount of taxable property within the territory taken from the one county and transferred to the other.

SEC. 7. That if the board of appraisers and adjusters provided for in this act shall not agree on any subject, value or settlement as herein stated, they shall choose a third man from an adjoining county to settle their differences, and the decision thus arrived at shall be final.

SEC. 8. The expense of proceedings and election provided for in this act shall be paid by the county to which the territory shall be attached after such election. Expenses of change.

SEC. 9. The county auditor of the county to which any territory may be transferred and attached under the provisions of this act is hereby authorized and empowered to take transcripts of all records, books, papers, etc., on file in the office of the county auditor of the county from which said territory has been transferred, which may be necessary to perfect the records of the county to which such territory may be attached, and for this purpose he shall have access to the records of the county from which such territory is stricken free of cost.

SEC. 10. Nothing in this act shall be construed to authorize the annexing of territory of one county to a neighboring county, where the territory proposed to be annexed, or any part thereof, is at a greater distance than ten miles from the court house in the county seat of the county to which said territory is proposed to be annexed, as said court house is now located, nor to authorize the annexation of any territory at a greater distance than three miles from high water mark of tide water, but such annexation shall be strictly confined within said limits. Limit of annexation.

Approved March 9, 1891.

CHAPTER CXLV.

[H. B. No. 170.]

AGRICULTURAL COLLEGE AND EXPERIMENTAL STATION.

AN ACT to provide for the location and maintenance of the agricultural college, experiment station and school of science of the State of Washington, and declaring an emergency.

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

SECTION 1. There is hereby established an institution of learning to be known as the agricultural college, experiment station and school of science of the State of Washington. Said institution to be located as hereinafter provided, on a tract of land containing not less than one hundred and sixty (160) acres.

SEC. 2. The agricultural college, experiment station and school of science created and established by this act 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 of regulation and terms as may be prescribed by said board of regents; shall be non-sectarian in character, and devoted to practical instruction in agriculture, mechanic arts, natural sciences connected therewith, as well as a thorough course of instruction in all branches of learning upon agriculture and other industrial pursuits.

Non-sectarian.

Course of study.

SEC. 3. The course of instruction of the agricultural college, experiment station and school of science shall embrace the English language, literature, mathematics, philosophy, civil and mechanical engineering, chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology, and political, rural and household economy, horticulture, moral philosophy, history, mechanics and such other sciences and courses of instruction as shall be prescribed by the regents of this institution of learning. The management of said college and experiment station, the care and preservation of all property of which such 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 moneys provided for by this act shall be vested in a board

of five regents. Said five members of the board of regents shall be appointed in the manner now provided by law. Said regents and their successors in office shall constitute * [a body corporate, with name and style of "The board of regents of the agricultural college of Washington," with the right as such of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at will], of causing all things to be done necessary to carrying out the provisions of this act.

SEC. 4. The board of regents provided for in this act 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 four years, and two for a term of six years; and each regent shall, before entering upon the discharge of their 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 fifty thousand dollars (\$50,000) each, conditioned for the faithful performance of their duties as such regents: *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.

Regents; how appointed.

Vacancies.

SEC. 5. That a commission of three be appointed by the governor, with the advice and consent of the senate, to select a site for the location of said agricultural college, experiment station and school of science, who shall locate said college and school of science upon land selected with special reference to its adaptability for the purposes intended and not for its pecuniary value: *And provided*, That none of the commissioners so appointed shall be from any county east of the Cascade mountains: *Provided further*, That said commission shall not consider, receive or accept any bonus other than a tract of land not exceed-

Commission to locate.

* The provisions of this section noted above as enclosed in brackets were vetoed by the governor.

Limit of time
for location.

ing three hundred and twenty (320) acres, and said commission shall locate said college and school of science on or before July 1, 1891, in some county east of the Cascade mountains. The commission to locate the state agricultural college and school of science shall not locate said college in any county already having a state institution.

Organization of
regents.

SEC. 6. The board of regents of the agricultural college, experiment station and school of science shall meet and organize, by the election of its president and treasurer from their own number, on the fourth Wednesday in April, A. D. 1891. 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 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 generally do all other things required of him by said board.

SEC. 8. The regents shall have the power and it shall be their duty to enact laws for the government of the said

agricultural college, experiment station and school of science: *Provided*, The board of regents shall make provision as soon as practicable upon the receipt of the government appropriations for the establishment of experiment stations for at least one experimental station in the western portion of the state.

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 employés, and tuition fees to be charged in said college.

SEC. 10. The agricultural experiment station provided for in this act in connection with said agricultural college, shall be likewise located in connection with said agricultural college, and upon the land referred to in section one (1) of this act. And it shall be under the direction of the 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 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 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 agriculture 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 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. The governor of the State of Washington is hereby authorized to make application to the secretary of the treasury to obtain the appropriations made by congress in the above entitled act.

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.

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. All meetings of said board may be held in the office of the college building after said building is erected and prepared for occupancy. No vacancy in said board shall impair the rights of the remaining board.

SEC. 13. This act shall not be construed as impairing section eight (8) of the act to establish a commission of technical instruction of the session laws of 1889.

Oath of regents.

SEC. 14. Each and every member of the board of regents created by this act shall, before entering upon their respective duties, take and subscribe an oath to faithfully and honestly discharge their duties in the premises, and strictly and impartially perform the same to the best of their several abilities. Said oath shall be filed with the secretary of state.

SEC. 15. The members of the board of the institution established by this act shall be allowed their actual and

necessary traveling expenses in going to and returning ^{Expenses.} from all necessary sessions of their board; and also their necessary expenses while in actual attendance upon the ^{Compensation.} same, and three dollars (\$3.00) per diem.

SEC. 16. The board of regents shall, on or before the ^{Report.} first day of November, 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 any 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.

SEC. 17. 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 of the erection of the ^{Erection of buildings.} 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 their institution, as created by this act, 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 terms most advantageous: *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, or for the current expenses of such institution, which shall bind said board to pay out any sum of money in excess of the amount provided for such purpose. It shall also be the duty of said board to secure a building or buildings, either by rental or otherwise, in which to organize a school at the earliest practicable time and to organize said college.

SEC. 18. The board provided for in this act 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 act, and to fix the compensation for such services, subject to the provisions and restrictions of this act.

Funds; how
disbursed.

SEC. 19. The treasurer of said board shall make disbursements 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.

SEC. 20. 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 the institution created by this act, deemed sufficient by the board to commence the erection of any of the necessary buildings or improvements, or 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.

SEC. 21. No employé or member of the board created by this act 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.

The governor
ex-officio mem-
ber of board.

SEC. 22. The governor of the state shall be *ex-officio* advisory member of the board provided for in this act, but shall not have the right to vote nor be eligible to office therein.

SEC. 23. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 24. Whereas, an emergency exists, and it is of great importance to the State of Washington that the said board of regents be forthwith appointed, in order that appropriations heretofore made by the congress of the United

States be received, and the same be disbursed; this act shall take effect and be in force from and after its approval by the governor.

Approved, with the exception of an item in section 3, March 9, 1891.

CHAPTER CXLVI.

[S. B. No. 74.]

APPEALS TO THE SUPREME COURT.

AN ACT providing for appeals to the supreme court.

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

SECTION 1. Except as otherwise provided in this section, any party aggrieved may appeal to the supreme court from the superior courts, in all actions and proceedings. No appeal shall be allowed in any civil action at law for the recovery of money or property when the original amount in controversy or the value of the property does not exceed Limit of value. the sum of two hundred dollars, unless the action involves the legality of tax, impost, assessment, toll, municipal fine, or the validity of a statute; nor shall an appeal be allowed to the state in any criminal action, except when the error complained of is in setting aside the indictment or information, or in arresting the judgment, on the ground that the facts stated in the indictment or information do not constitute a crime.

SEC. 2. In civil actions and proceedings, appeals shall be prosecuted within six months after the rendition of the de- Limit of time.cision, order or judgment complained of; appeals in criminal cases may be prosecuted at any time within one year after final judgment, and the notice of appeal in such cases may be given within the same time.

SEC. 3. The party appealing shall be designated as the appellant, and the adverse party as the respondent, but the title of the action shall in other respects remain unchanged.

Notice.

SEC. 4. A person desiring to appeal from any such decision, order or judgment may, by himself or attorney, give notice in open court, or before the judge if the decision, order or judgment appealed from be rendered or made at chambers, at the time said decision, order or judgment is made, that he appeals from such decision, order or judgment to the supreme court, and such notice shall, by order of the court or judge, be entered in the journal of the court. If the appeal be not taken at the time the decision, order or judgment is rendered or made, then the party desiring to appeal may, by himself or attorney, at any time within six months after the decision, order or judgment complained of was made, give notice in writing to the prevailing party or his attorney that he appeals from said decision, order or judgment to the supreme court, and shall file with the clerk of the superior court the original of such notice, with a return of service or acceptance of service thereon, and it shall then be the duty of the clerk of the superior court to enter said notice, with the return or acceptance of service thereon, in the journal of the court.

Notice; how served.

SEC. 5. When the notice of appeal is not given at the time the decision, order or judgment is rendered or made, it shall be served upon all parties who have appeared in the action or proceeding. Parties whose interests are affected in the same way by the decision, order or judgment appealed from may join in the notice of appeal, whether it be given at the time the decision, order or judgment is rendered or made, or be subsequently given; and any such party who has not joined in the notice may, at any time within ten days after the notice is given or served, join in the appeal by filing in the office of the clerk a notice that he joins therein. Any such party who does not join shall not derive any benefit from the appeal, unless from the necessity of the case, nor shall he thereafter take an appeal from such decision, order or judgment. All parties who join in after the notice is given shall be liable for expenses thereof, and costs and damages, to the same extent and upon the same conditions as if they had joined in the notice.

SEC. 6. Except as otherwise provided in this section an,

appeal in a civil action or proceeding is ineffectual for any purpose unless within five days after the notice of appeal is given or served a bond be filed or money be deposited ^{Bond.} as provided in the next section. No bond shall be required when the appeal is taken by the state, or a county, incorporated city or organized school district thereof.

SEC. 7. The bond for appeal must be executed on behalf of the appellant, by one or more sufficient sureties, to the effect that the appellant will pay all costs and damages that may be awarded against him on the appeal, or on the dismissal thereof, not exceeding three hundred dollars, or that sum of money must be deposited with the clerk to abide the event of the appeal. An appeal shall not stay proceedings on the judgment or order appealed from, or any part thereof, unless the bond for appeal, or a subsequent bond, be to the further effect that the appellant will satisfy and perform the judgment or order appealed from in case it shall be affirmed, and any judgment or order which the supreme court may render or make, or order to be rendered or made by the inferior court, and all rents or damages to property during the pendency of the appeal, out of the possession of which the respondent is kept by reason of the appeal. If the bond is intended to stay proceedings on only a part of the judgment or order, it shall be varied so as to secure the part stayed alone. When such bond has been filed, the clerk shall issue a written order commanding the respondent and all others to stay proceedings on such judgment or order, or on such part as is superseded, as the case may be. No appeal or stay shall vacate or affect any part of the judgment not appealed from. The bond for stay of proceedings shall be in such sum as the court from which the appeal is taken or a judge thereof shall order.

SEC. 8. In all cases where a final judgment or decree shall be rendered by any superior court of this state in a cause wherein a temporary injunction or restraining order has been granted, and the party at whose instance said restraining order or injunction was granted shall appeal from said judgment or decree to the supreme court of this state, such restraining order or injunction shall remain in force

until said appeal is finally determined, if said appellant shall cause to be executed and filed with the clerk of the court which rendered such judgment or decree a bond in a sum to be fixed by the court, with one or more sufficient sureties, to the effect that the appellant shall pay to the respondent all costs and damages that may be adjudged against the appellant on the appeal, and all damages and costs which may accrue by reason of said injunction or restraining order.

SEC. 9. In all cases where a final judgment or decree shall be rendered by the supreme court of this state in a cause wherein a temporary injunction or restraining order has been granted, and the party at whose instance said restraining order or injunction was granted shall appeal from said judgment or decree to the supreme court of the United States, such restraining order or injunction shall remain in force until said appeal is finally determined, if said appellant shall cause to be executed and filed with the clerk of the supreme court of the state a bond in a sum to be fixed by the court, with one or more sufficient sureties, to the effect that appellant shall pay to the respondent all costs and damages that may be adjudged against the appellant on the appeal, and all damages and costs which may occur by reason of said injunction or restraining order.

SEC. 10. If the judgment or order is for the payment of money, the penalty of the bond for stay of execution, or to keep in force an injunction or restraining order, shall be at least twice the amount of the judgment or order and costs. If not for the payment of money, the penalty shall be sufficient to save the respondent harmless from the consequences of taking the appeal. But it shall in no case be less than one hundred dollars.

Amount of
bond.

Sureties.

SEC. 11. The sureties in every bond for appeal, for stay of proceedings, or to keep in force an injunction or restraining order, must possess the qualifications required for bail upon arrest in a civil action; their affidavits of qualifications must be attached to or filed with the bond, and they must, if required, justify in the same manner as bail upon arrest.

SEC. 12. If execution has issued prior to the filing of the

bond for stay of proceedings, the clerk shall countermand the same.

SEC. 13. Property levied upon, and not sold at the time such countermand is received by the sheriff, shall forthwith be delivered up to the judgment debtor.

SEC. 14. Upon the giving of the notice, or the filing of the written notice, as provided in section thirteen hundred and thirty-nine, it shall be the duty of the clerk of the superior court, as soon as may be in due course of business, to make and certify a full and complete transcript of the record in such cause or proceeding up to the time of giving notice of appeal, and to cause such transcript to be filed with the clerk of the supreme court within the time provided by law; but in civil actions and proceedings he shall, before making, certifying or filing such transcript, require payment by the appellant of the lawful charges therefor.

SEC. 15. The transcript is a copy, certified by the clerk, of the pleadings, orders, papers and journal entries constituting the judgment roll; of the bills of exceptions, if there be any; of the statement of facts, if there be one; of the notice of appeal; of all orders and notices concerning the appeal; of the bond of appeal; of the bond for stay of proceedings, if there be one; and of the bond to keep in force an injunction or restraining order, if there be one.

SEC. 16. In a criminal case, if the transcript shall not be filed within sixty days after the appeal is taken, the appeal shall be dismissed, unless it shall appear that the appellant was not in fault; and if it be shown that the transcript is incomplete, the court may order a new transcript or further record to be certified at any time.

SEC. 17. An appeal may be dismissed for insufficiency of the notice of appeal, or want of service of such notice in cases requiring service; but no appeal shall be dismissed for any informality or defect in the notice or the service thereof, if from the transcript it can be reasonably understood that the adverse party has had sufficient notice of the appeal describing the order or judgment complained of with such certainty that his substantial right would not be prejudiced by the hearing of the cause. And the supreme court shall, upon reasonable terms, allow all amendments

in matters of form curative of such defects, to the end that substantial justice be secured to the parties.

SEC. 18. In a civil action or proceeding, if the transcript be not filed within sixty days, as provided in the preceding section, the respondent may file a certified copy of the judgment or order appealed from, and of the notice served, or of the record of the notice of appeal in case no written notice was made, and may, on motion, have the appeal dismissed, or the judgment or order appealed from affirmed: *Provided*, That when the failure to file the transcript is owing to the fault or omission of the clerk of either the appellate or inferior court, or other circumstances over which the appellate [appellant] has no control, the court shall not dismiss the cause, but shall fix such time for hearing the same as will insure a fair trial.

SEC. 19. Within such time after the transcript is filed as the supreme court may prescribe by rule the respondent may move to dismiss the appeal upon the grounds, either that when the appeal was taken the appellant had no right to appeal, or that by reason of facts subsequent to the taking of the appeal the appellant has no right further to prosecute it. If the facts upon which the motion is based do not appear in the record they must be presented in a verified statement, and in such case the appellant may by verified answer controvert the facts and may also set forth any other facts showing that the motion ought not to be allowed; and the court shall determine the facts and make such order thereupon as the law and the ends of justice shall require.

SEC. 20. If the respondent believe the bond defective, or the sureties insufficient, he may move the supreme court, on ten days' written notice to the appellant, to discharge the bond; and if the court find the sureties insufficient, or the bond substantially defective, an order shall be made discharging such bond, unless a good and sufficient bond with sufficient sureties be executed before a day to be fixed and specified in the order. On the filing of a certified copy of the order in the office of the clerk of the court from which the appeal was taken, execution and other proceedings for enforcing the judgment or order may be taken, if a new

and good and sufficient bond is not filed therein by the day specified; but another order staying proceedings may be issued by the clerk upon execution before him of a new and lawful bond with sufficient sureties, as provided in section thirteen hundred and forty-one.

SEC. 21. In all cases and proceedings in which an appeal lies to the supreme court, any party feeling himself aggrieved may have any material fact or facts not already a part of the record made so by a statement of facts. Such facts shall be settled and agreed on in the following manner: The party desiring to settle a statement of facts shall prepare and file with the clerk of the superior court a statement of facts, complete and ready for signing, and shall, within thirty days after the decision, order, or judgment to be appealed from was made or rendered, give notice to the opposite party or his attorney that the said statement has been prepared and filed, and that, upon a day to be named in said notice, he will apply to the court or judge who tried the cause or made the decision, order, or judgment complained of, at a place to be named in said notice, to settle and certify said statement of facts. Said notice shall be given within thirty days after the decision, order, or judgment is made, and the day fixed for the settling and certifying of the statement shall be at least ten days and not more than thirty days after the day of service. The party upon whom such notice is served shall, within ten days thereafter, serve upon the opposite party a written notice in which shall be stated whether or not the correctness of said statement of facts is contested, and if contested, in what particular or particulars the said statement is deficient, incorrect or incomplete. Upon the day named in said notice the said parties, or their attorneys, may appear before the said court or judge, and it shall be the duty of said court or judge to settle between the parties what is the proper statement, and to certify the same. The settling of said statement may be adjourned to a later day by order of said court or judge.

SEC. 22. The certificate of the judge that said statement contains all the material facts in the cause or proceedings shall be sufficient. In causes of equitable cognizance,

Amending
records.

where the appeal is from the final judgment, the said statement of facts shall contain all the testimony on which the cause was tried below, together with any objections or exceptions taken to reception or rejection of testimony. In cases at law the statement of facts need contain no more than was necessary or proper in a bill of exceptions.

Depositions.

SEC. 23. Copies of depositions and other written evidence used on the trial or hearing in the court from which the appeal is taken need not be embodied in the statement of facts, but if not so embodied, such depositions and written evidence, or copies thereof, referred to and identified with convenient certainty in the certificate of the judge, shall be attached to the statement of facts.

Review.

SEC. 24. When a review of an original paper in the action may be important to a correct decision of the appeal, the court may order the clerk of the court below to transmit the same, which he shall do in some safe mode, to the clerk of the supreme court who shall hold the same subject to the control of the court.

SEC. 25. In actions at law, and in special proceedings which are appealable, the appellant, instead of settling a statement of facts as provided by this act, may have his exceptions and such facts as are material to the same made a part of the record by bill of exceptions, as provided by chapter six of title seven of this code, relating to exceptions.

Bill of exceptions.

SEC. 26. *Statement or bill of exceptions, where settled.*— A statement of facts or bill of exceptions may be settled and certified by the judge trying the cause, or who rendered the decision, order or judgment to be appealed from, at any place in the state; but the time and place shall be stated in the notice given for the settling and certifying the same.

SEC. 27. An assignment of error, when required to be made, need follow no stated form, but must, in a way as specific as the case will allow, point out the very error objected to; among several points in a demurrer, or in a motion or instructions or rulings in an exception, it must designate which is relied on as an error; and the court will only regard errors which are assigned with the required exactness; but the court must decide on each error assigned.

SEC. 28. The supreme court may affirm, reverse or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had. The decision of the court shall be given in writing; and in giving its decision, if a new trial is granted, the court shall pass upon and determine all the questions of law involved in the case presented upon such appeal and necessary to the final determination of the case. Its judgments in appealed cases shall be remitted from [to] the court from which the appeal was taken. Power of
supreme court.

SEC. 29. No cause is decided until the opinion, in writing, is filed with the clerk.

SEC. 30. Upon the affirmance of any [judgment] or order for the payment of money, the collection of which, in whole or in part, has been superseded by bond as hereinbefore provided, the court shall award to the respondent damages upon the amount superseded; and if satisfied by the record that the appeal was taken for delay only, must award such sum as damages, not exceeding fifteen per cent. thereon, as shall effectually tend to prevent the taking of appeals for delay only. Damages.

SEC. 31. The supreme court, when it affirms the judgment, shall also, if the respondent moves therefor, render judgment against the appellant and his sureties on the bond for the amount of the judgment, damages and costs referred to therein, in case such damages can be accurately known to the court without an issue and trial. Judgment.

SEC. 32. If the supreme court affirm or modify the judgment or order, it may remand the cause to the court below to have the same carried into effect, or it may itself issue the necessary process for this purpose, and direct such process to the sheriff of the proper county, as the party may require. Restitution.

SEC. 33. If remanded to the inferior court to be carried into effect, such decision and the order of the court thereon, being certified thereto and entered on the records of the court, shall have the same force and effect as if made and entered during the session of the court.

SEC. 34. If by the decision of the supreme court the

appellant becomes entitled to a restoration of any part of the money or property that was taken from him by means of such judgment or order, either the supreme court or the court below, may direct execution or writ of restitution to issue for the purpose of restoring to such appellant his property or the value thereof.

Power of
mandate.

SEC. 35. The supreme court shall have power to enforce its mandates upon inferior courts and officers by fine and imprisonment, which imprisonment may be continued until obeyed.

Rehearing.

SEC. 36. If a petition for rehearing be filed, the same shall suspend the decisions of the court, on its presentation, until the application shall be determined.

SEC. 37. The petition for rehearing shall be the argument of the applicant therefor; and if the court think that such argument requires a reply, it shall so indicate to the other party, and he may make reply within such time as said court shall allow.

SEC. 38. The death of one or all of the parties shall not cause the proceedings to abate, but the names of the proper persons shall be substituted, as is provided in such cases in the superior court, and the case may proceed.

Continuance.

The court may also, in such case, grant a continuance when such a course will be calculated to promote the ends of justice.

SEC. 39. The services of notices of appeal, and of all notices and orders and process connected with appeals, or with proceedings on appeal, shall, except as otherwise directed by the supreme court by general rule or special order, be made in the way provided for the services of like notices in the superior court, and they may be served by the same person and returned in the same manner. The original notice of appeal must be returned immediately after service to the office of the clerk of the superior court from which the appeal is taken.

SEC. 40. An appeal by a defendant in a criminal action shall stay the execution of the judgment of conviction.

Criminal
actions.

SEC. 41. In all criminal actions, except capital cases in which the proof of guilt is clear or the presumption great, upon an appeal being taken from a judgment of conviction,

the court in which the judgment was rendered, or a judge thereof, must, by an order entered in the journal or filed with the clerk, fix and determine the amount of bail to be required of the appellant; and the appellant shall be committed until a bond to the State of Washington in the sum so fixed be executed on his behalf by at least two sureties possessing the qualifications required for bail upon arrest in civil actions, such bond to be conditioned that the appellant shall appear whenever required and stand to and abide by the judgment or orders of the appellate court, and any judgment and order of the superior court that may be rendered or made in pursuance thereof. If the appellant be already at large on bail, his sureties shall be liable to the amount of their bond in the same manner and upon the same conditions as if they had executed the bond prescribed by this section; but the court may, by order, require a new bond in a larger amount or with new sureties, and may commit the appellant until the order be complied with.

SEC. 42. Personal appearance of any party in the supreme court shall not be necessary on appeal in either civil or criminal actions. In criminal actions the defendant shall be entitled to close the argument.

SEC. 43. When in a criminal action the judgment against the defendant is reversed, and it appears that no offense whatever has been committed, the supreme court must direct that the defendant be discharged; but if it appear that the defendant is guilty of an offense, although defectively charged in the indictment or information, the supreme court, if the defendant is imprisoned, must direct the keeper of the place of confinement to cause the prisoner to be returned to the sheriff of the proper county, there to abide the order of the superior court thereof; and such keeper shall be entitled to the usual fees therefor.

SEC. 44. A transcript of any order or judgment, or both, of the supreme court, certified under the seal of the court, shall be sufficient authority to any court, or to any officer on whom it may be served, to proceed according to its mandate.

SEC. 45. If a defendant who has been imprisoned during the pendency of an appeal, upon a new trial ordered by the

supreme court, shall be again convicted, the period of his former imprisonment shall be deducted by the superior court from the period of imprisonment to be fixed on the last verdict of conviction.

SEC. 46. The supreme court shall hear and determine all causes removed thereto, in the manner hereinbefore provided, upon the merits thereof, disregarding all technicalities, and shall, upon the hearing, consider all amendments which could have been made as made.

Executions.

SEC. 47. Executions issued from the supreme court shall be the same as those from the superior court and attended with the same consequences, and shall be returnable in the same time.

Rules.

SEC. 48. The supreme court is hereby authorized to make all needful rules and regulations not inconsistent with law concerning practice and procedure in the supreme court in causes appealed thereto, and concerning the settlement of bills of exceptions and statement of facts and concerning the time and manner of filing transcripts and briefs.

SEC. 49. The method provided by this chapter for removing causes to the supreme court and for securing a revision of the same, shall be exclusive and supersede all other methods heretofore provided.

Effect of this law.

SEC. 50. No rights acquired under statutes which are abrogated by this act shall be lost by reason of the passage of this act, but all appeals pending when this act takes effect may be prosecuted to their determination, as if this act had not been passed.

Approved March 9, 1891.

CHAPTER CXLVII.

[S. B. No. 200.]

RELATING TO THE STATE PENITENTIARY.

AN ACT to define, regulate and govern the state penitentiary, and declaring an emergency.

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

SECTION 1. The entire area of lands situated near the city of Walla Walla, donated to the Territory of Washington for penitentiary purposes by the people of Walla Walla, together with all structures, buildings and inclosures thereon, are hereby declared to be, and they shall hereafter be known as, the state penitentiary.

SEC. 2. For the government and management of the state penitentiary there shall be appointed by the governor three persons, to be known as penitentiary directors, who shall hold office for six years, and until their successors are appointed and qualified. The first directors shall be appointed as vacancies occur in the present board of penitentiary commissioners. In making the first appointments of directors the governor shall designate one to hold office two years, one to hold office four years, one to hold office six years. In case of the death, resignation or removal for cause, of a director, the governor shall appoint a proper person to fill the unexpired term. Each of the directors shall receive \$5.00 per day for each day actually engaged in attending to the duties prescribed by law, and his mileage actually paid out, which shall be paid upon the production of proper vouchers to the state auditor, by a warrant on the state treasurer, who shall pay the same out of the penitentiary fund. Each director shall subscribe an oath of office, which shall be endorsed on his commission within ten days after receiving written notice of such appointment, and a duplicate of such oath shall also be filed with the secretary of state.

SEC. 3. At the first meeting in January of each year, the board of directors shall elect one of their members president of the board, whose duty it shall be to preside at the meetings of the board and to perform such other duties as may from time to time be prescribed by the laws

and the rules and regulations adopted for the government of the board.

SEC. 4. Two members of the board shall constitute a quorum for the transaction of all business, and no order of the board shall be valid unless concurred in by two or more members.

Officers and employes.

SEC. 5. It shall be the duty of the directors to determine the necessary officers and employes of the penitentiary, other than those provided for by law, specifying their duties severally and fixing their salaries, to prescribe rules and regulations for the government of the penitentiary, and to revise and change the same from time to time as circumstances may require, and to board and lodge the officers and employes: *Provided*, The warden may make temporary rules in case of emergency, to remain in force until the succeeding meeting of the board. At least two of the directors shall visit the penitentiary once in each month, and oftener if necessary, at such time as they may select. The directors shall audit all claims for supplies, service and expenses of officers and employes, and all other demands against the penitentiary. *Second*: To enter or cause to be entered on their journal by the clerk, all official acts, which shall be signed by at least two members

Annual report.

of the board. *Third*: On or before the first day of December of each year to report to the governor the condition of the penitentiary together with detailed statements of receipts and expenditures, and such suggestions concerning the prisoners as may appear to be necessary and expedient.

Rules.

Fourth: The board of directors shall also adopt rules and regulations not inconsistent with the constitution and laws of the State of Washington, for the government of the board, and may change them at their pleasure. *Fifth*:

Office.

The board of directors shall have power to establish an office in the city of Walla Walla: *Provided*, The expense of the same shall not exceed \$150 per year.

Warden.

SEC. 6. The directors shall appoint a warden for the penitentiary who shall take and subscribe an oath or affirmation faithfully to perform the duties of his office, as prescribed by law and by the rules and regulations of the board of directors, and to enter into a bond to the State of

Washington in the sum of ten thousand dollars, with two or more sufficient sureties, to be approved by the directors and the attorney general of the state, conditioned to the faithful performance of such duties as such office[r] aforesaid, and he shall hold his office four years after such appointment, unless sooner removed for cause by the directors. Warden's bond.

SEC. 7. The warden shall reside at the penitentiary in a house provided and furnished at the expense of the state, as may be ordered by the board of directors, and it shall be his duty—*First:* Under the order and direction of the board to prosecute all suits at law or in equity that may be necessary to protect the rights of the state in matters or property connected with the penitentiary and its management, such suits to be prosecuted by the prosecuting attorney of Walla Walla county, in the name of the board of state penitentiary directors; and that he be allowed ten dollars per day for each day actually employed by said directors: *Provided,* This amount shall not exceed \$500 per annum. *Second:* To supervise the government, discipline and police of the penitentiary, and to enforce all orders and regulations of the board in respect to the penitentiary. He shall keep a registry of the convicts, in which shall be entered the names of each convict, the crime for which he is convicted, the period of his sentence, from what county sentenced, by what court sentenced, his nativity, to what degree educated, an accurate description of his person, and whether he has previously been confined in a prison in this or any other state, and if so where, and how he was discharged. *Third:* He shall report to the governor before the twentieth of each month the names of all prisoners whose terms are about to expire, giving in such report the terms of their sentences, the date of imprisonment, the amount of total credits to date of such report, and the date when their date would expire by limitation of sentence. *Fourth:* To perform such other duties as may be prescribed by the board of directors. Register of convicts.

SEC. 8. The board of directors shall appoint a clerk for the penitentiary, who shall take an oath of office and enter into a bond to the state, with sureties satisfactory to the board, in the sum of two thousand five hundred dollars, Monthly report.

conditioned that he will faithfully discharge the duties required of him. The clerk shall hold his office for the period of four years after his appointment, unless sooner removed for cause by the directors.

SEC. 9. The clerk shall keep the accounts of the penitentiary in such a manner as to exhibit clearly all its financial transactions, and the clerk shall perform such other duties as may from time to time be required of him by the board of directors.

Qualifications
and cause of re-
moval.

SEC. 10. No person shall be appointed to any office or be employed in the penitentiary on behalf of the state who is in the habit of intemperate use of liquors, and a single act of intemperance shall justify his discharge or removal.

SEC. 11. Any officer or employé may be removed by the board of directors at any time for misconduct, incompetency or neglect of duty.

Warden's sal-
ary.

SEC. 12. The warden shall receive a salary of not more than two thousand dollars per annum, in the discretion of the board of directors.

Clerk's salary.

SEC. 13. The clerk shall receive a salary not to exceed fifteen hundred dollars per annum, in the discretion of the board of directors.

Supplies.

SEC. 14. The board of directors are hereby authorized and required to contract for provisions, clothing, medicines, forage, fuel and all other staple supplies needed for the support of the penitentiary for any period of time not exceeding one year. Contracts for such supplies as the board may desire to contract for shall be given to the lowest bidder at a public letting thereof, if the price bid is a fair and reasonable one and not greater than the usual market value and prices. Each bid shall be accompanied by such security as the board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond with good and sufficient sureties, in such sum as the board may require, and to their satisfaction, that he will faithfully perform his contract. If the proper officer of the penitentiary reject any article as not complying with the contract, or if a bidder fail to furnish the articles awarded to him when required, the proper officer of the penitentiary

may buy other articles of the kind rejected or called for, in the open market, and deduct the price thereof, over the contract price, from the amount due to the bidder, or charge the sum up against him. Notice of the time, place and conditions of the letting of contracts shall be given for at least four consecutive weeks in a newspaper published in the city and county of Walla Walla. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise, for such time and in such papers as they deem proper, for proposals, and may so continue to renew the advertisements until satisfactory contracts are made; and in the meantime the board may contract with any one whose offer is regarded as just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders, as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items, and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract, and who had not, in the opinion of the board, faithfully complied therewith. The board shall have the power to reject any and all bids.

Power to reject bids.

SEC. 15. All moneys received or collected by the warden by virtue of this act, unless otherwise provided, shall be paid by him into the state treasury to the credit of a fund to be known as the penitentiary fund, at least as often as once per month, excepting so much thereof as may be necessary to pay the expenses and money allowed discharged prisoners, and the current expenses of maintaining and operating the penitentiary, and the expenses of his officers and employés. The warden shall require vouchers

Payment of moneys collected.

Disbursement
of moneys.

for all moneys by him expended, and safely keep the same on file in his office at the penitentiary. For all sums of money required to be paid, other than for the uses aboved named, as well as for said uses when there is not sufficient money in the hands of the warden, drafts shall be drawn on the auditor of state, signed by at least two of the directors, and the auditor of state shall draw his warrant on the state treasurer, who shall pay the same out of any moneys belonging to the penitentiary fund or appropriated for the use or support of the penitentiary. The amount of all money retained by the warden, and the aggregate amount paid out, shall be reported quarterly to the auditor of state, and the proper entries shall be made on the auditor's books.

Revenues.

SEC. 16. All revenues of the penitentiary, unless herein otherwise provided, shall be paid to the warden who alone is authorized to receipt for the same and discharge from liability. When any sum of money is paid to the warden he shall cause the same to be properly entered on the books by the clerk.

SEC. 17. On payment of any moneys into the state treasury, as provided in this act, the warden and state treasurer shall report to the auditor of state the amount so paid, and the state treasurer shall give the warden a receipt therefor, which receipt shall be filed with the auditor. The warden shall report to the auditor of state the amount of money paid into said treasury by him during each month, and shall also report to said auditor of state the amount received and disbursed by him every three months, and during the period for which such report shall be made, which quarterly report shall be signed by the warden and at least two of the directors.

Employment of
convicts.

SEC. 18. All convicts may be employed by authority of the board of directors, under charge of the warden and such skilled foremen as they may deem necessary in the performance of work for the state, or the manufacture of any article or articles for the state, or the manufacture of which is sanctioned by law. At Walla Walla, at the state penitentiary, no articles shall be manufactured for sale except jute fabrics and brick. The board of directors are hereby

authorized to purchase from time to time such tools, machinery and materials, and to direct the employment of such skilled foremen, as may be necessary to carry out the provisions of this section, and to dispose of the articles manufactured and not needed by the state, for cash, at private sale, in such manner as provided by law.

SEC. 19. In the treatment of the prisoners the following general rules shall be observed: Each convict shall be provided with a bed of straw or other suitable material, and sufficient covering of blankets, and shall be supplied with garments of coarse substantial material, of distinctive manufacture, and with sufficient plain and wholesome food of such variety as may be most conducive of good health. *Second:* No punishment shall be inflicted except by the order and under the direction of [the] warden. *Third:* The warden shall keep a correct account of all money and valuables upon the prisoner when delivered at the prison, and shall pay the amount, or the proceeds therefor, or return the same to the convict when discharged, or to his legal representatives in case of his death; and in the case of the death of such convict without being released, if no legal representative shall demand such property within five years, the same shall be paid into the penitentiary fund. *Fourth:* The rules and regulations prescribing the duties and obligations of the prisoners, shall be printed and hung up in each cell and shop. *Fifth:* Each convict when he leaves the penitentiary shall be supplied with the money taken from him when he entered, and which he has not disposed of, together with any sum which may have been earned by him for his own account, allowed to him by the state for good conduct or diligent labor, or may have been presented to him from any source; and in case the prisoner has not funds sufficient for present purposes he shall be furnished with five dollars in money, a suit of clothes, costing not more than ten dollars, and transportation by the cheapest route to the place where sentenced from, which shall be void if not used in twenty-four hours, if the prisoner desires to return there, or to any other place of the same cost; and he shall be entitled, if he so elect, to immunity from having his hair cut or from having been

Rules for treatment of prisoners.

shaved for three calendar months immediately prior to his discharge. It shall not be lawful for the officers of the penitentiary to furnish or permit to be furnished to any one for publication the name of any prisoner about to be discharged. When the warden, and such other officers as may be designated by the directors to act with him in such cases, shall be of opinion that any convict is insane, they shall make proper examination, and if they remain of the opinion that such person is insane, the warden shall certify the fact to the superintendent of one of the state asylums for the insane, and shall forthwith send such convict to said asylum for care and treatment. If at the expiration of the term of sentence the insane convict is still in the insane asylum, he shall be allowed to remain there until discharged cured. It shall be the duty of the warden also to send to the directors a copy of such certificate, and thereafter a statement as to his subsequent acts regarding the said insane convict. And it shall be the duty of the superintendent of the insane asylum to receive such convict and keep him until cured. It shall be his duty, upon receipt of such insane convict, to notify the directors of the fact, giving name, date and where from, and from whose hands received. When in the opinion of the superintendent such insane convict is cured of insanity, it shall be his duty to immediately notify the directors thereof; and it shall be his duty also to notify the warden of the prison from whence he was received, who shall immediately send for, take and receive the said convict back into the penitentiary, the time passed at the asylum counting as a part of such convict's sentence. Before discharging any convict who may be insane at the time of the expiration of his sentence, the warden shall first give notice in writing to a judge of a superior court of the county in which the penitentiary is located of the fact of such insanity, whereupon said court shall forthwith make an order, and deliver the same to the sheriff of said county, commanding him to remove such insane convict and take him before said court. Upon receipt of such order it shall be the duty of said sheriff to whom it is directed to execute and return the same forthwith to the court by whom it was issued, and thereupon the said court

shall cause proper examination to be made by medical experts, and if it shall satisfactorily appear that such convict is insane, said court shall order him to be confined in one of the insane asylums. The sheriff shall receive the same compensation as for transferring a prisoner to the penitentiary, and to be paid in the same manner. If any judge, after having been notified by the warden, shall neglect to cause such order to be made as herein provided, or any such sheriff shall neglect to remove any such insane convict as required by the provisions of this section, it shall be the duty of the warden to cause such insane convict to be removed before a superior court of a county in which the penitentiary is located, in charge of an officer of the penitentiary, or other suitable person, for the purpose of examination; and the cost of such removal shall be paid out of the state treasury, in the same manner as when removed by the sheriff as herein provided.

SEC. 20. The board of penitentiary directors shall require of every able-bodied convict confined in the penitentiary as many hours of faithful labor in each and every day during his term of imprisonment as shall be prescribed by the rules and regulations of the penitentiary. Every convict who shall have no refraction of the rules and regulations of the penitentiary or laws of the state recorded against him, and who performs in a faithful, orderly and peaceable manner the duties assigned him, shall be allowed from his term, instead and [in] lieu of the credits heretofore allowed by law, a deduction of two months in each of the first two years, three months in each of the next two years and four months in each of the remaining years of his term, and pro rata for any part of a year where the sentence is for more or less than a year. Each convict shall be entitled to these deductions unless the board of directors shall find that for misconduct or other cause he should not receive them. But if any convict shall commit any assault upon his keeper, or any foreman, officer, convict or person, or otherwise endanger life, or shall be guilty of any flagrant disregard of the rules of the penitentiary, or commit any misdemeanor, or in any manner violate any of the rules and regulations of the penitentiary, he shall forfeit all de-

Deductions for
good behavior.

ductions of time earned by him for good conduct before the commission of such offense, or that, under this section, he may earn in the future, or shall forfeit such part of such deductions as to the board of directors may seem just; such forfeiture, however, shall be made only by the board of directors after due proof of the offense and notice to the offender, nor shall any forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the directors shall be sole judges. The board shall have power to restore credits forfeited, for such reasons as by them may seem proper.

Water supply. SEC. 21. The board of directors shall have power to contract for the supply of water for said penitentiary, upon such terms as said board shall deem to be for the best interests of the state, or furnish water themselves, at their option. The board shall have full power to erect any building or structure deemed necessary by them, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the penitentiary, or from the earnings thereof, without advertising or contracting therefor: *Provided*, That no buildings or structure, the cost of which will exceed three thousand dollars, shall be erected or constructed without first obtaining the consent of the governor, secretary and treasurer of the state, or a majority thereof: *Provided*, That such expenditure shall in no instance exceed \$10,000 without a special appropriation therefor by the state legislature.

Limit of compensation. SEC. 22. No officer or employé shall receive, directly or indirectly, any compensation for his services other than that prescribed by the directors; nor shall he receive any compensation whatever, directly or indirectly, for any act or service which he may do or perform for or on behalf of any contractor or agent or employé of a contractor. For any violations of the provisions of this section the officer, agent or employé of the state shall be discharged from his office or service; and every contractor or employé or agent of a contractor engaged therein, shall be expelled from the penitentiary grounds, and not again permitted within the same as a contractor, agent or employé.

Penalty.

SEC. 23. No officer or employé of the state, or contractor

or employé of a contractor, shall without permission of the board of directors make any gift or present to a convict, or receive any from a convict, or have any barter or dealings with a prisoner. For every violation of the provisions of this section the party engaged therein shall incur the same penalty as prescribed in section twenty-two.

SEC. 24. No officer or employé of the penitentiary shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by any one for or on behalf of the penitentiary.

SEC. 25. There shall be printed annually, for the use of the penitentiary, five hundred copies of the annual report of the board of directors, and the clerk shall annually transmit to each of the state prisons of the United States one copy of such report. Annual report.

SEC. 26. All the bonds of officers and employés under this act shall be deposited with the secretary of state. Bonds; how deposited.

SEC. 27. The directors shall have power to offer rewards not exceeding \$200.00, in the one case for the return of escaped convicts, and to pay the expenses of the apprehension, safe keeping and return of all escaped convicts by the officers of the penitentiary. They shall certify the amount of reward allowed and expenses incurred to the state auditor, who shall draw his warrant for the amount found due on the state treasurer, who shall pay the same out of the penitentiary fund. Rewards.

SEC. 28. Any person who shall unlawfully take or carry, or cause to be taken or carried, to the penitentiary, for the use of any person confined therein, any weapon, or any mechanical tool or device which can be used to attempt an escape, or any rope or cord, or any opium, morphine or other drug, or who shall hold unlawful conversation with any prisoner, or who shall aid any prisoner in any way to escape, or who shall harbor and conceal any escaped prisoner, shall be guilty of misdemeanor, and on conviction thereof shall be punished by imprisonment in the penitentiary not more than one year nor less than three months, or by fine not exceeding \$500 nor less than \$20, or by both fine and imprisonment. Penalty for unlawful communication with convicts.

SEC. 29. If any of the shops or buildings in which con-

Rebuilding
structures de-
stroyed by fire.

victs are employed are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the board of directors, by and with the advice and consent of the governor, attorney general and secretary of state, and the expenses thereof paid out of any funds in the state treasury not otherwise appropriated by law, not to exceed \$25,000.

Repealing
clause.

SEC. 30. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Emergency.

SEC. 31. There being but few and imperfect laws for the location and government of the state penitentiary, an emergency exists for the immediate taking effect of this act, and the same is declared to be in force from and after its approval.

Approved March 9, 1891.

CHAPTER CXLVIII.

[H. B. No. 185.]

PROVIDING FOR ELECTION AND DUTIES OF PRESIDENTIAL ELECTORS.

AN ACT providing for the election and prescribing the duties of electors of president and vice president of the United States.

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

SECTION 1. On the Tuesday next after the first Monday of November in the year eighteen hundred and ninety-two, and on the same day of every fourth year thereafter, there shall be elected by the qualified electors of the State of Washington, as many electors of president and vice president of the United States as this state may be entitled to elect of senators and representatives in congress.

SEC. 2. The votes for the electors shall be given, received, returned and canvassed as the same are given, returned and canvassed for members of congress. The secretary of state shall prepare three lists of the names of

Duty of secre-
tary of state.

the electors elected, and affix the seal of the state to the same. Such lists shall be signed by the governor and secretary of state and by the latter delivered to the college of electors at the hour of their meeting, prescribed in section three of this act.

SEC. 3. The electors of president and vice president shall convene at the seat of government on the first ^{Meeting of electors.} Wednesday of December next after their election, 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, ^{Vacancy.} 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.

SEC. 4. Every such elector who shall attend at the time and place appointed, and give his vote for president and vice president, shall be entitled to receive from this state five dollars for each day's attendance at such meeting of the college of electors, and ten cents per mile for travel ^{Per diem.} in ^{Mileage.} going to and returning from the place where the electors shall meet, on the usually traveled route.

Approved March 9, 1891.

CHAPTER CXLVIX.

[H. B. No. 167.]

PROTECTION OF FEATHERED GAME.

AN ACT for the protection of feathered game.

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

SECTION 1. That it shall be unlawful for any person in the State of Washington to kill, trap, or in any way take

or kill, any feathered game for the market or sale in any month in the year except the month of December.

SEC. 2. Such game shall be of the several kinds as follows: Swan, geese, brants, sand-hill cranes, grouse, pheasants, partridges, prairie chicken, snipe and all the various and different kinds of ducks.

Limit of close season.

SEC. 3. It shall be unlawful for any person or persons to sell or dispose of, except in the month of December, or have in their possession for the purpose of sale, any of the game mentioned in section two, for money, or for any pay whatever.

SEC. 4. That it shall be unlawful to ship any kind or kinds of game out of this state for the market any month in the year.

SEC. 5. That it shall be unlawful for any person or persons to kill, trap, or in any manner cause to be killed, quail and golden, silver, China or Mongolian pheasants for the period of five years after this act becomes a law.

Disposition of fines.

SEC. 6. That all fines or moneys collected under this act be paid to the county treasurer and held in and made a sinking fund for a game commissioner.

SEC. 7. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and on conviction thereof shall be fined for each offense in a sum not less than ten dollars nor more than one hundred dollars.

Approved March 9, 1891.

CHAPTER CL.

[H. B. No. 255.]

RELATING TO TIDE AND SHORE LANDS.

AN ACT relating to tide and shore lands.

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

SECTION 1. That the tide and shore lands belonging to the State of Washington, not within two miles of any cor-

porated city or town, covered by natural oyster beds, or so much shore and tide land as is necessary for the preservation and growth of any natural oyster bed, is hereby withdrawn and reserved from sale or lease for the purpose of establishing a natural oyster bed reserve.

To protect natural oyster beds.

SEC. 2. The board of appraisers of tide and shore lands appointed and acting under and by virtue of an act entitled "An act for the appraising and disposing of the tide and shore lands belonging to the State of Washington," approved March 26, 1890, shall, when this act takes effect, investigate and determine the shore and tide lands within their county covered by a natural oyster bed, as well as such parts of tide and shore lands within the said county not covered by a natural oyster bed but which is necessary for the preservation and growth of any natural oyster bed. And such board of appraisers shall cause to be made a plat of such natural oyster beds, and of such tide and shore lands which they deem necessary and reserve for the preservation and growth of such natural oyster beds; and such plat shall be marked and noted upon the tide and shore land plats of such county, and thereafter shall be known as "natural oyster beds reserved," and the same shall not be offered for sale or lease, nor sold nor leased.

Duty of local board.

SEC. 3. The decision of the board of appraisers hereinbefore mentioned shall be open to appeal and review in making the reservations provided for in the foregoing sections. This act shall be open to all appeals and supervisions provided now by law under the act entitled "An act for the appraising and disposing of the tide and shore lands belonging to the State of Washington," approved March 26, 1890, and as may hereafter be provided by law either amendatory to said last named act or in addition thereto.

Open to appeal.

Approved March 9, 1891.

CHAPTER CLI.

[H. B. No. 233.]

TO PROTECT INNOCENT PURCHASERS OF COMMUNITY
REAL PROPERTY.

AN ACT to protect innocent purchasers of community real property.

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

SECTION 1. Whenever any person, married or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual *bona fide* purchaser, a deed of such real estate from the person holding such legal record title to such actual *bona fide* purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated.

SEC. 2. A husband or wife having an interest in real estate, by virtue of the marriage relation, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the husband or wife, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the husband or wife, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either husband or wife fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual *bona fide* purchaser of such real estate from the

Property rights
of husband or
wife; how pro-
tected.

Effect of default
or neglect.

person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse.

SEC. 3. The instrument in writing provided for in the last preceding sections shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated.

SEC. 4. In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions.

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

Approved March 9, 1891.

Sig. 24.

CHAPTER CLII.

[H. B. No. 287.]

TO PROVIDE FOR APPOINTMENT OF AN AGENT OF THE STATE.

AN ACT to provide for the appointment of an agent to prosecute the claims of the State of Washington against the United States, and to procure payment of moneys due said state from the United States on account of public lands disposed of by the United States in the said State of Washington; also to present and prosecute the claims of the State of Washington for school lands due the said state from the United States; also to prosecute the claims of the State of Washington against the United States for moneys due the said state on account of expenses incurred in organizing troops for the military service of the United States, and for material and supplies furnished the same, and on account of Indian depredations.

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

Governor to appoint.

SECTION 1. That the governor of this state be and he is hereby authorized and empowered to appoint, with the advice and consent of the senate, an agent for the State of Washington, who shall be a citizen of said state, whose duty it shall be to prosecute to final decision in the proper departments of the government of the United States, or in any of the courts of the United States having jurisdiction, the claims of the State of Washington for the five per cent. due to said state from the United States for or on account of public lands within this state disposed of by the United States as Indian reservations, and by the location of military land warrants and land scrip issued for military services in the wars of the United States, and by the location of the agricultural college scrip, or by reason of any other disposal of the public lands of the United States within the State of Washington. It shall also be the duty of the said

Duty of agent.

agent to prosecute to final decision all claims of the State of Washington against the United States arising out of depredations committed by the Indians, or occurring during the late war, together with all claims which this state may have against the United States for expenses incurred in organizing, equipping and maintaining troops for the public service, and for all school lands which may be due the said state from the United States on account of Indian reservations: *Provided*, That no part of the money that may be secured to the state from or on account of any of the mat-

ters mentioned in this act shall be paid such agent, but the same shall be paid to the treasurer of this state, and such agent shall have no authority to take or receive from the United States such money, or any part thereof.

SEC. 2. Before entering upon the duties of his agency ^{Bond.} such agent shall execute to the State of Washington a bond, with good and sufficient security, to be approved by the governor and auditor of state, and filed in the office of the secretary of state in the sum of twenty thousand dollars, conditioned for the faithful performance of every duty imposed by the provisions of this act.

SEC. 3. Such agent shall be allowed such compensation ^{Compensation.} for his services as may be agreed upon between the governor, auditor and attorney general of this state and himself, not to exceed ten per centum upon the amount secured to the state; and such compensation shall be paid only after the claims hereinbefore mentioned shall be paid over to the state treasurer, in whole or in part; and the amount so adjudged to be due said agent shall be paid by the treasurer on the warrant of the auditor of this state; but no part of such compensation shall be paid out of any other funds than the funds received from the claim or claims so collected; nor shall this state be otherwise liable for the payment of such compensation or any other expenses whatever attending or growing out of the prosecution of such claims.

SEC. 4. In case any lands are secured to the state for school purposes or otherwise by such agent, then he shall be paid for his services in that behalf a compensation upon the appraised valuation of such lands, such valuation to be determined by the state board of land commissioners, of not to exceed ten per centum of the valuation of the lands so secured by such agent.

Approved March 9, 1891.

CHAPTER CLIII.

[S. B. No. 49.]

TO REGULATE THE PRACTICE OF PHARMACY.

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.

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

SECTION 1. That it shall hereafter be unlawful for any person other than a registered pharmacist to retail, compound or dispense drugs, medicines or poisons, or to institute any pharmacy, store or shop for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist, or shall place in charge of said store a registered pharmacist, except as hereinafter provided.

Qualifications.

SEC. 2. In order to be registered, all persons must be either graduates in pharmacy, or shall, at the time this act takes effect, be engaged in the business of a dispensing pharmacist on their own account in the State of Washington, the preparation of physicians' prescriptions, and the vending and compounding of drugs, medicines and poisons, or shall be licentiates in pharmacy.

SEC. 3. Graduates in pharmacy shall be considered to consist of such persons as have had four years' practical experience in drug stores where prescriptions of medical practitioners are compounded, and have obtained a diploma from such college or schools of pharmacy as shall be approved by the board of pharmacy, as sufficient guarantee of their attainment and proficiency.

Qualifications of licentiates.

SEC. 4. Licentiates in pharmacy shall be such persons as shall have had three years' practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the state board of pharmacy hereinafter mentioned. The state board may grant certificates of registration to licentiates of such other state boards as it may deem proper, without further examination.

State board of pharmacy.

SEC. 5. As soon as this act shall take effect the Washington state pharmaceutical association shall elect fifteen

reputable and practicing pharmacists doing business in the state, from which the governor shall appoint five. The said five pharmacists, duly elected and appointed, shall constitute the board of pharmacy of the State of Washington, and shall hold office, as respectively designated in their appointments, for the term of one, two, three, four or five years, as hereinafter provided, and until their successors have been duly elected and appointed. The Washington state pharmaceutical association shall annually elect five pharmacists, from which number the governor of the state shall appoint one to fill [the] vacancy annually occurring in said board. The term of office shall be five years. In case of [a] vacancy occurring from any cause, the governor shall fill the vacancy by appointing a pharmacist, from the names submitted, to serve as a member of the board for the remainder of the term. Vacancies.

SEC. 6. The state board shall, within thirty days after the appointment, meet and organize by the selection of a president and 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. It shall be the duty of the board to examine all applicants for registration submitted in the proper form; to grant certificates of registration to such persons as may be entitled to same under the provisions of this act; to cause prosecutions of all persons violating its provisions; 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 also furnish a record of the proceedings of said board for the year, as well as all pharmacists duly registered under this act. Organization of state board. The board shall hold meetings for the transaction of such business as shall pertain to its duties once in three months; and the said board shall give 20 days' public notice of the time and place of such meeting. Annual reports The said board shall also have power to make by-laws for the proper execution of its duties under this act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, also stating facts claimed to jus- Meetings of board. Register.

tify their registration. Three members of said board shall constitute a quorum.

SEC. 7. Every person claiming the right of registration under this act who shall, within sixty days after this act takes effect, forward to the board of pharmacy satisfactory proof, supported by his affidavit, that he was engaged in business of a dispensing pharmacist on his own account in the State of Washington at the time of the passage of this act, as provided in section 2, shall, upon payment of the fee hereinafter mentioned, be granted a certificate of registration: *Provided*, That in case of failure to register as herein specified, then such person shall, in order to be registered, comply with the requirements provided for registration as graduates of pharmacy or licentiates of pharmacy.

SEC. 8. Any person engaged in the position of assistant in pharmacy at the time this act takes effect, not less than eighteen years of age, who shall have had at least three years of practical experience in drug stores where the prescriptions of medical practitioners are compounded, and shall furnish satisfactory evidence to the state board of pharmacy, shall, upon making application for registration and upon payment of \$2.00 to the secretary of said board, within sixty days after this act takes effect, be entitled to a certificate as registered assistant, which certificate shall entitle him to a continuance in such duties as clerk or assistant, but shall not entitle him to engage in business on his own account. Thereafter he shall pay annually to the said secretary the sum of one dollar during the time he shall continue in such duties, in return for which sum he shall receive a renewal of said certificate: *Provided*, Any applicant who has had seven years' experience in compounding medicine immediately prior to the passage of this act may receive a certificate of registered pharmacist.

SEC. 9. Every person claiming registration as a registered pharmacist under section 7 of this act shall, before a certificate is granted, pay to the secretary of the state board of pharmacy the sum of three dollars, and a like sum shall be paid such secretary by graduates in pharmacy, and by such licentiates of other boards who shall apply for registration under this act, and every applicant for registration

by examination shall pay to said secretary the sum of five ^{Fees.} dollars before such examination be attempted: *Provided*, That in case the applicant fail to pass a satisfactory examination, the money shall be held to his credit for a second examination at any time within a year.

SEC. 10. Every registered pharmacist, during the times he continues such practice of his profession, shall annually, on such date as the board of pharmacy may determine, pay to the said secretary of said board of registration a fee of ^{Renewal fees.} two dollars in return for which payment he shall receive a renewal of said registration. Every certificate and every renewal shall be conspicuously displayed in the pharmacy to which it applies.

SEC. 11. The secretary of the board of pharmacy shall receive a salary, which salary shall be determined by said ^{Salary of secretary of state board.} board; he shall also receive his traveling and other expenses incurred in the performance of his official duties. The other members of said board shall receive the sum of five ^{Compensation of members of state board.} dollars for each day actually engaged in such service, and all legitimate and necessary expenses incurred in attending the meetings of said board. Said expenses shall be paid from the fees and penalties received by said board under the provisions of this act, and no part of the salary or other expenses of said board, under the provisions of this act, shall be paid out of the public treasury. All moneys received by said board in excess of said allowances and other expenses hereinbefore provided for shall be held by the secretary of the said board as a special fund for ^{Special fund.} meeting the expenses of said board, said secretary giving such bonds as the said board shall, from time to time, direct. The said board shall, in its annual report to the governor ^{Annual report.} and to the Washington state pharmaceutical association, render an account of all money received and disbursed by them pursuant to this act.

SEC. 12. The proprietor of every drug store shall keep ^{Prescriptions.} in his place of business a registry book in which shall be entered an accurate record of the sales of all mineral acids, carbolic acid, oxalic acid, hydrocyanic acid, cyanide of potassa, arsenic and its preparations, corrosive sublimate, red precipitate, preparations of opium (except paregoric),

phosphorus, nux vomica and strychnine, aconite, belladonna, hellebore and their preparations, croton oil, oil savin, oil tansy, creosote, wines and spirituous or malt liquors. Said record shall state amount purchased, the date, for what purpose used, buyer's name and address, and said record shall at all times, during business hours, be subject to the inspection of the prosecuting attorney, or to any authorized agent of the board of pharmacy: *Provided*, That no such wines, spirituous or malt liquors shall be sold for other than medicinal, scientific, mechanical or sacramental purposes. Furthermore, that all poisons shall be plainly labeled as such, and that such labels shall also bear the name and address of the druggist selling the same. The provisions of this section shall not apply to dispensing by physicians' prescriptions.

SEC. 13. Any person not being a registered pharmacist within the full meaning of this act who shall, after the expiration of sixty days from the time this act shall take effect, retail, compound or dispense medicines, or who shall take, use or exhibit the title of registered pharmacist shall, for each and every said offense, be liable to a penalty of fifty dollars. Any registered pharmacist or other person who shall permit the compounding and dispensing of prescriptions or the vending of drugs, medicines or poisons in his store or place of business, except under the supervision of a registered pharmacist, or except by a registered assistant, or any pharmacist or registered assistant who, while continuing in business, shall fail or neglect to procure his annual registration, or any person who shall willfully make any false representations to procure registration for himself or any other person, or who shall violate any of the provisions of this act shall, for each and every offense, be liable to a penalty of fifty dollars: *Provided*, That nothing in this act shall in any manner interfere with the business of any physician in regular practice, or prevent him from supplying to his patients such articles as he may deem proper, nor with the making of proprietary medicine or medicines placed in sealed packages; nor prevent shop keepers from dealing in and selling the commonly used medicines and poisons, if such medicines and

Penalty for illegally doing business, or for fraud.

poisons are put up by a registered pharmacist; nor with the exclusive wholesale business of any dealers, except as heretofore provided.

SEC. 14. Every proprietor of a drug store shall be held responsible for the quality of all drugs, chemicals or medicines sold or dispensed by him, except those sold in original packages of the manufacturer, and except those articles or preparations known as patent or proprietary medicine.

Proprietor of drug store responsible.

SEC. 15. Any person who shall knowingly, willfully or fraudulently falsify or adulterate any drug or medical substance, or any preparation authorized or recognized by the pharmacopœia of the United States, or used or intended to be used in medical practice, or shall willingly, knowingly or fraudulently sell or cause the same to be sold for medicinal purposes, shall be deemed guilty of a misdemeanor, and upon a conviction shall pay a penalty not exceeding \$500.00, and shall forfeit to the State of Washington all articles so adulterated.

Penalty for adulteration of drugs.

SEC. 16. 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 proper complaint being made. All penalties collected under the provisions of this act shall inure one-half to the state board of pharmacy and one-half to the school fund of the county in which suit was prosecuted and judgment obtained.

SEC. 17. All acts or portions of acts regulating the practice of pharmacy or adulteration of drugs within this state in conflict with this act are hereby repealed.

Approved March 9, 1891.

CHAPTER CLIV.

[S. B. No. 122.]

AUTHORIZING COUNTY COMMISSIONERS TO BUILD
BRIDGES ACROSS NAVIGABLE STREAMS.

AN ACT authorizing county commissioners to build bridges across navigable streams.

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

SECTION 1. The power to erect bridges on public highways across navigable streams in this state is hereby granted to the boards of county commissioners of this state, under the restrictions of this act.

When on
boundary line.

SEC. 2. Where a navigable stream is the boundary line between counties, the boards of commissioners of such counties may join in the construction of a bridge upon such terms as may be agreed upon.

Public notice.

SEC. 3. Whenever the county commissioners of any county or counties desire to erect a bridge on any public highway across a navigable stream, under the provisions of this act, said board or boards shall cause to be published a notice in a newspaper of general circulation in the county or counties, if such there be; and if there be no newspaper published in the county or counties, then by posting three notices, one in the locality of the place to be bridged, and two in the most public places in the county or counties; such notice shall contain the name of the stream to be bridged and the exact point where such bridge is to be erected, and the date when the said board will determine the public necessity for the building of said bridge: *Provided*, That when such bridge is to be built by two counties, the notice shall be published in both counties. At the time fixed in such notice the board of commissioners shall declare such public necessity by an order of record, which said order shall, in addition to the other facts, prescribe the width of the draw to be made, if any draw shall be considered necessary in such bridge, and also the length of span necessary to permit the free flow of water: *Provided*, That such bridges shall be so constructed as not to interfere with, impede or obstruct the navigation of such streams.

SEC. 4. If any person or corporation shall feel aggrieved ^{Right of appeal.} by the determination of said board an appeal shall be allowed to the superior court of the county, which said court shall have jurisdiction to hear and determine all matters connected therewith.

SEC. 5. When a bridge shall be built on a navigable stream by one county or two counties it may be absolutely free, or tolls sufficient to pay in whole or in part for the construction and to keep up the repairs thereof, may be charged; the rate to be fixed by the board of commissioners of the county in which the same is located, or if located in two counties, then by the boards of commissioners of the two counties; or, if there be any disagreement between the boards as to imposing or removing tolls, or the rate, the matter in dispute shall be referred to the board of commissioners of some adjoining county for determination; and if the tolls are fixed or removed thereby the same shall take effect on the tenth day from the date of such determination; said determination shall be final, and shall be communicated in writing to the clerks of said boards respectively.

SEC. 6. Nothing contained in this act shall be held to prevent cities and towns from erecting and maintaining bridges, either toll or free, within their corporate limits, or granting franchises for that purpose.

Approved March 9, 1891.

CHAPTER CLV.

[S. B. No. 80.]

IN RELATION TO PROCEEDINGS IN PROBATE.

AN ACT in relation to proceedings in probate, amending sections 1299, 1300, 1311, 1313, 1314, 1345, 1358, 1360, 1361, 1368, 1384, 1385, 1399, 1404, 1409, 1410, 1411, 1413, 1415, 1419, 1430, 1456, 1481, 1482, 1485, 1488, 1489, 1508, 1515, 1547, 1556, 1568, 1572, 1573, 1594 and 1601 of the Code of Washington of 1881, and repealing sections 623, 624, 625, 627, 628, 630, 631, 632, 633 and 634 of said Code.

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

Jurisdiction of
superior court.

SECTION 1. Section twelve hundred and ninety-nine of the code of Washington of 1881 is amended to read as follows: The superior courts, in the exercise of their jurisdiction of matters of probate, shall have power—1. To take proof of wills, and to grant letters testamentary and of administration, and to bind apprentices as by law provided. 2. To settle the estates of deceased persons and the accounts of executors, administrators and guardians. 3. To allow or reject claims against the estates of deceased persons as hereinafter provided. 4. To hear and determine all controversies between masters and their apprentices. 5. To award process and cause to come before them all persons whom they may deem it necessary to examine, whether parties or witnesses, or who, as executors, administrators or guardians, or otherwise, shall be intrusted with or in any way accountable for any property belonging to a minor, orphan or person of unsound mind, or estate of any deceased person. 6. To order and cause to be issued all writs which may be necessary to the exercise of their jurisdiction.

Books of rec-
ord.

SEC. 2. Section 1300 of said code of 1881 is amended to read as follows: There shall be kept in the office of the clerk of the superior court the following books of record of probate matters: 1. A journal, in which shall be entered all orders, decrees and judgments made by the court, or the judge thereof, and the minutes of the court in probate proceedings. 2. A record of wills, in which shall be recorded all wills admitted to probate. 3. A record of letters testamentary and of administration, in which all letters testamentary and of administration shall be recorded. 4. A record of bonds, in which all bonds and obligations re-

quired by law to be approved by the court or judge in matters of probate shall be recorded. 5. A record of petitions, in which all petitions for orders of sale of real estate shall be recorded. 6. A record of claims, in which at least one page shall be given to each estate, or case, wherein shall be entered, under the title of each estate or case, in separate columns properly ruled — (1) the names of claimants against the estate; (2) the date of filing proof of claim; (3) the amount claimed; (4) the amount allowed; (5) the date of allowance; (6) the nature of the claim; (7) the amount paid; (8) number of the voucher for each payment; (9) the date of filing the voucher. 7. A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, except proof of claims and vouchers noted in record of claims, and the date of filing each paper. 8. A record of marriages, in which certificates of all marriages solemnized in the county shall be recorded.

SEC. 3. Section 1311 of said code of 1881 is amended to read as follows: Whenever personal notice is required to be given to any party to a proceeding in matters of probate, and no other mode of giving notice is prescribed, it shall be given by citation issued from the court, signed by the clerk and under the seal of the court, directed to the sheriff of the proper county, requiring him to cite such person to appear before the court or judge, as the case may be, at a time and place to be named in such citation. In the body of the citation shall be briefly stated the nature or character of the proceedings.

As to public
notice.

SEC. 4. Section 1313 of said code of 1881 is amended to read as follows: In all cases in which citations are issued from the superior court in probate proceedings, they shall be served at least ten days before the term at which they are made returnable, except when issued from the court in cases where the law requires the judge to issue them upon his own motion, and he does so issue them; and in such cases they shall be served in sufficient time to allow the person served to be in attendance on the court.

SEC. 5. Section 1314 of said code of 1881 is amended to read as follows: All orders, settlements, trials and other

proceedings in probate shall be had or made in the county in which letters testamentary or of administration were granted.

Penalty for violation.

SEC. 6. Section 1345 of said code of 1881 is amended to read as follows: Any person violating either of the next three preceding sections, without reasonable excuse, shall be liable to every person interested in the will for damages caused by such neglect.

SEC. 7. Section 1358 of said code of 1881 is amended to read as follows: The record of any will made, proved and recorded as aforesaid, and the exemplification of such record by the clerk in whose custody the same may be, shall be received as evidence, and shall be as effectual in all cases as the original would be if produced and proven.

Appearance of parties in interest.

SEC. 8. Section 1360 of said code of 1881, is amended to read as follows: If any person interested in any will shall appear within one year after the probate or rejection thereof, and by petition to the superior court having jurisdiction contest the validity of said will, or pray to have the will proven which has been rejected, he shall file a petition containing his objections and exceptions to said will, or to the rejection thereof. Issues shall be made up, tried and determined in said court respecting the competency of the deceased to make last will and testament, or respecting the execution by the deceased of such last will and testament under restraint or under influence or fraudulent representations, or for any other cause affecting the validity of such will.

SEC. 9. Section 1361 of said code of 1881 is amended to read as follows: Upon the filing of the petition referred to in the next preceding section a citation shall be issued to the executors who have taken upon them the execution of the will, or to the administrators with the will annexed, and to all legatees named in the will residing in the territory [state] or to their guardians if any of them are minors, or their personal representatives if any of them are dead, requiring them to appear before the court on a day therein specified, to show cause why the petition should not be granted.

SEC. 10. Section 1368 of said code of 1881 is amended

to read as follows: When any such will shall be established, ^{WILLS.} the provisions thereof shall be distinctly stated in the judgment establishing it, and a copy of such decree shall be certified by the clerk, under the seal of the court; and such copy, together with the testimony upon which the decree is founded, shall be recorded as other wills are required to be recorded, and letters testamentary or of administration, with the will annexed, shall be issued thereon in the same manner as upon wills produced and duly proved.

SEC. 11. Section 1384 of said code of 1881 is amended to read as follows: The clerk shall record, in a well bound ^{Record of wills.} book kept for that purpose, all letters testamentary and of administration before they are delivered to the executors or administrators, and shall certify on such letters that they have been so recorded.

SEC. 12. Section 1385 of said code of 1881 is amended to read as follows: Copies of such letters, or copies of the ^{Copies.} records thereof, certified by the clerk, and under the seal of the superior court, shall be received as evidence in any court in this state.

SEC. 13. Section 1399 of said code of 1881 is amended to read as follows: In all cases where bonds or undertak- ^{Bonds} ings are required to be given under this title the sureties must possess the qualifications and justify thereon in the same manner as required for bail upon an arrest, and the certificate thereof must be attached to and filed and recorded with the bond or undertaking. All such bonds or undertakings must be approved by the judge before being filed or recorded.

SEC. 13½. Section 1404 of said code of 1881 is amended to read as follows: Any person interested in an estate may, by verified petition, represent to the judge that the sureties of the executor or administrator thereof have become or are becoming insolvent, or that they have removed, or are about to remove, from the state, or from any other cause the bond is insufficient, and ask that further security be required.

SEC. 14. Section 1409 of said code of 1881 is amended to read as follows: No judge of the superior court, no

Sureties.

sheriff, clerk of a court, or deputy of either, and no attorney at law, shall be taken as surety in any bond required to be taken in any proceeding in probate.

SEC. 15. Section 1410 of said code of 1881 is amended to read as follows: The judge shall take special care to take as sureties men who are solvent and sufficient and who are not bound in too many other bonds; and to satisfy himself he may take testimony and examine, on oath, the applicant or person offered as surety.

Record of bonds.

SEC. 16. Section 1411 of said code of 1881 is amended to read as follows: The clerk shall record, in a well bound book kept for that purpose, all bonds given by executors and administrators, and preserve the originals in regular file.

SEC. 17. Section 1413 of said code of 1881 is amended to read as follows: The applications and acts authorized by the foregoing sections of this chapter may be heard and determined in court or at chambers. All orders made therein must be entered upon the minutes of the court.

SEC. 18. Section 1415 of said code of 1881 is amended to read as follows: When such suspension is made, notice thereof must be given to the executor or administrator, and he must be cited to appear and show cause why his letters should not be revoked. If he fail to appear in obedience to the citation, or if appearing the court is satisfied that there exists cause for his removal, his letters must be revoked and letters of administration granted anew, as the case may require.

Administrator.

SEC. 19. Section 1419 of said code of 1881 is amended to read as follows: When, by reason of an action concerning the proof of a will, or from any other cause, there shall be a delay in granting letters testamentary or of administration, the judge may, in his discretion, appoint a special administrator (other than one of the parties) to collect and preserve the effects of the deceased; and in case of an appeal from the decree appointing such special administrator he shall, nevertheless, proceed in the execution of his trust until he shall be otherwise ordered by the appellate court.

SEC. 20. Section 1430 of said code of 1881 is amended to read as follows: The succeeding administrator, or re-

maining executor or administrator, may proceed by law against any delinquent former executor or administrator, or his personal representatives, or the sureties of either, or against any other person possessed of any part of the estate.

SEC. 21. Section 1431 of said code of 1881 is amended to read as follows: All actions against sureties shall be commenced within six years after the revocation or surrender of letters of administration or death of the principal.

SEC. 22. Section 1456 of said code of 1881 is amended to read as follows: If the executor, administrator, heir, legatee, creditor or other person interested in the estate of any deceased person shall complain to the court, on oath, that any person is suspected of having concealed, embezzled, smuggled, conveyed away or disposed of any moneys, goods or chattels of the deceased, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts or other writings which contain evidence of or tend to disclose the right, title, interest or claim of the deceased to any real or personal estate, or any claim, demand, or last will of the deceased, the said court may cite such person to appear, and may examine him on oath upon the matter of such complaint. If such person be not in the county where letters have been granted, he may be cited and examined, either before the court for the county where he may be found, or before the court issuing the order or citation; but in the latter case, if he appear and be found innocent, his necessary expenses shall be allowed him out of the estate.

SEC. 23. If, by the return of the inventory of the estate of any intestate who died leaving a widow or minor children, it shall appear that the value of the estate does not exceed one thousand dollars, the court shall, by decree for that purpose, assign for the use and support of the widow and minor children of the estate, or for the support of the minor child or children, if there be no widow, the whole estate, after the payment of the funeral expenses and expenses of administration, and there shall be no further proceedings in the administration unless further estate be discovered.

Support of
widow or heirs.

SEC. 24. When a person shall die, leaving a widow or minor child or children, the widow, child or children shall be entitled to remain in possession of the homestead, and of all the wearing apparel of the family and of all the household furniture of the deceased, and if the head of the family in his lifetime had not complied with the provisions of the law relative to the acquisition of a homestead, the widow, or child or children, may comply with such provisions, and shall be entitled on such compliance to a homestead as now provided by law for the head of a family, and the same shall be set aside for the use of the widow, child or children, and shall be exempt from all claims for the payment of any debt, whether individual or community. Said homestead shall be for the use and support of said widow, child or children, and shall not be assets in the hands of any administrator or executor for the debts of the deceased, whether individual or community.

SEC. 25. In case of the appointment of an executor or administrator upon the death of the husband as mentioned in the last preceding section the court shall, without cost to the widow, minor child or children, set apart for the use of such widow, minor child or children, all the property of the estate by law exempt from execution. If the amount thus exempt be insufficient for the support of the widow and minor child or children, the court shall make such further reasonable allowance out of the estate as may be necessary for the maintenance of the family according to their circumstances during the progress of the settlement of the estate.

SEC. 26. Section 1481 of said code of 1881 is amended to read as follows: The referee or referees, having been sworn, shall proceed to hear and determine the case and make return thereof; and their award, if not excepted to, shall be entered as the decision of the court. If exceptions in writing are filed the court shall proceed to determine the case in like manner as other claims are determined. The compensation of referees shall be the same as allowed to referees in other causes.

SEC. 27. Section 1482 of said code of 1881 is amended

Referees.

to read as follows: If the executor or administrator is himself a creditor of the testator or intestate, his claim, duly authenticated by affidavit, shall be presented for allowance or rejection to the judge of the court, and its allowance by the judge shall be sufficient evidence of its correctness.

SEC. 28. Section 1485 of said code of 1881 is amended to read as follows: In case of resignation or removal for any cause of any executor or administrator, and the appointment of another or others after notice has been given by publication as required by law, by such executor or administrator first appointed, to persons to present their claims against the estate, it shall be the duty of the judge of the court to cause notice of such resignation or removal and such new appointment to be published two successive weeks in the same newspaper in which the original notice was published, if the publication of such paper is at the time continued, and if not, then in some other newspaper published in the county, or if there be no newspaper published in such county, then in a newspaper published in the state and of general circulation in the county, and the estate shall be closed up and settled within the year from the date of said original notice, unless further time be granted by the court as provided by law.

SEC. 29. Section 1488 of said code of 1881 is amended to read as follows: Within twenty days after the filing of the inventory the executor or administrator shall apply for an order to sell the perishable property of the estate, and so much other property as may be necessary to be sold, to pay the allowance made to the family of the deceased; and the order of sale may be made without notice of the application, but the executor or administrator shall be responsible for the value of the property unless the sale be reported to and approved by the court.

SEC. 30. Section 1489 of said code of 1881 is amended to read as follows: If the claims against the estate have been allowed, or a sale of property shall be necessary for the payment of the expenses of the administration, he may also apply for an order to sell so much of the personal estate as shall be necessary.

SEC. 31. Section 1508 of said code of 1881 is amended

to read as follows: The executor or administrator making any sale of real estate shall, within ten days thereafter, make a return of his proceedings to the court, which shall examine the same, and if the court shall be of opinion that the proceedings were unfair, or that the sum bidden is disproportionate to the value, and that a sum exceeding such bid at least ten per cent., exclusive of expenses of a new sale, may be obtained, the order of sale shall be vacated, another sale shall be ordered. On a resale, notice shall be given, and the sale shall be conducted in all respects as if no previous sale had been made.

SEC. 32. Section 1515 of said code of 1881 is amended to read as follows: When such provision has been made, or any property directed to be sold, the executor administrator with the will annexed may proceed to sell without the order of the court; but he shall be bound as an administrator to give notice of the sale and to proceed in making the sale in all respects as if he were under the order of the court, unless there are special directions given in the will, in which case he shall be governed by such directions; but in no [all] cases he shall make return of the sale to the court, which shall vacate such sale unless the same shall appear in all respects to be made according to law in like manner as upon sales made by administrator.

SEC. 33. Section 1547 of said code of 1881 is amended to read as follows: If the court be satisfied, either from the oath of the applicant or from any other testimony that may be offered, that the facts alleged are true, and shall consider the showing of the applicant sufficient, a citation shall be issued to the executor or administrator requiring him to appear on some day named in the citation and render an exhibit as prayed for.

SEC. 34. Section 1556 of said code of 1881 is amended
Settlement. to read as follows: When the account is rendered for settlement, the court, or the judge thereof, shall appoint a day for the hearing and settlement of the same, and notice of such hearing and settlement shall be given by posting notices thereof in three of the most public places in the county, and publishing a similar notice for such time as the court or judge may order, in a newspaper published in

the county, or if there be no newspaper published in the county, then in a newspaper published in the state and of general circulation in the county. The notice shall set forth the name of the estate, of the executor or administrator and the day appointed for the settlement of account, which shall be on some day not more than six weeks after the filing of the account.

SEC. 35. Section 1568 of said code of 1881 is amended to read as follows: Whenever a decree shall have been made by the court for the payment of creditors the executor or administrator shall be personally liable to each creditor for his claim, or the dividend thereon; and execution may be issued on such decree as upon a judgment in favor of each creditor. The executor or administrator shall also be liable on his bond to each creditor. Liability of executor.

SEC. 36. Section 1572 of said code of 1881 is amended to read as follows: If the executor or administrator neglect to render his final account, the same proceedings may be had as are prescribed in this chapter in regard to the first account to be rendered by him; and all the provisions of this act relative to the last mentioned account and the notice and settlement thereof shall apply to his account presented for final settlement.

SEC. 37. Section 1573 of said code of 1881 is amended to read as follows: At any time after six months from the issuing letters testamentary or of administration, any heir, legatee or devisee may present his petition to the court that the legacy or share of the estate to which he is entitled may be given to him upon his giving bonds, with security, for the payment of his proportion of the debts of the estate. Rights of heirs.

SEC. 38. Section 1594 of said code of 1881 is amended to read as follows: The commissioners shall make a report of their proceedings in writing, and the court may, for sufficient reasons, set aside such report and remit the same to the same commissioners or appoint others; and the report, when finally accepted and established, shall be recorded in the records of the court, and a certified copy thereof, under the seal of the court, shall be recorded in

the office of the county auditor of the county where the land lies.

SEC. 39. Section 1601 of said code of 1881 is amended to read as follows: When any person shall appear and claim the money paid into the treasury the court making the distribution, being first satisfied of his right, shall order the payment of such money, and upon the presentation of a certified copy of the order to the county auditor he shall draw his warrant on the county treasurer for the amount.

SEC. 40. If any person who is bound by contract in writing to convey any real property shall die before making the conveyance, the superior court of the county in which such real estate or any portion thereof is situate may make a decree authorizing and directing his executor or administrator to convey such real property to the person entitled thereto.

SEC. 41. On filing and presentation of a petition of any person claiming to be entitled to such conveyance under such contract, setting forth the facts upon which such claim is predicated, the court, or the judge thereof, shall make an order appointing a time for hearing such petition, and shall also order notice thereof, and of the time of the hearing, to be published four successive weeks next before such hearing in such newspaper in the state as the court shall designate; and in case such deceased person was an inhabitant of this state at the time of his death, or died in this state, and in all other cases in which an executor or administrator has been appointed in this state the court shall further order that the notice be personally served upon the executor or administrator, by delivery to him of a copy of the same, together with a copy of the petition.

Distribution of
property.

SEC. 42. At the time appointed for such hearing, or at such other time as the same may be adjourned to, upon proof of the publication of the notice, and of personal service thereof where personal service is required, the court shall proceed to a hearing, and all persons interested as creditor, heirs, devisees or personal representatives may appear and resist such petition by filing their objections, in writing, and the court shall examine, on oath, the petition-

ers, and all witnesses who may be produced on the hearing, by an interested party, for that purpose.

SEC. 43. Such conveyance shall be executed by the executor or administrator of the estate of the deceased, if the deceased was a resident of or had his place of abode at the time of his death in this state, or if he died therein, or if an executor or administrator has been appointed therein; but in such case no decree for conveyance shall be made unless the executor or administrator shall have been served with a copy of the said petition and the notice provided for in section eleven hundred and seven, at least twenty days prior to the time appointed for the hearing.

SEC. 44. If the deceased died out of the state, and was not an inhabitant thereof at the time of his death, and no executor or administrator shall have been appointed in the state, such conveyance shall be executed by a commissioner to be appointed by the court, in the decree, for that purpose; but in such case, in addition to the notice provided for in section eleven hundred and seven, it shall appear to the satisfaction of the court, at the hearing, that the executor or administrator of such deceased duly appointed in another state, territory or country, or his heirs or devisees, shall have had reasonable notice personally of the pendency of said petition, and of the time and place appointed for such hearing. And such foreign executor or administrator shall have the same right to file objections and resist the claim of the petitioners as an executor or administrator appointed under the laws of this state would have; and it shall not be necessary, in such case, that an administration of the estate of the deceased be had in the state to authorize the decree of conveyance prayed for.

SEC. 45. Any party interested may appeal therefrom to Appeals. the supreme court, in the same manner as appeals are taken and prosecuted from final decrees or judgments in equity causes; but if no appeal be taken from such decree within the time limited therefor, or if such decree be affirmed on appeal, it shall be the duty of the executor, administrator or commissioner to execute and deliver the conveyance according to the directions contained in the decree; and a certified copy of the decree shall be recorded

with the deed in the office of the auditor of the county where the lands lie, and shall be conclusive evidence of the correctness of the proceedings and of the authority of the executor, administrator or commissioner to make such conveyance.

SEC. 46. A copy of the decree for conveyance made by the court and duly certified and recorded in the office of the auditor of the county wherein the land is situate, shall, after affirmance upon appeal, or after expiration of the time for taking an appeal in case no appeal be taken, give to the person entitled to the conveyance a right to the immediate possession of the land contracted for, and of holding the same according to the terms of the intended conveyance, in like manner and with like effect as if they had been conveyed in pursuance of the decree.

SEC. 47. If the person to whom the conveyance was to be made shall die before the commencement of the proceedings according to the provisions of this chapter, or before the completion of the conveyance, any person who would have been entitled to the conveyance under him, as heir, devisee or otherwise, in case the conveyance had been made according to the terms of the contract, or the executor or administrator of such deceased person, for the benefit of persons entitled, may commence such proceedings or prosecute the same if already commenced; and the conveyance shall be so made as to vest the estate in the persons who would have been entitled to it, or in the executor or administrator for their benefit.

Testimony.

SEC. 48. The testimony of witnesses in support of the claim of the petitioner may be taken by deposition whenever the deposition of such witnesses might be taken to be used in the trial of a civil action; but notice of the time and place of taking such deposition shall be published by the petitioner, in the paper required to be designated by section eleven hundred and seven, for three successive weeks prior to taking the same, which notice shall also state the name of the officer before whom the deposition is to be taken, and the name[s] of the witnesses whose testimony is proposed to be taken at such time and place, and shall also be served personally in all cases wherein per-

sonal service of the notice is required by the provisions of section eleven hundred and seven. Any party interested in the estate may appear and cross-examine such witnesses, and the manner of examination and form of such deposition shall be in conformity with the statute regulating depositions of witnesses in civil actions. Any party interested in the estate, and resisting the claim of the petitioner, may, after filing his objections, take the testimony of witnesses in his behalf in like manner as in civil actions.

SEC. 49. The foregoing sections of this act shall be embodied in the code of procedure of this state under appropriate numbers, and shall be a part of the law of procedure in relation to probate.

SEC. 50. Sections 623, 624, 625, 627, 628, 630, 631, 632, 633 and 634 of said code of 1881 are repealed.

Approved March 9, 1891.

CHAPTER CLVI.

[S. B. No. 132.]

AMENDING MUNICIPAL INCORPORATION LAW.

AN ACT to amend sections 105, 106, 114 and 117 of an act entitled "An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency," and approved March 27, 1890.

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

SECTION 1. That section one hundred and six (106) of said act shall be amended to read as follows: Sec. 106. The mayor, members of the city council, and the assessor, treasurer and health officer shall be elected by the qualified electors of said city at a general municipal election to be held therein on the first Tuesday after the first Monday in December in each year. The mayor, treasurer, assessor Terms of office. and health officer shall hold office for the period of one year from and after the second Tuesday in January next

Classification.

succeeding the day of such election, and until their successors are elected and qualified. Members of the city council shall hold office for the period of two years from and after the second Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified: *Provided*, That the first city council elected under the provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of one year and three at the expiration of two years. The city attorney, marshal, city clerk and street commissioner, and such other officers as the city council may deem proper, shall be elected by the city council and shall hold office for one year, unless sooner removed for cause. The city council may, in their discretion, appoint a pound master to hold office during the pleasure of the council, and a city engineer who shall hold office during the pleasure of the council.

Quorum.

SEC. 2. Section one hundred and fourteen (114) of said act shall be amended to read as follows: Sec. 114. At any meeting of the city council a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence the council may appoint a mayor *pro tem.*, and in case of the absence of the clerk the mayor as [or] mayor *pro tem.* shall appoint one of the members of the city council as clerk *pro tem.* Every ordinance which shall have passed the city council shall be, before it becomes valid, presented to the mayor; if he approves he shall sign it, but if not he shall return it, with his written objections, to the city council, and the council shall cause such written objections to be entered at large upon the journal of its proceedings. Upon receipt of the mayor's objections the council shall proceed to reconsider the vote by which the ordinance was passed. After such reconsideration four members of the city council present and voting may, by an affirmative vote, pass the ordinance

Duties of mayor.

over the mayor's veto; such vote shall be taken by a call of the yeas and nays. If the mayor shall fail, for the period of ten days, to approve or veto an ordinance it shall become valid without his approval.

SEC. 3. Section 117 shall be amended to read as follows: The city council of such city shall have power— *Ordinances*.—(1) To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

City Real Estate.—(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the city: *Provided*, That they shall not have power to sell or convey any portion of any water front; but may rent such water front for a term not exceeding ten years for the purpose of erecting bath houses thereon; and may improve part of such water front by building inclines or wharves for the accommodation of shippers, and to charge and collect for the use of the same such amounts as will compensate the city for the expenses incurred and the repairs needed from time to time; to prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof.

Water.—(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs or other works necessary or proper for supplying water for the use of such town or its inhabitants, or for irrigating purposes therein. *Public Highways*.—(4) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cause to be planted, set out and cultivated shade trees therein; and generally to manage and control all such highways and places.

Sewers.—(5) To establish, construct and maintain drains and sewers. *Fire Extinguishment*.

- (6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires. *Poll Tax.*—(7) To impose on and collect from every male inhabitant between the ages of twenty-one and fifty years an annual street poll tax not exceeding two dollars, and no other road poll tax shall be collected within the limits of such city: *Provided*, That any member of a volunteer fire company in such city shall be exempt from such tax. *Dog Tax.*—(8) To impose and collect an annual license, not exceeding two dollars, on every dog owned or harbored within the limits of the city. *Property Tax.*—(9) To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; and for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city. *Liquor Tax.*—(10) To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law, and transacted or carried on in such city, and all shows, exhibitions and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise. *River Improvements.*—(11) To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to improve the water front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the pollution of streams of water, and for this purpose shall have jurisdiction over all streams within its limits and for two miles beyond in either direction. *Municipal Buildings.*—(12) To erect and maintain buildings for municipal purposes. *Buildings.*
- Railroad tracks and pipes.* *Tracks and Pipes.*—(13) To permit, under such restrictions as they may deem proper, the laying of railroad tracks, and the running of cars drawn by horses, steam or other

power thereon, and the laying of gas and water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of, telegraphs, telephone and electric lines therein. *Ward Divisions.*—(14) In its discretion, to divide the city, by ordinance, into a Wards. convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: *Provided*, That no change in the boundaries of any ward shall be made within sixty days next before the date of such general municipal election, nor within twenty months after the same shall have been established or altered. When every such city shall be so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from such ward, apportioning the same in proportion to the population of such wards. And thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by a general vote of the whole city, as may be designated in such ordinance. *Policemen.*—(15) To appoint and remove such Police. policemen and other subordinate officers as they may deem proper, and to fix their duties and compensation. *Violations of Ordinances.*—(16) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months. *Prison Labor.*—(17) To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property or works within the city. *Fire Limits.*—(18) To establish fire limits, with proper regulations. Power to punish. (19) The city council may appropriate from the general fund an amount not exceeding one-fourth of one mill of the taxable property of the city for the purpose of establishing and maintaining a public library. *Other Acts.*—(20) To make all such ordinances, by-laws, rules, regulations and resolutions, not inconsistent with the constitution and laws of the State of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any Fire limits.

and all other acts and things necessary or prompt [proper] to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws.

SEC. 4. Section 105 of said act shall be amended to read as follows: Sec. 105. The government of said city shall be vested in a mayor and a city council to consist of seven members, a treasurer, a city attorney, a clerk, a marshal, an assessor, a health officer, and such subordinate officers as are hereinafter provided for; and whenever a free public library and reading room is established therein, five trustees thereof: *Provided*, That the mayor or mayor *pro tem.* shall, on or before the 15th day of June 1891, with the consent and approval of the city council, appoint the additional member as provided for by this section as amended, who shall hold his office until the next general election and until his successor is elected and qualified: *And provided further*, That at the next general election, and annually thereafter, one councilman shall be elected at large in the same manner as other city officers are elected.

Emergency.

SEC. 5. Whereas, in consequence of cities and towns as enumerated in this act have an even number of councilmen, the public business of such cities suffer by reason of a tie vote on business of importance; therefore, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage and approval by the governor.

Approved March 9, 1891.

CHAPTER CLVII.

[H. B. No. 121.]

TO PROVIDE FOR SELECTION OF GRANTED LANDS.

AN ACT to provide for the selection of lands granted to the State of Washington under act of congress approved February 22, 1889, for the purpose of the erection of public buildings and a penitentiary; the use and support of agricultural and scientific normal schools, and charitable, penal and reformatory institutions; also providing for selection of lands granted to the State of Washington under sections 1947, 2275 and 2276 of the revised statutes of the United States.

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

SECTION 1. The state land commission is hereby authorized, empowered under the direction of the secretary of the interior, and directed to select the lands donated to the State of Washington under sections 12, 15, 16 and 17 of act of congress approved February 22, 1889, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," for the purpose of the erection of public buildings; the erection of a penitentiary; the use and support [of] agricultural schools, scientific schools, state normal schools, and charitable, penal and reformatory institutions. The said state land commission is also hereby authorized, empowered and directed to select all lands reserved for the State of Washington, under sections numbers 1947, 2275 and 2276 of the revised statutes of the United States in lieu of deficiencies in sections 16 and 36 by reason of settlement thereon prior to survey, or from loss by natural cause.

SEC. 2. The governor shall nominate and appoint not less than three nor more than seven freeholders and citizens of the United States who shall have been residents of the state for at least three years last past, who shall be known and denominated as agents for said commission for the selection of the lands granted as aforesaid under the direction of the commission.

SEC. 3. The said agents before entering upon their duties

Duty of agents. shall enter into a bond unto the State of Washington in the sum of five thousand dollars (\$5,000), conditioned to well and faithfully perform their duties as such, to be approved by the state land commissioner, and shall take and subscribe an oath before some officer authorized to administer oaths according to the laws of the state, in substance as follows: "I, A. B., do solemnly swear that I will well and truly perform the duties of agent of the State of Washington in the selection of the lands granted thereto, to the best of my knowledge and ability; and, further, that I will not communicate to any person not a member of the state land commission any information in relation to the location, character and value of the public lands examined by me, or disclose to any one any thing in relation to such public lands except to such commission; that I will personally and carefully examine each parcel or tract of land to be listed by me, and make an appraisement and value of the same and the timber thereon; that I am not nor will I become interested directly or indirectly in the sale or purchase of such lands, and that I will report every material fact connected with said lands directly to the state land commission, to enable it to determine the situation, value and character of the timber thereon and the lands selected by me." That upon filing of such bond and affidavit the agent may be authorized and commissioned by the state land commission to view, select and appraise lands as hereinafter stated.

SEC. 4. One of said agents to be designated by the state land commission shall visit each of the United States land offices in the state, and secure, as near as may be, lists of the unoccupied and unappropriated lands of the United States, and report the lists of lands to the state land commission, which shall divide the state into districts and assign one or more agents to view and examine the said lands, by the smallest legal subdivisions of forty acres each, and shall classify such lands into grazing, farming and timbered lands, and estimate the value of each tract so viewed; said agent shall also in timbered lands estimate the amount and value of the standing timber thereon and the value of the land after the timber is removed; he shall make a report thereof [to] the state land commission as amply [and] expe-

ditiously as possible, on blank lists to be furnished by said commission for that purpose; that said report shall be made under oath, to the effect that the agent has personally examined the tracts mentioned in each forty acres thereof, that said report and appraisement is made from such personal examination and is, to the best of the affiant's knowledge and belief, true and correct, and that the lands are not occupied by any *bona fide* settler.

SEC. 5. Upon receipt of such report or reports the state land commission shall arrange and classify the lands so selected by the several agents into several lists for filing in the several U. S. district land offices of the United States in the state, and shall classify the lands and apportion them to the several specific grants under said act of congress referred to, so that there may be lands of nearly as equal value as possible apportioned to the several grants. Said lists shall be made in triplicate, one for filing in said local land offices, one for transmission by it to the secretary of the interior and one to be kept by said land commissioner. Said lists shall be numbered consecutively under each grant and shall state the grant for which the same is made. The commissioner of public lands shall file said lists so arranged, classified and duly certified under the rules and regulations of the secretary of the interior, in the several U. S. district land offices throughout the state having jurisdiction thereof: *Provided*, That if it be found, upon the filing of said lists, that any of the lands described therein have been filed upon or applied for, the state land commission is authorized to eliminate therefrom such lands: *And provided further*, The state land commission may decline to list any lands reported by their several agents which may not by them be deemed desirable.

Land commission shall classify lands.

SEC. 6. That each agent so appointed by the state land commission shall receive as his pay for selecting, viewing and appraising said lands, including the timber thereon, the sum of ten cents per acre for all timber lands and two and one-half cents per acre for all prairie lands which may be selected by the state land commission and certified and approved by the several U. S. district land offices.

Compensation.

SEC. 7. The commissioner of public lands shall certify

quarterly to the state auditor the amount of lands which have been selected by each agent and certified, allowed and approved by the secretary of the interior of the United States, and the character of the same, whether timbered or prairie lands, and the amount due each agent, and the state auditor shall thereupon draw his warrant upon the state treasurer for said amount and the state treasurer shall pay said sum out of any moneys in the state treasury not otherwise appropriated.

Rules.

SEC. 8. The state land commission is directed to make all necessary rules and regulations for the carrying out of the true intent and spirit of this act.

Duration of employment.

SEC. 9. The agents so appointed by the governor shall hold office only in the discretion of said governor, and may by him be removed either for cause or at his pleasure.

SEC. 10. If any agent knowingly or willfully shall make a false appraisalment on said lands, or knowingly or willfully divulge anything or give any information in regard to such lands other than to such commission, he shall forthwith be removed from office and be deemed guilty of perjury and subject to the penalties thereof.

SEC. 11. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 12. This act shall not become operative until the secretary of the interior has promulgated rules and regulations for the selection of the lands granted to the state.

Approved March 10, 1891.

CHAPTER CLVIII.

[H. B. No. 203.]

AMENDING TIDE AND SHORE LAND LAW.

AN ACT to amend section eight of an act entitled "An act for the appraising and disposing of the tide and shore lands belonging to the State of Washington," approved March 26, 1890.

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

SECTION 1. That section eight of "An act for the appraising and disposing of the tide and shore lands belonging to the State of Washington" be amended to read as follows: Sec. 8. Any person, association or corporation entitled to purchase or hold real estate in the State of Washington, who shall desire to purchase under this act, may file with the commissioner of public lands an application to purchase any of the lands herein described, which application shall contain a description of the land applied for by metes and bounds. The commissioner of public lands shall furnish the state board of equalization and appeal with a true copy of said application. Upon receipt of said application the commissioner of public lands shall, at the expense of the applicant, publish for three weeks in any newspaper printed in the county in which the land is situated, a notice of such application to purchase, with a description thereof. If at the expiration of thirty (30) days no notice of contest is filed with the said state board of equalization and appeal, said appraisement shall stand confirmed and be the price at which said land shall be sold, as hereinafter provided: *Provided*, That the prosecuting attorney of any county wherein such land is situated may, whenever he deems it proper, or at the request of the state land commissioner, or of ten freeholders of the county wherein said land is situated, it shall be his duty to appeal from any appraisement of the tide or shore lands made by the county board of appraisers of any county hereinbefore provided for; which appeal shall be taken in the name of the State of Washington by a notice of appeal filed with the state board of equalization and appeal hereinbefore named, which said notice shall be in substance as follows:

Application to purchase.

Public notice.

Appraisement.

Appeal.

Form of notice
of appeal.

To the state board of equalization and appeal for the appraisalment of and confirmation of appraisements of tide and shore lands for the State of Washington, and to A— B—, applicant to purchase:

You, and each of you, will take notice that the State of Washington hereby appeals from the appraisalment of the board of appraisers of tide and shore lands for the county of —, State of Washington, appraising and fixing the value of the following lands, to wit: [Here describe the lands], at the following values, to wit: [Here state value or values], to the state board of equalization and appeal for the appraisalment of tide and shore lands for the State of Washington. Dated this — day of —, 189—.

A— B—,

Prosecuting attorney for the county of —, State of Washington.

Limit of time
for appeal.

Which said appeal shall be taken within sixty (60) days after the appraisalment complained of has been filed with the said state board of equalization and appeal, and a copy of said notice shall within said sixty (60) days be served upon the applicant to purchase said tide or shore lands, the appraisalment of which is complained of, in the same manner that summons in a civil action is served, and it shall be the duty of said state board of equalization and appeal thereafter to hear said appeal as fully as the same can be heard by the county board of appraisers, and said state board of equalization and appeal may require the attendance of the attorney general of the State of Washington at any time to represent the state upon the hearing of such appeal. Upon such appeal the state board of equalization and appeal shall confirm or reappraise and fix the value of such lands, and the value fixed upon by the state board of equalization and appeal shall be the value at which said land shall be sold as hereinafter provided.

Approved March 10, 1891.

CHAPTER CLVIX.

[S. B. No. 71.]

IMPROVEMENT OF HARBORS AND WATERWAYS.

AN ACT relating to the improvement of harbors and waterways in the State of Washington, and providing funds therefor.

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

SECTION 1. That seventy-five (75) per cent. of the proceeds derived by the state from the sale of tide lands within the limits of any incorporated city or town in the State of Washington, or within one mile on either side thereof, shall be, and the same is hereby, appropriated and shall be set apart as a special fund by the state treasurer Special fund. for the construction and maintenance of a system of permanent and substantial improvements in aid of commerce and navigation in and for the harbor of such city or town wherein such tide lands may be sold, and the remaining twenty-five (25) per cent. shall be paid into the general tide land fund of the state.

SEC. 2. Wherever harbor lines are now, or may hereafter be, located and established within or in front of any incorporated city or town in the State of Washington, the harbor line commission is hereby authorized and directed to approve and adopt, subject to the approval of the secretary of war, or an advisory board created by the secretary of war, as soon as may be practicable, such a system of harbor improvements, within the harbor line strip for each harbor wherein such lines may be located and established, as will conform as nearly as practicable to any permanent improvements constructed or under construction therein as in their judgment, and upon the available advice of competent engineers, shall be best calculated to promote the permanent commercial welfare thereof; and all funds appropriated for the purposes of harbor improvements under the foregoing section of this act, or otherwise, shall be expended under the direction, supervision and control How expended. of the harbor line commission of the State of Washington, and the state auditor is hereby directed, upon the filing of vouchers approved by the harbor line commission, to draw warrants on the state treasurer, payable out of the several

harbor improvement funds, and the state treasurer shall pay all said warrants out of said funds.

SEC. 3. In keeping the account of this fund the state treasurer is directed to credit each harbor with the amount received for sale of tide lands, as provided in section 1 of this act, and debit each harbor for warrants drawn for improvements therein.

SEC. 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 10, 1891.

CHAPTER CLX.

[S. B. No. 182.]

PROVIDING FOR DRAINAGE IN CITIES OF THE SECOND, THIRD AND FOURTH CLASS.

AN ACT to provide for the drainage of cities of the second, third and fourth class, by the construction of sewers and drains.

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

SECTION 1. All cities of the second, third and fourth class in this state are empowered to establish drainage and sewerage, and for the purpose of determining whether or not the city is susceptible of one, or requires two or more modes of drainage and to determine the best system of drainage for the city, may have preliminary surveys made and estimates of the cost thereof. The system adopted may provide for draining the surface water and the underground water by separate plans and modes, or by the same system of drainage. The mode to be adopted shall be designed to effect the drainage, not only of the surface water but also the ground by under drainage where practicable to a depth sufficient to secure dryness of cellars and basement stories, and to relieve the land to be affected by such drainage from stagnant water.

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. Sewer system. 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 city.

SEC. 3. The city council may, on proper application, establish in connection with a main sewer 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.

SEC. 4. When such application is presented the city council shall fix a time for the hearing thereof, and direct that notice of the hearing be given by the city clerk; the notice must be given by publishing the same in a newspaper or posting such notice in writing in three public places within the city. Notice of hearing. The notice shall state the object of the petition, the time when it will be heard, and give the boundaries of the proposed sewer district. It shall be signed by the city clerk. When the notice is published in a newspaper it Publication. must appear at least six days before the time fixed for the hearing, and when posted it must be so posted at least six days before the hearing. The affidavits of the publisher or the city clerk shall be taken and filed, showing the publication or posting. At the time fixed for the hearing, if it be found that the petition is signed by persons owning a ma-

majority in quantity of the lands included within the boundaries set forth therein, and the city council find that it is practicable and expedient to construct the sewer as prayed for in the petition, or as changed or modified at the hearing thereof, and that the same when constructed will drain all the lands included in the petition, the city council may grant the petition and provide for the construction of the sub-sewer at the cost and expense of the real property within the boundaries set forth in the petition, according to benefits.

SEC. 5. The sub-sewer shall be constructed by contract, let to the lowest bidder furnishing satisfactory sureties; but before a contract is let notice shall be given by publication in a newspaper, or by posting written notices in three public places in the city, one of which must be within the sub-sewer district, at least six days before the time fixed for considering the bids. If published, the notice must appear in a newspaper published in the city at least six days before the time fixed for considering bids, and an affidavit of the publication or posting must be taken and filed with the city clerk. The notice must be signed by the city clerk, and must set forth that bids will be received on a certain date therein named for the construction of a sewer, and that the size, dimensions of the sewer, and the materials of which it is to be constructed may be seen at the office of the city clerk, and the date upon which the bids will be considered. All bids must be sealed and delivered to the city clerk. After the contract shall have been let and entered into, the city council may appoint some suitable person as superintendent on behalf of the sub-district to see that the work is done substantially as required by the contract, and whose compensation shall constitute part of the cost and expense of the construction of the sewer; or the superintendence of the construction may be required as part of the duties of the superintendent of streets when such office exists.

Contract upon
bids.

SEC. 6. After the sub-sewer contracted for shall have been constructed and approved by the person specially appointed to superintend the construction thereof, or by the superintendent of streets, or by a committee of the city

council, and such fact be reported to the city council, notice shall be given to all persons interested that said sub-sewer has been reported as completed, and that all objections to accepting the same, as constructed and completed according to the terms of the contract, will be heard and considered at a time to be fixed and stated in the notice. The notice must be signed by the city clerk and published one time in a newspaper published in the city, or written notices posted by the city clerk in at least three public places in the city, one being within the sub-sewer district, at least six days before the date stated in the notice, and an affidavit of the publication or posting of the notices must be taken and filed. At the time fixed, or such other time as the hearing may have been adjourned to, the city council shall hear and determine all objections, written or oral, that may be presented to the acceptance of the sewer by reason of not having been constructed or completed according to the contract entered into for the construction thereof. After the sewer shall have been made to conform to the requirements of the contract, or after all objections made thereto shall have been overruled, the city council shall make an order accepting the same, and shall proceed to ascertain the entire cost of the construction of said sewer, including all necessary incidental expenses; immediately thereafter the city assessor shall proceed to assess and apportion the gross cost of such sewer to the real property within the sub-sewer district, to each lot, tract, subdivision or parcel a ratable proportion thereof, according to benefits enuring by reason of the construction of the sewer. Each lot, tract, subdivision or parcel shall be described with reasonable certainty sufficient to identify the same. The name of each owner shall be given when known; if not known the words "unknown owner" shall be written where the owner's name would appear if known. The assessment must state the amount charged to each lot or parcel separately. The city assessor must make out the assessment and return the same within such reasonable time as the same can be conveniently done. He shall be allowed for his compensation the same compensation as when making other official assessments

Cost; how paid.

for city taxable purposes, and the amount of his compensation shall be allowed by the city council and included as necessary incidental expenses. The assessment when made shall be known as the "assessment roll."

SEC. 7. As soon as the assessment roll shall have been made out and returned to the city clerk, the city council shall fix a time for hearing and determining objections thereto, and at the time fixed shall hear all written or oral objections to the assessment, and may adjourn the hearing thereof from time to time, not exceeding in all four weeks. Notice of the time fixed shall be given by publication at least one time in a newspaper published in the city, or by posting up written notices by the city clerk in three public places in the city, one of which shall be in the sub-sewer district, at least six days prior to the time fixed for the hearing, and an affidavit of the publishing or posting of the notice must be signed by the city clerk. After all objections shall have been heard and determined, the city council may make any order necessary or proper tending to equalize the assessment of the cost of construction of the sub-sewer proportionately to each lot, tract, subdivision or parcel within the sub-sewer district, according to benefits. The city clerk shall thereupon make out an equalized assessment roll of all the real property within the sub-sewer district, with the name of each owner or, if unknown, writing the words "unknown owners" in place of the owner's name, description of each lot, tract, subdivision or parcel, correcting any defective or misdescription, if any given, by the city assessor, and writing the amount of tax assessed to each lot, tract, subdivision or parcel separately. After completing the assessment roll the clerk must make out and append thereto his certificate to the effect that the assessment roll is true and correct as corrected and equalized, and is the assessment roll of the special tax for the construction of the sub-sewer of the sub-sewer district (giving the name or number thereof, if known by any), and thereafter the assessment roll shall be complete, valid and binding upon the property assessed.

Equalizing assessment.

SEC. 8. From and after the making out and signing by the city clerk of the assessment roll mentioned in the pre-

ceding section, the charges assessed upon each lot, tract, subdivision or parcel of land included within the sub-sewer district and listed upon the assessment roll, shall constitute a lien thereon, which lien shall continue for the full amount of the charges severally assessed to each lot, tract, subdivision or parcel of land, with delinquency, interest and costs, until paid or collected. Immediately thereafter the city clerk shall give notice by publication in a newspaper published in the city for a period of at least four weeks, one time each week, to the effect that the assessment roll has been delivered to the city marshal, and that if the assessments be not paid within two months from the date of the notice the same will be delinquent and ten per cent. will be added thereto for delinquency, and the assessment and delinquency collected with interest from date of delinquency at the rate of ten per cent. per annum and costs.

Tax lien.

Delinquencies.

SEC. 9. All assessments made under the provisions of this act shall become due and payable immediately after the assessment roll shall have been certified by the city clerk, and by him delivered to and received by the city marshal, which date must be noted on the assessment roll by the city marshal. And unless the payments be made within two months from said date the same shall become delinquent, and thereupon ten per cent. shall be added thereto for delinquency. Upon delivery of the assessment roll to the city marshal he shall stand charged therewith, and be liable therefor on his official bond.

SEC. 10. Within ten days, or other reasonable time, after any assessment shall have become delinquent by reason of non-payment, the city marshal [shall] advertise the property liable for the payment thereof for sale. A notice of the time and place of the sale must be advertised by posting a written or printed copy of notice upon or near to the lands to be sold, and in two other public places in the city; also by publishing such notice in a newspaper published in the city, if any published therein. Posted notices must be so posted at least 30 days prior to the day of sale. Notices published in a newspaper must be so published one time each week for four successive weeks, the last insertion to be at least five days before the day of sale. Affidavits of

Advertising and sale of property.

the publication and posting must be taken and filed with a return of sale with the city clerk. The notice shall state the name of the person assessed, a description of the land assessed and the amount charged against the land, and must be signed by the city marshal.

SEC. 11. All lands sold under the provisions of this act shall and must be sold at or near the front door of the city hall, or in case there be no city hall, then in front of the building where the city council holds its meetings (or did when the notice was given) and between the hours of 10 o'clock A. M. and 12 o'clock M. on the day specified in the notice. The law providing for the sale of lands for delinquent state and county taxes, except as otherwise herein provided, not inconsistent with the provisions of this act, and which can be applied thereto, shall be applicable and applied to all sales of lands made for delinquent taxes or assessments under the provisions of this act. When there is no bidder at the sale willing to take the land offered for any delinquent assessments, the property shall be struck off and sold to the city treasurer for the benefit of the sewer district fund; and shall thereafter be held and sold at private sale to any purchaser who will pay the amount for which the land was sold with interest from the date of sale at the rate of ten per cent. per annum, and any subsequent taxes paid thereon, with interest thereon at the same rate from payment thereof, subject to all taxes and assessments accrued against the same: *Provided*, Any lands sold under the provisions of this act may be redeemed as now provided, or as may hereafter be provided by law, for the redemption of property sold for state and county taxes or either, and all deeds made upon sale of any property under the provisions of this act shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds of property sold for non-payment of state and county taxes or either: *Provided*, When lands are struck off and sold to the city treasurer, as hereinbefore provided, the title thereto if not redeemed, unless sold to a purchaser before the time of redemption expires, shall vest in the city treasurer in trust, without the execution of a deed. If sold to a purchaser before redemption and not redeemed,

Redemption of
land.

the title, after expiration of the time for redemption, shall pass without a deed other than the deed of the city treasurer.

SEC. 12. All moneys, when collected for any assessment herein, shall be paid over to the city clerk, and by him immediately to the city treasurer, first charging him therewith. All moneys accruing and becoming due to any person or persons on account of the creation of a sub-sewer district, or the construction of a sub-sewer therein, shall be audited by the city council and paid out of the sub-sewer district fund, and warrants shall be drawn payable by the city treasurer out of said fund. Warrants so drawn, if not paid for want of funds, shall be endorsed by the city treasurer "Not paid for want of funds," with date and signature, and a register thereafter [thereof] be kept by the city treasurer, and payment of warrants registered shall be made in chronological order of their registry. After their registry for non-payment interest shall be paid thereon at the rate of six per cent. per annum.

Moneys; how paid.

Register.

SEC. 13. If it be necessary to any system of drainage adopted by the city council to construct a drain or part of the system outside of the limits of the city, to connect with any stream of water, river, lake or other place of discharge of the city drainage, or any part thereof, the city council may acquire a right-of-way over any lands necessary for that purpose. All sewers constructed under authority of this act must be laid out and constructed over and within a public street, alley or other public place or highway, so far as practicable, but whenever it becomes necessary to construct a sewer upon and through the lands of private persons or owners, within or without the city, the right-of-way therefor may be obtained as provided for by law, and the city council may direct proceedings to be taken to obtain such right-of-way as is or may hereafter be provided by law. Drains for sewerage or for carrying away sewerage may be covered or open, as the city council may direct.

SEC. 14. Whereas, there is no legal provision authorizing cities of the second and third classes to obtain the right-of-way outside of their city limits for the construction of sewers; it is, therefore, hereby declared that an emergency

Emergency.

exists, and this act shall be in force from and after its passage and approval.

Approved March 10, 1891.

CHAPTER CLXI.

[H. B. No. 83.]

REGULATING SCREENING AND WEIGHING OF COAL.

AN ACT concerning the screening and weighing of coal.

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

SECTION 1. It shall be unlawful for any mine owner, lessee or operator of coal mines in the State of Washington employing miners at bushel or ton rates, or other quantity, to pass the out-put of coal mined by said miners over any screen or other device which shall take any part from the value thereof before the same shall have been weighed and duly credited to the employé sending the same to the surface, and accounted for at the legal rate of weights as fixed by the laws of the State of Washington.

SEC. 2. The weighman employed at any mine shall subscribe an oath or affirmation before a justice of the peace, or other officer authorized to administer oaths, to do justice between employer and employé, and weigh the out-put of coal from the mines as herein provided. The miners employed by or engaged in working for any mine owner, operator or lessee, or any mine in this state, shall have the privilege, if they desire, of employing at their own expense a check-weighman who shall have like rights, powers and privileges in the weighing of coal as the regular weighman and be subject to the same oath and penalties as the regular weighman. Said oath or affirmation shall be kept conspicuously posted in the weigh office, and any weigher of coal, or any person so employed, who shall knowingly violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be pun-

Oath of weighman.

Rights of employes.

ished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a period not to exceed thirty days, or by both such fine and imprisonment, proceedings to be instituted in any court having jurisdiction therein.

Approved March 16, 1891.

MEMORIALS AND RESOLUTIONS.

SENATE MEMORIAL NO. 1.

To the Senate and House of Representatives in Congress Assembled:

Your memorialist, the legislature of the State of Washington, would respectfully represent: That it views with disfavor and alarm the defenceless condition of our country. Though in population it exceeds any other civilized nation the world has ever seen; and in wealth, commerce and financial strength it is even further in the lead; and though the people, without regard to locality or political party, have long desired and demanded a policy in this matter consistent with our position and prominence among the nations of the earth, the United States is now and has been for a quarter of a century, almost absolutely without protection against foreign foes. The nation has been repeatedly humiliated in its international affairs simply because it did not possess the ready means in the shape of modern guns, fortifications and war ships, to command at once that respect to which it was entitled. Your memorialist does not believe in an aggressive, overbearing or bellicose national spirit, but it does believe in a national propriety and dignity, backed by sufficient force, that no power or powers would dare insult or assail. With its immense coast exposure, and with its lack of fortifications; with its new navy yet in its incipiency, and with only the most limited means for the making of great guns, the putting of the United States in a condition for war, thereby insuring peace, is a vast undertaking, requiring many years' time and the expenditure of hundreds of millions of money. These works cannot be begun a day too soon or pushed too rapidly. Your memorialist urges the expenditure of at least fifty million dollars per annum upon gun foundries, arsenals, fortifications, navy yards and ships, and it trusts

that the present short session of your honorable body will not be allowed to expire without the making of appropriations for the purposes specified in accordance with this petition. Our national honor and integrity, the love of country, the right of the people for the protection of their property, the general desire for the blessings of continued peace, all appeal to you for speedy and decisive action. And for this your memorialist will ever pray.

SENATE MEMORIAL NO. 5.

To the Honorable Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the legislature of the State of Washington, would respectfully represent; that

WHEREAS, The general government has granted to the State of Washington six hundred and sixty-eight thousand (668,000) acres of the public domain for certain public purposes as recited in the enabling act of February 22, 1889, to be selected from the surveyed, unsurveyed and unappropriated public lands of the United States within the limits of our state; that there now exists an emergency demanding some legislation that will save to the state this valuable donation.

Your memorialists would represent that these lands cannot be selected from the surveyed lands of our state, for the reason that they are all, practically, taken up and otherwise appropriated, as the records of the several U. S. land offices within the state will disclose; and further, that the state selections cannot wait upon the extension of the surveys, for the reason that the settlements anticipate the surveys and thus absorb all the valuable tracts, leaving at best only a possible remnant and that in the smallest legal subdivisions.

Therefore your memorialists, acting within the spirit of our enabling act, respectfully request your honorable body without delay to pass the following bill; and the secretary of state is hereby directed to at once mail certified copies of this memorial to our representatives in congress, one copy to each; to the chairman of the committee on public lands in the house of representatives, one copy; to the chairman of the committee on public lands in the senate, one copy; to the secretary of the interior, one copy; to the commissioner of the general land office, one copy:

“An act authorizing the secretary of the interior to reserve the public lands granted to the State of Washington by the act of February 22, 1889.

“WHEREAS, Under the act of February 22, 1889, which provided for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, there was granted to the State of Washington, to be selected under the direction of the secretary of the interior from the surveyed, unreserved and unappropriated public lands of the United States within the limits of said state: For erecting public buildings at the capital of said state, thirty-two thousand acres; for state university purposes, forty-six thousand acres; for agricultural college, ninety thousand acres; for scientific school, one hundred thousand acres; for state normal school, one hundred thousand acres; for buildings at state capital, an additional grant of one hundred thousand acres; for state charitable, educational, penal and reformatory institutions, two hundred thousand acres; and

“WHEREAS, In order to secure to the State of Washington the lands thus granted, it is necessary to create one or more reservations upon the unsurveyed lands of the United States within the territorial limits of said state: therefore,

“*Be it enacted by the Senate and House of Representatives of the United States, in Congress assembled:* That the secretary of the interior be and is hereby directed, within six months from the date of the passage of this act, to establish by metes and bounds upon the un-

surveyed lands of the U. S. in the State of Washington, one or more reservations, not exceeding in the aggregate one million acres as near as can be estimated, to be designated as state reserve, and over which the public land laws of the United States shall be suspended, and all settlement thereon inhibited, from and after the date of the filing of the diagram and notice of said reservation or reservations in the local U. S. land office of the district wherein the lands reserved are situated: *Provided*, That when the lands thus reserved are surveyed and the plats thereof made of record, the same shall be selected without unnecessary delay, under such rules and regulations as the secretary of the interior may prescribe, but without fees or commissions to the United States: *And provided further*, That as soon as the several grants are satisfied the remaining portions of the reservation shall revert to the public domain and be subject to appropriation under the existing land laws of the United States."

SENATE MEMORIAL NO. 6.

WHEREAS, A bill for the construction of the Nicaragua canal, under the control and supervision of the United States government, has been introduced in congress with the unanimous recommendation of the honorable committee on foreign affairs of the United States senate; and

WHEREAS, The enactment by congress of this bill will result in decreased cost of construction, and consequently reduced tolls for passengers and freights; and

WHEREAS, The control of the Nicaragua canal by the government of the United States will be of great political and commercial advantage to our country, especially to the Pacific coast: therefore, be it

Resolved, That the legislature of the State of Washing-

ton, by memorial, respectfully urges on the honorable senate and house of representatives the prompt passage of senate bill No. 4827, relating to the construction of the Nicaragua canal.

Resolved, That attested official copies of this resolution be forwarded to the president of the United States, to the honorable secretary of state of the United States, and to the president of the United States senate at the national capital, and to the speaker of the house, to the secretary of the navy, and one copy each to our senators and representatives in congress.

SENATE MEMORIAL NO. 7.

To the Honorable Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists, the legislature of the State of Washington, would most respectfully represent that the Colville river in Stevens county, State of Washington, draining a country about fifty miles in length and from one mile to five miles in breadth, many thousand acres of which is entirely submerged and unavailable owing to the current being retarded to a great extent by timber lying across said stream, overhanging trees and bushes, and a heavy moss growing from the bottom of the river.

That the removal of said obstructions, dredging and straightening of the river will restore said land (the finest of timothy and red-top hay land) which is now worthless, which when restored would be valued at many thousands of dollars to settlers.

We, your memorialists, would therefore pray that an appropriation of twenty thousand dollars be made for removing said obstructions and dredging said river under the general government; and as in duty bound your memorialists will ever pray.

SENATE MEMORIAL NO. 8.

*To the Honorable, the Senate and House of Representatives
of the United States:*

Your memorialists, the senate and the house of representatives of the State of Washington, most respectfully represent:

WHEREAS, In the government survey of public lands made in the State of Washington, many shallow ponds of water, not valuable for navigation or for any other useful purpose, were meandered and appear upon the plat filed in the United States land office as lakes; and

WHEREAS, Many of such shallow ponds were, at the time of making such survey, filled with surface water only, and did not communicate with any permanent water course; and

WHEREAS, By the cultivation of the surrounding country and the absorption of such surface water by the soil, many of these lakes have become permanently dried up, and many more could be reclaimed and devoted to useful and profitable agriculture at comparatively small expense, and such reclaimed land is peculiarly valuable for the production of grasses and hay, and there are many such bodies containing hundreds and even thousands of acres, the reclamation of which would beneficially affect the healthfulness of the surrounding country, relieving it from the malaria generated by such shallow bodies of water, besides adding to the producing capacity of the state; and

WHEREAS, There is no law of congress authorizing the draining and reclamation of such ponds and lakes, and no law of congress whereby title thereto can be obtained by any person for any purpose.

Resolved, That our senators and representatives in congress be hereby requested to secure the passage of an act granting to the State of Washington the power to pass laws authorizing the reclamation of such shallow ponds, lakes and swamps, and granting to said state the areas aforesaid to the extent of all the soil included within the meandered line of such lakes and swamps, with power to dispose

of the same to such persons and on such terms as the legislature shall determine, for not less, in any case than the sum of fifteen dollars (\$15.00) per acre, and that the proceeds of such sale be devoted to the purpose of internal improvements within the state; and your memorialists will ever pray.

SENATE MEMORIAL NO. 9.

To the Senate and House of Representatives of the Congress of the United States:

Your memorialists, the senate and house of representatives of the State of Washington, would respectfully memorialize your honorable body to at once provide for a steamboat portage around the obstructions to navigation existing at The Dalles and Cascades of the Columbia river; and

WHEREAS, Captain Eads has demonstrated that ocean vessels can be safely transported over what is known as Eads' ship railway, we respectfully suggest to the congress of the United States that an open river is desired by all the residents of the Columbia basin, and that the relief asked for can be more readily obtained by the building of such railway than by any other mode; and we can safely assure you that the building of such ship railway will immediately relieve the farmers of the Columbia valley from their present cause of grievance, and we also respectfully suggest that the costs of such railway and its operation would not amount to the ordinary interest upon the costs of construction of a system of locks; and we, your memorialists, will ever pray.

HOUSE MEMORIAL NO. 1.

To the Honorable Senate and House of Representatives of the United States, in Congress assembled:

Your memorialist, the legislature of the State of Washington, most respectfully represents; that

WHEREAS, The vast regions and extensive coast line of the North Pacific coast and Puget Sound are at present wholly unprovided with naval protection or other defense; and

WHEREAS, The government of the United States, recognizing the importance of making some preparation for such defense, did appoint a commission composed of Capt. Thos. O. Selfridge, U. S. N., R. W. Thompson, Col. G. H. Mendell, U. S. A., T. C. Platt and Lieut. A. B. Wyckoff, U. S. N., to investigate and examine the North Pacific coast with a view of selecting and locating a suitable site for a dry dock and naval station; and

WHEREAS, Said commission, having carefully discharged their duties in examining the waters and shores of Puget Sound, have selected Point Turner on Port Orchard bay as a proper and suitable site for such dry dock and naval station, and have made their report recommending the same; now, therefore,

Be it resolved by your memorialist, the legislature of the State of Washington: That we endorse the report of said commissioners, Capt. Thos. O. Selfridge, U. S. N., R. W. Thompson, Col. G. H. Mendell, U. S. A., T. C. Platt and Lieut. A. B. Wyckoff, U. S. N.; and we respectfully request that your honorable body confirm said report and enact such legislation and make such appropriations as may be necessary to proceed with the construction of such naval station.

Resolved, That the secretary of state is hereby directed to furnish a certified copy of this memorial to each of our senators and representatives in congress, and one copy each to the chairman of the committee on coast defenses and naval affairs of the senate and house of representatives of the United States.

HOUSE MEMORIAL NO. 5.

To the Honorable, the Senate and the House of Representatives of the United States, in Congress assembled:

Your memorialists, the senate and the house of representatives of the State of Washington, in legislative session assembled, most respectfully represent, that

WHEREAS, A townsite reservation of more than three thousand acres of land contiguous to and almost completely surrounding the present limited townsite of Port Angeles, Washington, remains unsurveyed, and is withheld from would-be purchasers, thus obstructing and preventing the natural growth and development of said town; and

WHEREAS, Numerous settlements have been made upon said townsite reservation; the settlers, who have built homes and made improvements thereon to the value of many thousands of dollars, are unable to acquire title to the land upon which settlements have been made; and

WHEREAS, The appropriation of five thousand dollars made by congress at its last session to survey the said reservation is deemed by the surveyor general to be inadequate for the purpose; and

WHEREAS, The honorable secretary of the interior has recommended to your honorable bodies that an additional appropriation of five thousand dollars be added to the sundry civil bill for the surveying of the said reservation:

Therefore, Your memorialists, the legislature of the State of Washington, do most earnestly petition your honorable bodies to enact such legislation as will give speedy and effective relief to the said town of Port Angeles, and to the *bona fide* settlers on the said reservation, by making the appropriation recommended, and by giving the said settlers, who have settled upon and made valuable improvements upon one lot of regulation size (being fifty feet by one hundred and forty feet in area), and one additional lot, the right, for a limited time prior to the date of sale, to purchase the same at an appraised value; and your memorialists will ever pray.

HOUSE MEMORIAL NO. 6.

To the Honorable, the House of Representatives of the United States, in Congress assembled:

Your memorialists, the legislature of the State of Washington, represented in the senate and the house of representatives assembled, most respectfully represent:

That, for more than a quarter of a century past the Port Angeles townsite reservation, comprising more than three thousand acres of land in area, almost completely surrounding the town of Port Angeles, Washington, the principal town in and the county seat of Clallam county, in said state, has remained unsurveyed and withheld from settlement; thus greatly retarding the growth and development of the said county; now,

WHEREAS, Senate bill No. 4131, entitled "An act donating to Clallam county, in the State of Washington, for public buildings, the proceeds of the sale of certain public lands," has been passed by the senate of the United States, and is now pending in your honorable body:

Therefore, your memorialists, the legislature of the State of Washington, do most earnestly petition your honorable body to pass said bill at an early date, thus partly recompensing the said county for this unnatural obstruction to its reasonable advancement; and your memorialists will ever pray.

HOUSE MEMORIAL NO. 8.

To the Senate and House of Representatives of the United States, in Congress assembled:

Your memorialists of the senate and house of representatives of the State of Washington respectfully represent as follows:

WHEREAS, An act appropriating ten thousand dollars (\$10,000) for the survey of a ship canal from tide-water at Salmon Bay on Puget Sound to Lake Union, from Lake Union to Lake Washington and from Lake Washington to Lake Samamish, and providing for an estimate by competent engineers of the cost of the same, has been passed by your honorable bodies and approved by the president; and

WHEREAS, Such survey and estimate have been made in pursuance of said act; and

WHEREAS, That portion of said canal from tide-water at Salmon Bay on Puget Sound to Lake Union and from Lake Union to Lake Washington would, if built, extend over a distance of but one mile and seventeen hundred and eighty (1,780) feet, or thereabouts, and, as the report of the engineers detailed to survey the route of said canal and propose estimates for the construction thereof will show, no portion of said canal extending from tide-water to said lakes is of difficult construction; and

WHEREAS, The now established and rapidly expanding commerce and manufactures of the country adjacent to said lakes and said canal render it necessary that, for the fullest development of the same, there be deep water communication between said lakes and tide-water: therefore,

We respectfully ask and solicit that your honorable bodies will speedily appropriate such sum as may be sufficient to construct that portion of said canal from tide-water at Salmon Bay on Puget Sound to Lake Union, and from Lake Union to Lake Washington, in the speediest manner consistent with good work; and as in duty bound your memorialists will ever pray.

HOUSE MEMORIAL NO. 9.

To the Honorable, the Senate and House of Representatives of the United States:

Your memorialists, the legislature of the State of Washington, would respectfully represent, that from August, 1850, to and including August, 1853, one Peter G. Stewart was the owner of the possessory right in and to an undivided two-tenths of the town of Pacific City, situated on Baker's bay in Pacific county, Washington, but which was then a part of the Territory of Oregon. That he was a settler in good faith upon the land so occupied, and intended in good faith to procure title to the same, and during said dates had erected thereon an iron house of the value of \$4,000, and had made other improvements thereon of the value of \$6,000; that before he had procured title to said property the government of the United States, in the year 1853, reserved the same for lighthouse purposes, and that thereby said Peter G. Stewart failed not only to secure title to his interest in said townsite, but lost the aforesaid valuable improvements upon said property; that the government has not made any compensation for said losses, and that a bill appropriating money to pay the same has been introduced, and is now pending; that other persons who owned an interest in said townsite have been, by act of congress, compensated for the losses suffered by them under the same circumstances, notably one J. D. Holman, another part owner in said Pacific City, who under the provisions of section 14, page 500, volume 9, United States statutes at large, was paid a large sum for losses suffered by him by the same reservation; that said Peter G. Stewart was an early pioneer in Oregon, and was one of the executive committee who governed Oregon before the laws of the United States were extended over it, and while it was claimed by Great Britain, and in such position and otherwise was engaged prominently in the struggle that finally made Oregon an American state instead of a British province; that we are satisfied of the honesty and justice of his aforesaid claim for compensation: therefore, respectfully

ask your honorable body to pass the bill reimbursing him for said losses; and as in duty bound your memorialists will ever pray.

The secretary of state is hereby instructed to send to the honorable senators and representatives in congress from this state a copy each of this memorial, and urge their hearty support of the bill for the relief of the within mentioned petitioner.

HOUSE MEMORIAL NO. 13.

To the Honorable, the 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 represent, that Willapa river and Nasel river are each navigable streams in Pacific county, Washington, flowing into Willapa bay; that they are streams of great importance, being channels of transportation for the exports and imports of at least five thousand people; that the valleys and tributaries of each river are very productive in cereals as well as having a large area of merchantable timber requiring transportation; that the Willapa river is navigable for a distance of thirty-five miles, and has a harbor of unequalled importance on the Pacific coast; that the Pacific, Yakima and Eastern railroad has extended its line and made a deep-sea terminal point at South Bend on said river, which is now a city of two thousand inhabitants; that Willapa City is at the head of navigation on said river, and a distributing point for at least two thousand people; that it is urgently necessary that between these two points all obstruction to navigation be removed; that an appropriation of fifty thousand dollars (\$50,000.00) is necessary to remove all bars and snags in said river between Mail Boat slough and Wilson's landing at Willapa City; that

Nasel river is navigable for at least thirty miles from Stanley, on Nasel harbor, to Nasel landing; that Stanley is a seaport town, and a rapidly growing city; that between these two points there should be no obstructions to navigation, as Nasel landing is a distributing point to at least one thousand people; that to remove the snags and bars between these two points will require an expenditure of at least twenty thousand dollars (\$20,000.00); and we therefore petition your honorable body that an appropriation of seventy thousand dollars (\$70,000.00) be made for the improvement of the two important rivers, viz.: the Willapa river and the Nasel river; and your memorialists will ever pray.

HOUSE MEMORIAL NO. 19.

To the Honorable, the Senate and House of Representatives of the United States:

We, your memorialists, the senate and house of representatives of the State of Washington, do memorialize and petition your honorable bodies to pass the bill now pending in congress known and designated as the Conger pure lard bill, for the reason that the passage of said bill will tend to keep the market for pure lard open, and prevent the same being controlled by trusts and combinations, and be of great benefit to the agricultural interests of the entire country.

SENATE JOINT MEMORIAL NO. 10.

Resolved by the Senate, the House concurring: In the death of William Tecumseh Sherman, the State of Wash-

ington, in common with every other state of the union, loses her first citizen, the last of the group that made her sovereignty possible.

Springing from Puritan blood, he inherited the civic virtues of that side of our composite type.

Love of liberty and a profound respect for municipal authority constituted the basis of his character.

He became a soldier, losing neither.

When the supreme test came, he deserted his office of military instructor in a Louisiana school, and without a shadow of doubt tendered his welcome services to the Union cause.

Comprehending the force of Napoleon's maxim, "When you set out to take Vienna, take Vienna," he urged the muster of an army at the outset. With that wonderful perception, to lesser men prescience, he computed, without pen or pencil, the task of putting out the fire.

This foresight became history.

As he advanced in rank he grew in capacity, until he became the military genius of his country.

The splendor of conquest was not his star.

To him armies were only instruments; battles were incidents.

It was the philosophy of conquest that concerned him—the fruits of the sword, not its glories.

His "March to the Sea" was not the trail of personal triumph, but the swing of the "splendid yeomanry who conquered for English liberty at Naseby, Worcester and Marston Moor."

His supreme courage and consummate skill were only equaled by his magnanimity to a conquered foe.

He was not a soldier of the feudal type. He was the "Commander, comrade and friend," found only in our republic.

"His ear was near the heart-beat of his soldiers."

He was molded in simplicity. His stratagem was the stratagem of war. He knew no deceit, no sham.

As was said of a great contemporary, he needs no epitaph but his name—William Tecumseh Sherman.

HOUSE JOINT MEMORIAL NO. 4.

To the Honorable, the 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 represent:

That Grays Harbor, located on the western coast of this state, is one of the best and most important harbors on the western seaboard of the United States;

That there are now on Grays Harbor and its tributary, the Chehalis river, several important and rapidly growing cities, viz.: Aberdeen, Montesano, Hoquiam, Grays Harbor City, Cosmopolis, Elma and Ocosta;

That many millions of feet of lumber are now manufactured every month on this harbor and shipped by sea to a market in Portland, San Francisco, Southern California, Peru and the Sandwich Islands, there being engaged in the carrying trade from Grays Harbor two lines of steamers and scores of sailing vessels;

That the shipping interests, the manufacture of lumber and the commercial interests in general of this important harbor, and immense territory tributary thereto, will be greatly benefited by the improvement of the bar and north ship channel of the harbor:

Your memorialists, the legislature of the State of Washington, do therefore respectfully request that a liberal appropriation be made for the improvement of Grays Harbor; and your memorialists, as in duty bound, will ever pray.

SENATE JOINT RESOLUTION NO. 1.

WHEREAS, The protection of the commercial interests of the United States, and the maintenance of its rank among the nations of earth, require that a comprehensive

system of coast defenses should be begun without delay; and

WHEREAS, The general government has taken the first step towards this end by the appointment of a board of distinguished army officers to select sites for the establishment of factories for the manufacture of heavy ordnance, one of which factories is to be located on the Pacific coast; and

WHEREAS, The great and growing commercial interests of Puget Sound, peculiarly exposed as they are to foreign attack, will require a large amount for their defense; and

WHEREAS, The region adjacent to Puget Sound abounds in coal and iron of the finest quality, suitable for the manufacture of steel forgings of the highest class; and

WHEREAS, The manufacture at any other point of the guns required for the defense of Puget Sound would involve great and unnecessary expense and be an unwarrantable discrimination against the industries of the State of Washington: therefore, be it

Resolved by the Legislature of the State of Washington: That the senators and representative in congress from the State of Washington, be instructed to use their best efforts to secure the location of a factory for the manufacture of heavy guns on Puget Sound, and the appropriation of an adequate sum for the erection thereof.

Resolved, That a duly attested copy of this resolution be forwarded to each of the United States senators and the representative in congress from the State of Washington.

SENATE JOINT RESOLUTION NO. 2.

WHEREAS, It is understood that the president of the United States, with some of the members of his cabinet and other distinguished citizens, purpose a visit to the Pacific coast in the near future: therefore, be it

Resolved, That the senate and house of representatives of the people of the State of Washington, on behalf of the people, and for them, do hereby most cordially extend to the president and those accompanying him an invitation to visit this state, to view its magnificent scenery, its immense resources, its future vast capabilities, and more than all these, to become acquainted with its people and assure himself of their love of civil and religious freedom, and their profound devotion to the Union.

HOUSE JOINT RESOLUTION NO. 3.

WHEREAS, The buildings belonging to the state and used for quarantine purposes, located in the city of Port Townsend, have been destroyed by fire; and whereas, necessity exists for the erection of such buildings for quarantine purposes; and whereas, the limits of said city of Port Townsend have been extended to include the present site owned by the state, and it is not prudent or desirable to erect buildings for quarantine purposes within the boundaries of any city; and whereas, several suitable sites for such quarantine station can be secured: therefore, be it

Resolved by the House, the Senate concurring: That the governor of the state, with the advice and consent of the senate, is hereby authorized to appoint three persons, as a commission, who shall report to the legislature at the present session, the advisability of disposing of the present site and the purchase of a suitable site, its location, probable cost, and an estimate of the amount required to erect necessary buildings.

HOUSE JOINT RESOLUTION NO. 6.

WHEREAS, In order to intelligently legislate for the protection of salmon fish in the waters of the Columbia river, it is necessary to have accurate information as to the habits of such fish, particularly in relation to the following questions:

1st. Do the salmon come into the river before they are of sufficient age and maturity to deposit their roe?

2d. At what age do they spawn?

3d. After depositing their spawn or milt, do they again return to the ocean? And

WHEREAS, The report of the committee on fishing industries shows that no satisfactory information on said subject can be secured from parties engaged in the fishing business on said river, and there is a great diversity of opinion thereon: therefore, be it

Resolved by the House, the Senate concurring: That the honorable, the fish commissioner of the United States, be and he is hereby respectfully requested to send an expert to said river to investigate the habits of such fish therein, in order that such information may be had.

Resolved further, That the secretary of state be and he is hereby instructed to forward to each member of our delegation in congress a copy of this resolution, and that they be and are hereby requested to present a copy hereof, together with such further facts and representations as to them shall seem proper, to the honorable, the United States fish commissioner.

SENATE CONCURRENT RESOLUTION NO. 1.

Resolved by the Senate, the House concurring: That the senate and house meet in the hall of the house at two P. M., January 8th, for the purpose of receiving the message of the governor.

SENATE CONCURRENT RESOLUTION NO. 2.

Resolved by the Senate, the House concurring: That the state printer be authorized to print in pamphlet form five hundred copies of the governor's message for the use of the executive office, five hundred copies for the other state offices, and four thousand copies for general distribution by the members of the legislature.

SENATE CONCURRENT RESOLUTION NO. 3.

Resolved by the Senate, the House concurring: That the general statutes and codes of the State of Washington annotated and arranged by William Lair Hill, code commissioner of the State of Washington, volume 2 of which is now on the desks of members, be referred to the judiciary committee of the senate and house for joint action; and that said committee be and are hereby instructed to thoroughly examine the same, and report their conclusions thereon to the senate and house at as early a date as practicable, with such recommendations in regard thereto as they may deem advisable to make.

SENATE CONCURRENT RESOLUTION NO. 4.

Resolved by the Senate, the House concurring: That a special joint committee of five, consisting of two from the senate and three from the house, be appointed by the president of the senate and the speaker of the house, respect-

ively, to examine and inquire into the management of the several state offices, having full power and authority to make a complete and thorough examination of all books, records, &c., pertaining thereto; said committee to report at their earliest possible convenience.

SENATE CONCURRENT RESOLUTION NO. 5.

Resolved by the Senate of the State of Washington, the House of Representatives concurring: That all the records pertaining to the Indian war of 1855 and 1856, now on file in the office of the secretary of state, be and they are hereby ordered transferred from said office to the custody of the adjutant general of the State of Washington.

SENATE CONCURRENT RESOLUTION NO. 7.

Resolved by the Senate, the House concurring: That a special joint committee, to consist of the chairmen of the house standing committees on school lands, state lands and state university and normal schools, and the chairman of the senate standing committee on state, granted and school lands, and one member of the senate, to be selected by the president, shall visit the state university at Seattle, with full power to examine into all matters touching its interests, and to report to the legislature such measures as may be deemed necessary, with authority to send for persons and papers and to administer oaths.

SENATE CONCURRENT RESOLUTION NO. 8.

Resolved by the Senate, the House concurring: That the committee on public buildings and grounds of the senate and the house are hereby directed to act in conjunction to ascertain and report, by bill or otherwise, the number of acres of land said to belong to the State of Washington, commonly known as capitol grounds; to ascertain the status of said land as to title, boundaries and number of acres; also as to the advisability of enlarging the present site by condemnation or otherwise, and to learn the advisability of procuring other land for the use of capitol purposes; also to ascertain as to whether any covenants exist as to the land now said to belong to the State of Washington, and now used for capitol purposes. Further, the committee request that they be authorized to send for papers and persons, and, in case they believe the same to be in the best interests of the public service, that they be given permission to request an opinion from the attorney general, and call upon the secretary of state, or other state officers, for abstract of title or other evidence respecting covenants in the conveyance of said land.

SENATE CONCURRENT RESOLUTION NO. 9.

Resolved by the Senate, the House concurring: That the state auditor be and is hereby authorized to have published, at the expense of the state, ten thousand copies of the enabling act and the state constitution of Washington, to be bound in pamphlet form and distributed in relative proportion to the school population of the several counties, the same to be delivered to the county superintendents for free distribution in the public schools, and that twenty copies be deposited in the archives of the state.

SENATE CONCURRENT RESOLUTION NO. 10.

Resolved by the Senate, the House concurring: That the secretary of state is hereby directed to furnish each of the county treasurers of the state a certified copy of the act to extend the time for the collection of taxes, and remitting penalties, and declaring an emergency, approved January 20, 1891.

SENATE CONCURRENT RESOLUTION NO. 11.

Resolved by the Senate, the House of Representatives concurring: That the state librarian is hereby directed to complete the catalogue of the state library, in manuscript, as early as possible, and that twenty-five hundred copies be printed under his supervision, and by him distributed as required, reserving at least one hundred copies for use in the library.

SENATE CONCURRENT RESOLUTION NO. 12.

WHEREAS, The governor's message and the reports of the state officers and others having charge of the state institutions made to this legislature, exhibit the condition of affairs of the state at the end of the first year of the statehood of Washington; and

WHEREAS, Said reports should be preserved in a permanent form as a part of the history of the state; and

WHEREAS, Reciprocal exchange with other states and territories should be observed: therefore, be it

Resolved by the Senate, the House of Representatives concurring: That the secretary of state be and is directed hereby to collect three hundred copies each of the governor's message and of the several reports of the state officers and state institutions made to the governor or to the legislature at this session, which are already printed, and deliver the same to the state printer, who shall bind them in three hundred volumes and deliver the same to the state librarian for distribution as follows: To the congressional library, one copy; to the public library of each state and territory of the Union, one copy; to the governor and lieutenant governor, each five copies; to each state officer and to each state institution furnishing a report, one copy; to each member of this legislature, one copy; one copy to each of the public libraries of the state, and to the state librarian, for preservation in the library, at least five copies.

SENATE CONCURRENT RESOLUTION NO. 13.

WHEREAS, It is desirable that the state capitol of the State of Washington should be furnished with the portraits of the several governors of this commonwealth from its organization as a territory to the present time, as an honorable expression of pride which our state takes in its chief executives; and

WHEREAS, The demands upon the state treasury in view of her young and vigorous statehood are too great to warrant an appropriation to meet the expense of the purpose of this resolution: therefore, be it

Resolved by the Senate of the State of Washington, the House concurring: That the present and ex-governors of this commonwealth, or their representatives, be invited, if it be their pleasure, to have their several portraits painted and placed in the state capitol, where they will be appreciated and preserved by the people of this state.

SENATE CONCURRENT RESOLUTION NO. 14.

Resolved by the Senate, the House concurring: That the senate committee on state prison, and the house committee on penitentiary, are instructed to visit and critically examine the U. S. penitentiary buildings and grounds at McNeil's Island, and report their condition and value to the legislature as soon as practicable.

SENATE CONCURRENT RESOLUTION NO. 15.

Resolved by the Senate, the House concurring: That the senate committee on state insane, and a like number of the house committee on state insane, be directed to visit the asylum at Steilacoom, report its condition and management; also visit the asylum at Medical Lake, report its condition, with such other matters that may be of interest, submitting such report not later than February 15, 1891.

SENATE CONCURRENT RESOLUTION NO. 16.

Resolved by the Senate, the House concurring: That the secretary of state is hereby directed to furnish each of the county attorneys and county clerks of the state with copies of the acts passed at this session of the legislature relating to the duties of their respective offices.

SENATE CONCURRENT RESOLUTION NO. 17.

Resolved by the Senate of the State of Washington, the House of Representatives concurring: That our senators and representatives in congress be requested to endorse the name of Hon. Henry Failing, of Portland, Oregon, for the appointment of secretary of the treasury of the United States.

SENATE CONCURRENT RESOLUTION NO. 18.

Resolved by the Senate, the House concurring: That a joint committee, to consist of one of the standing committee of the senate, and two of the house, on school for defective youth, be instructed to visit the state school for defective youth at Vancouver, and report at as early a date as practicable on the management and condition of said institution.

SENATE CONCURRENT RESOLUTION NO. 19.

Be it Resolved by the Senate, the House concurring: That the members of the committee on hospital for the insane who are also members of the committees of state prison and penitentiary be instructed by telegraph to visit the penitentiary at Walla Walla, on their return from Medical Lake, and report on its condition and needs, and upon any other matters which should be laid before this legislature.

SENATE CONCURRENT RESOLUTION NO. 20.

Resolved by the Senate, the House concurring: That the senate committee on state and granted lands, and the house committee on state lands, acting jointly, are directed to confer, if agreeable to him, with Hon. Thomas H. Cavanaugh, United States surveyor general for the State of Washington, having sole charge of the survey of the public lands in this state, and request that he suggest what legislation, if any, in his judgment and knowledge of the condition of the public surveys, can be enacted by this legislature to expedite the survey of the lands granted to the state by act of congress, approved February 22, 1889. The joint committee is authorized to report by bill, memorial or otherwise.

SENATE CONCURRENT RESOLUTION NO. 21.

WHEREAS, Numerous attempts have been made by divers parties in this state to enter and claim certain school lands by filing mineral claims thereon; and

WHEREAS, Neither ample provisions in law nor financial means to properly defend the interests of the state in such causes has not been provided: therefore, be it

Resolved by the Senate, the House concurring: That the committee of the senate on state, granted and school lands, and the committee of the house on school lands, acting jointly, are hereby directed to confer with the attorney general of the state on this matter, and report by bill, or otherwise, what action this legislature shall take, if any, to better protect and defend the state's title to lands granted her by the enabling act for school purposes.

SENATE CONCURRENT RESOLUTION NO. 22.

Resolved by the Senate, the House concurring: That Rule VII of the joint rules and mode of procedure for the senate and house of representatives of the legislature of the State of Washington, for the removal of any judge of any court of record, attorney general or any prosecuting attorney of the State of Washington, as provided for in section 9, article 4 of the constitution, adopted February 20, 1891, be and the same is hereby amended to read as follows:

Rule VII. If the officer so accused shall plead either in denial or avoidance of the charges preferred, the evidence shall then be heard by the joint convention. The said convention shall be the sole judge of all questions relating to the introduction or competency of the evidence, which question shall be decided by a majority vote of such joint convention, without debate, and by a *viva voce* vote, unless a division be called, in which event the question shall be decided by a rising vote.

SENATE CONCURRENT RESOLUTION NO. 27.

Resolved by the Senate, the House concurring: That Senator Hyde be and he is hereby permitted to introduce a bill in the senate entitled "An act to amend section one of an act entitled 'An act creating and establishing municipal courts in cities of the State of Washington having more than twenty thousand inhabitants, defining and prescribing their jurisdiction, regulating their practice and procedure and providing judges and clerks therefor, and declaring an emergency,' approved February 28, 1891," which was H. B. 30 of this session: *And be it further resolved,* That by reason of the brevity of said bill, and the great impor-

tance thereof, said bill will be considered in the senate and house notwithstanding the legislature will adjourn within ten days from this date.

SENATE CONCURRENT RESOLUTION NO. 29.

Resolved by the Senate, the House concurring: That leave is hereby granted to Senator Forrest to introduce a bill entitled "An act to regulate the disbursement of all moneys disbursed by the officers of the State of Washington, and all district, county and precinct officers and commissions of the State of Washington, and declaring an emergency."

HOUSE CONCURRENT RESOLUTION NO. 1.

Resolved by the House of Representatives, the Senate concurring: That a committee of five members of the house be appointed to act with a committee of three of the senate to inform his excellency the governor that the legislature of the State of Washington is now duly organized and ready to receive any communication he may be prepared to make.

HOUSE CONCURRENT RESOLUTION NO. 3.

Resolved by the House of Representatives, the Senate concurring: That a committee, to be known as the "World's Fair Committee," to consist of three senators and five

members of the house of representatives, be appointed by the president of the senate and speaker of the house, who shall have charge of all matters of legislation relating to the World's Columbian Exposition to be held at Chicago in 1893.

HOUSE CONCURRENT RESOLUTION NO. 4.

Resolved by the House of Representatives, the Senate concurring: That a special committee of three on the part of the house and two on the part of the senate be appointed by the speaker of the house and president of the senate to devise plans for the speedy completion of the Cascades locks on the Columbia river, and the earliest possible removal of, or means of transportation around, other obstructions to navigation on said river; and be it further

Resolved: That the speaker of the house inform the legislature of the State of Oregon of this action, and that said legislature of the State of Oregon be invited to appoint a like committee, which committee shall meet at an early day during the present session of the legislatures of the two states, for the purpose of devising, and, so far as possible under the existing laws of the states of Oregon and Washington, maturing plans for earnest and genuine work, which shall result in the very speediest removal of all obstructions to navigation, in its entirety, in this the grandest waterway of the West.

HOUSE CONCURRENT RESOLUTION NO. 7.

Resolved by the House of Representatives, the Senate concurring: That a special committee of three from the house, and two from the senate, be appointed to meet with a like committee appointed by the legislature of the State of Oregon, to look after the fishing industries on the Columbia river and to regulate the laws governing the same with uniform laws; and that the clerk be instructed to notify the legislature of the State of Oregon of such action.

HOUSE CONCURRENT RESOLUTION NO. 8.

WHEREAS, The Grim Reaper, without warning, removed from the field of his usefulness Hon. William Windom, secretary of the United States treasury, a man noted in the financial world for his ability, in the nation for his integrity, amid his associates for his amiability, in his family circle for his loveliness: therefore, be it

Resolved by the House, the Senate concurring: That the State of Washington heard with great sorrow of the sudden death of Hon. William Windom, secretary of the treasury, and that, as a slight token of its grief, the governor be and he is hereby requested to have copies of these resolutions, properly engrossed, authenticated and transmitted to the widow of the deceased and secretary of state of the United States.

HOUSE CONCURRENT RESOLUTION NO. 10.

Be it Resolved by the House of Representatives of the State of Washington, the Senate concurring: That section 1 of article 8 of the constitution of the State of Washington be amended to read as follows:

Section 1. The state may, for the purpose of constructing public buildings and other public works, and for the acquisition of lands, and for other expenses incident to said construction, contract debts in any amount not to exceed in the aggregate one per cent. of the value of the taxable property within the state, as shown by the assessment for county and state purposes last preceding the incurring of any such debts; and may further contract, for any public purposes, debts not exceeding in the aggregate five hundred thousand dollars, and the moneys arising from the loans creating such debts shall be applied to the purposes for which they were obtained, or to repay the debts so contracted, and to no other purpose whatever.

HOUSE CONCURRENT RESOLUTION NO. 13.

Resolved by the House of Representatives, the Senate concurring: That the joint committee appointed in relation to opening and removing obstructions to navigation in the Columbia river be allowed one clerk jointly.

HOUSE CONCURRENT RESOLUTION NO. 14.

WHEREAS, On the 14th day of February, General William Tecumseh Sherman, after successfully fighting the battles of his own country at home and abroad for half a century, surrendered to a representative of the Supreme Commander a sword never lowered to an enemy save in courtesy; and

WHEREAS, This forced surrender of General Sherman, while on the pinnacle of fame, plunged the nation into mourning; and

WHEREAS, It is fitting that the State of Washington should testify its sorrow over the death of the last of the three great military chieftans of the nation: therefore, be it

Resolved by the House, the Senate concurring: That when each house adjourns on Wednesday, February 18th, it do adjourn over Thursday, the day appointed for the funeral of General Sherman, that the members of the legislature may join George H. Thomas Post, G. A. R., and the citizens of Olympia, in memorial services:

Resolved: That a committee of three on the part of the house and two on the part of the senate be appointed to make the necessary arrangements.

HOUSE CONCURRENT RESOLUTION NO. 15.

Resolved by the House, the Senate concurring: That a joint committee of five, three on the part of the house and two on the part of the senate, be appointed to frame joint rules governing the joint action of the house and senate in considering matters of removal from office under the provisions of section 9, article 4, of the state constitution.

HOUSE CONCURRENT RESOLUTION NO. 16.

Resolved: That the house appoint a committee of five to act with a like committee on the part of the senate, to prepare joint resolutions for the removal of Morris B. Sachs, superior court judge, from office, as provided by section 9, article 4, of the constitution.

HOUSE CONCURRENT RESOLUTION NO. 17.

WHEREAS, Various rumors are in circulation as to the title which the state has to the tract of land now used for capitol grounds in the city of Olympia; and

WHEREAS, Various propositions have been made to donate to the state sufficient lands, in other parts of said city, for capitol grounds: therefore, be it

Resolved by the House of Representatives, the Senate concurring: That a committee of five, consisting of three members on the part of the house and two on the part of the senate, be appointed by the speaker of the house and the president of the senate, to investigate the title of the state to the present capitol grounds, and to examine into any and all propositions which have been made or which may be made to donate to the state other grounds, and to report their information and recommendations to the house and senate as speedily as possible.

Sig. 29.

HOUSE CONCURRENT RESOLUTION NO. 18.

Resolved by the House, the Senate concurring: That a committee of five, three on the part of the house and two on the part of the senate, be appointed as managers in the proceedings against Morris B. Sachs, to conduct said case.

HOUSE CONCURRENT RESOLUTION NO. 19.

Resolved by the House, the Senate concurring: That the legislature of Washington endorses the object sought to be attained by the resolutions reported from Kansas legislature; and

Resolved: That we comply with the request to appoint five members of the house and four members of the senate to serve as delegates to the commercial congress to meet in Kansas City on April 15th, 1891, and the speaker of the house and the president of the senate shall be *ex-officio* delegates to the said commercial congress.

HOUSE CONCURRENT RESOLUTION NO. 20.

Resolved by the House, the Senate concurring: That the sergeant-at-arms of the house of representatives be authorized at once to serve subpoenas for witnesses asked for by Morris B. Sachs, in his behalf, in the pending proceedings against him, and that to secure speedy service the said sergeant-at-arms be empowered to appoint as many deputies as he may deem necessary for this purpose.

HOUSE CONCURRENT RESOLUTION NO. 22.

Resolved by the House, the Senate concurring: That during all sessions for the trial of Judge Morris B. Sachs, the sergeants-at-arms of the senate and house be and they are hereby directed to reserve all the space within the bar of the house for the exclusive use of the following persons, to wit: Members of the legislature; witnesses on behalf of the prosecution and defense in said cause; the respondent; the attorneys on behalf of both the prosecution and respondent; necessary employés of the joint council, and one newspaper reporter for each newspaper now represented in the senate and house: *Provided,* That seating room may be given to wives of members of legislature within the bar.

HOUSE CONCURRENT RESOLUTION NO. 25.

Resolved by the House of Representatives, the Senate concurring: That five hundred copies each of the senate and house journals of the present session be printed and bound for distribution as follows, to wit:

- 1st. One copy of each to the librarian of congress.
- 2d. One copy of each to each member of the present legislature and the elective state officers.
- 3d. One copy of each to the librarian of each state, territory, and the District of Columbia.
- 4th. One copy of each to the president, secretary, assistant secretary and sergeant-at-arms of the senate.
- 5th. One copy of each to the chief clerk, assistant clerk, journal clerk and sergeant-at-arms of the house.
- 6th. One copy of each to each county auditor for the use of their counties.
- 7th. The remaining copies to the state librarian for future distribution, who is hereby empowered to sell them to

citizens of the state not to exceed one copy to any citizen, at a price not to exceed the cost of the same: *Provided*, That the fund received from the sale of such copies shall be turned into the general fund of the state treasury.

HOUSE CONCURRENT RESOLUTION NO. 26.

Resolved by the House, the Senate concurring: That the secretary of state is hereby directed to cause to be printed two thousand copies of the session laws of 1891 to be distributed as provided by law, the remaining copies to be turned over to the state auditor to be sold at a price not in excess of ten per cent. above the cost price.

HOUSE CONCURRENT RESOLUTION NO. 27.

Be it resolved by the House, the Senate concurring: That the state auditor be, and he is hereby, authorized to have printed, at the expense of the state, fifteen hundred copies of the revenue law. The said laws to be bound in pamphlet form and distributed in relative proportion to the several counties of the state.

AUTHENTICATION.

STATE OF WASHINGTON,
OFFICE OF SECRETARY OF STATE, }
OLYMPIA, March 25, 1891. }

I, Allen Weir, secretary of state of the State of Washington, and custodian of the seal of said state, do hereby certify that the laws, memorials and resolutions hereinbefore published are true and correct copies of the originals on file in my office, with the exception of corrections of certain obvious errors in orthography and use of words, which corrections have in each case been indicated by brackets, thus [], as provided by law.

In witness whereof, I have hereunto set my hand and affixed the seal of the State of Washington, the day and year aforesaid.

[SEAL.]

ALLEN WEIR,
Secretary of State.

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